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September 12, 2016

The Honorable John McCain
Chairman
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Mac Thornberry
Chairman
House Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

The Honorable Jack Reed
Ranking Member
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Adam Smith
Ranking Member
House Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen McCain and Thornberry, and Ranking Members Reed and Smith:

The undersigned state medical associations and the American Medical Association (AMA) applaud your efforts to expand access to quality health care services for U.S. military personnel, military retirees, and their dependents in the TRICARE program. In particular, we support the provisions to expand access to care included in section 705 of the National Defense Appropriations Act (NDAA), titled Enhancement of Use of Telehealth Services in Military Health System. To be successful, however, we strongly believe that enhancing access to care through telemedicine must be done so in a manner that ensures patient safety and accountability. We are therefore deeply concerned with the language in section 705(d) of the Senate version of the NDAA (S. 2943) that would alter the point of care from the location of the patient to the location of the provider. This provision would deprive TRICARE beneficiaries of essential protections by fundamentally subverting and undermining existing state-based patient safety protections that are currently in force, and remove an essential mechanism used by states to ensure medical care provided to patients in their state meets acceptable standards of care.

Specifically, subsection (d) of section 705, titled Location of Care, would alter the location of the practice of medicine from the location of the patient to that of the provider with respect to reimbursement, licensure, and liability. Changing the applicable state laws from the location where the patient is located to the state where the health care provider is located for purposes of state licensure, medical liability, and reimbursement does not achieve the intended outcome. Namely, it would create confusion by altering well-established legal principles and open new conflicts of law questions, degrade important patient protections, and create confusion with regard to payment and coverage. If enacted, section 705(d) would dismantle accountability mechanisms needed to ensure patient protection because (1) state licensing boards where the patient is located would lack authority over practitioners licensed in another state and (2) state boards where the practitioner is licensed would have no authority to conduct investigations in a different state where the patient is located.

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The medical profession has long advocated that state licensing boards and the Federation of State Medical Boards (FSMB) streamline and simplify the medical licensure process. And, to that end, a workable solution is rapidly advancing through the FSMB's Interstate Medical Licensure Compact. The Compact is currently enacted in 17 states and is under active consideration in growing number of other states. It reduces the administrative and cost barriers previously faced by physicians providing in-person care in multiple states. The Compact is also an important mechanism that will support physicians who are interested in using telemedicine technologies while ensuring that the state where patients receive care is able to provide oversight and ensure accountability with state medical practice laws and standards of care. The approach proposed under section 705(d) would depart from the philosophy of the Interstate Medical Licensure Compact and Nurse Licensure Compact that facilitate the utilization of connected health technologies across state borders.

The physician community has been on the leading edge to advance patient access to care through new innovations and commends you for your commitment to expand access to TRICARE patients through section 705. We strongly believe that new innovations to expand access must be designed to ensure the delivery of safe, quality care where clear lines of accountability are maintained. We therefore strongly urge you not to include the language in subsection (d) of section 705 in the final conference agreement so that the site of care (and the applicable patient protection and accountability mechanisms) continues to be determined by the patient's location.

Sincerely,

American Medical Association
Medical Association of the State of Alabama
Arizona Medical Association
Arkansas Medical Society
California Medical Association
Colorado Medical Society
Connecticut State Medical Society
Medical Society of Delaware
Medical Society of the District of Columbia
Florida Medical Association Inc.
Medical Association of Georgia
Hawaii Medical Association
Idaho Medical Association
Illinois State Medical Society
Iowa Medical Society
Kansas Medical Society
Kentucky Medical Association
Louisiana State Medical Society

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Maine Medical Association
MedChi, The Maryland State Medical Society
Massachusetts Medical Society
Minnesota Medical Association
Mississippi State Medical Association
Missouri State Medical Association
Montana Medical Association
Nebraska Medical Association
Nevada State Medical Association
New Hampshire Medical Society
Medical Society of New Jersey
New Mexico Medical Society
Medical Society of the State of New York
North Carolina Medical Society
North Dakota Medical Association
Ohio State Medical Association
Oklahoma State Medical Association
Pennsylvania Medical Society
Rhode Island Medical Society
South Carolina Medical Association
South Dakota State Medical Association
Tennessee Medical Association
Texas Medical Association
Utah Medical Association
Vermont Medical Society
Medical Society of Virginia
Washington State Medical Association
West Virginia State Medical Association
Wisconsin Medical Society
Wyoming Medical Society