

Statement of

**Kenneth L. Noller, MD, MS, FACOG**

President, American College of Obstetricians and Gynecologists  
(ACOG)

On behalf of

The Alliance of Specialty Medicine  
and

The American College of Obstetricians and Gynecologists

Before the

House Committee on Small Business  
Subcommittee on Regulations, Healthcare and Trade  
U.S. House of Representatives

Hearing on

**"Medicare Reimbursement Cuts: The Potential Impact on Solo  
and Small Group Medical Practices"**

November 8, 2007

Mr. Chairman and Members of the Subcommittee, thank you for holding this hearing on the impending Medicare physician payment cut and its effect on solo and small practitioners. This 10.1% cut, and the threat of future reductions, hits small practices first and hardest, and so it is important and appropriate that this Subcommittee consider the impact of Medicare on these small businesses.

I am Dr. Kenneth L. Noller, President of the American College of Obstetricians and Gynecologists (ACOG), a national organization representing 51,000 ob-gyns and partners in women's health, including more than 90% of all board-certified ob-gyns in the U.S. I chair the ob-gyn department and am a professor in the department of family and community medicine at Tufts University in Boston, and I am the gynecologist-in-chief at Tufts-New England Medical Center. I am here today on behalf of ACOG and the Alliance of Specialty Medicine – a coalition of 11 medical specialties representing nearly 200,000 specialty physicians.

The Alliance appreciates the leadership of the House Ways and Means and Energy and Commerce Committees and their Health Subcommittees, under the direction of Chairmen Rangel, Dingell, Stark and Pallone in addressing the impending physician payment cut in the CHAMP Act. Under their leadership, and with the support of members of this Committee, the House passed legislation that would eliminate this cut and instead give physicians payment increases for the next two years. And most importantly, the legislation was fully funded.

The Alliance strongly supports a two-year reprieve from cuts and progress toward a permanent solution to this crippling problem. This week, more than 7,500 postcards from ob-gyns across the country are being delivered to Capitol Hill asking the U.S. Senate to follow the House's lead to enact a fully-offset two-year fix. We urge immediate action from the Senate and a swift resolution that will take away the uncertainty facing small practices as they plan for the upcoming years.

### **The Un-Sustainable Growth Rate**

As we are well aware, Medicare physician payments will be cut by 10.1% on January 1, 2008, unless Congress takes action to stop this cut and keep fee-for-service Medicare strong for seniors and disabled patients and the physicians who care for them. At the heart of this problem is the Sustainable Growth Rate (SGR) formula, which calculates annual updates in Medicare payments for Part B physician services. Under this flawed formula:

- Payments are tied to fluctuations in the Gross Domestic Product (GDP) instead of to the actual costs of running a medical practice and of providing medical care to Medicare patients;

- Costs for physician-administered drugs are included in the calculation, although drugs are separate and distinct from physician services and their lopsided growth lowers the SGR target for actual physician services; and
- Physicians are penalized for increases in the volume of services they provide that are beyond their control – such as new benefits authorized by legislation, regulations, coverage decisions, new technology, growing patient demand for services, and the growing number of beneficiaries.

If Congress does not enact a long-term solution soon, physicians serving Medicare patients will see cuts year after year. As this testimony shows, the effect of Medicare cuts will be felt far beyond the Medicare population, affecting military families, patients covered by private insurance, and low-income patients as well.

While we very much appreciate Congressional intervention that has prevented similar cuts over the last several years, these short-term fixes and delays in implementing a permanent change have sent the cost of a permanent fix skyrocketing.

### **The Importance of Small Practices in American Medicine**

Small medical practices have long been the backbone of our health care system. About half of dermatology practices are run by solo practitioners and about 75% have three or fewer physicians. In cataract and refractive surgery, 80% of practices have five or fewer physicians. But in some specialties, including ob-gyn, financial and regulatory burdens are forcing consolidation and are making small and solo practices more difficult to operate. For instance, one-third of ob-gyns were in solo practice in 1991. Today, only 23% are solo practitioners. While consolidation may make good business sense, it might also result in a small community losing its local doctor or patients traveling additional miles to reach a specialist.

One central cause of this is economic pressure and the need to achieve economies of scale and ‘efficiencies’ in our practices. The costs of practicing medicine grow every year. We face increases in our office rent, staff salaries, medical supplies and equipment, and historic increases in our medical liability insurance costs. While costs have seen sharp increases, Medicare physician payments were cut in 2002. In 2003, 2004, and 2005, minimal increases were below the cost of inflation, and, since then, fees have been frozen again and large cuts loom. These payment realities and threats of future cuts make it a very uncertain time for solo and small practices.

### **Effect on Patients**

Our primary concern has to be the effect of the Medicare payment cut on patients. Many physicians will be forced to reconsider their participation in the Medicare program or restrict the number of new Medicare beneficiaries they are able to

accommodate in their practices. For patients, this might mean finding a new doctor or waiting longer for an appointment. Practices or specialties with a large Medicare base may need to find other ways to trim office costs through staff cuts, benefit reductions or other means. Cuts will have similar impact on TRICARE, the health care system for our military families, which uses the Medicare fee schedule. For medical practices near major military installations, these cuts will cause great hardship and military families will have greater difficulty finding care. Following Medicare's lead, many private insurers will also cut or freeze physician payments.

As Medicare and private insurance payments decline, practices often have to make the hard choice to stop caring for the patients of their lowest payor – usually Medicaid – creating an access crisis for those patients. Community care clinics have difficulty recruiting physician volunteers. Hours physicians once spent volunteering are used to make up for Medicare payment losses in their own practices in the face of ever-increasing practice costs.

As economics force a reduction in the number of small practices, rural patients must travel farther for routine care, and further still if they need specialty care. Recruiting a new physician to take over a small practice when a doctor retires is increasingly difficult. Entering even a well-established small practice, with escalating practice and liability costs and declining payments, is just too risky for a young physician starting a family and saddled with \$200,000 of student debt.

### **Innovation Stalled**

Electronic medical records can help us make needed improvements in patient safety, reduce the occurrence of medical errors, and may result in savings to the health care system, as we reduce unnecessary tests. But payment cuts and uncertainty seriously stall the acquisition of health information technology.

The system-wide benefits of electronic medical records don't necessarily translate into cost savings for physician offices. As Dr. Margaret Kelly testified to this Subcommittee in March, start-up costs are commonly upwards of \$50,000 per physician. Because interoperability standards are still in their infancy, this investment is something of a gamble. The technology changes rapidly and systems often do not communicate well with each other. Many physicians are fearful that this year's investment will be outdated or obsolete in a few short years.

Some people mistakenly believe that physicians will easily recoup their investment because the new technology will make them more efficient and able to see more patients. The irony is that health IT makes many offices significantly less efficient for months or even years after upgrading to EMR. It can take up to two years to handle

their previous patient load. And even when efficiencies are realized, it doesn't necessarily translate into more patients or more revenue.

For many ob-gyns, the goal is not to see more patients, but to better care for the patients we already have. Many pressures over the last decade have compressed the office visit into a few short minutes. We want to use technology to make those minutes more meaningful, not to strip additional minutes off an already too-short office visit.

With falling and unpredictable Medicare and private insurance payment rates, and with no specific incentives for the investment in electronic record systems, it is that much more difficult for doctors to make the plunge into health IT.

Very few people go into medicine in order to become 'businessmen.' We enter medicine to deliver health care to patients. But despite our lack of business acumen, we know that payments plummeting 10% in 2008, and by 40% over the next decade, seriously restrict our ability to hire and keep good administrative and clinical staff, to recruit a new physician into our practice, to purchase better medical equipment, to computerize our practices, and to keep delivering high quality care. These cuts will make it difficult to keep some practices open altogether.

As advocates for patients and their physicians, the Alliance of Specialty Medicine applauds the House for acting to prevent these cuts and to help us continue providing the best care for our patients. We call on the Senate to do the same and appreciate your leadership in continuing to highlight this critically important issue.