

## ACCESS TO HEALTH COVERAGE

### POSITION

The American Nurses Association (ANA) is committed to comprehensive health care reform that will ensure universal access to health care (preferably through a single-payer system). ANA also continues to support progressive, incremental steps to cover the millions of Americans who lack health care coverage and to oppose efforts to exempt new insurance pools such as association health plans (AHPs) from state insurance laws and regulations.

### BACKGROUND

The U.S. system of private, employer-based health insurance has served a crucial role in expanding the availability of health care coverage and ensuring a stable financial base for the health care system. However, this system has never reached all Americans, nor was it designed to provide coverage for all. The Medicare and Medicaid programs were enacted in 1965 to fill two of the most gaping holes in the system by providing coverage for those over 65 (and later, the permanently disabled) and for a large segment of the poor.

Since 1994, when efforts at comprehensive health care reform were defeated, a number of notable efforts have been made to increase health care access for specific target populations, including the Health Insurance Portability and Accountability Act (HIPAA) and the State Children's Health Insurance Program (S-CHIP). ANA has supported efforts to increase access to quality health care, even when they are limited to a specific population and not intended to be comprehensive in scope.

However, ANA opposes and remains deeply concerned about efforts to expand coverage by creating new categories of insurance plans that are exempt from state mandated health insurance requirements. Proposals taking this approach, such as AHPs, would pre-empt important protections provided by state laws and regulation that guarantee a minimal level of coverage. They ensure that plans cover services such as maternity care, cancer screenings, mental health services, and home health care. By removing coverage for cost-effective primary and preventative care benefits such as well-child care, this pre-emption could drive up the cost of health care. ANA is particularly concerned that these AHPs would be exempt from state laws that guarantee access to advanced practice registered nurses (APRNs) such as nurse midwives, nurse practitioners, and clinical nurse specialists.

As of December 2005, at least 32 states required insurance coverage of services provided by nurse practitioners, 30 states required coverage for nurse midwives. This guaranteed coverage can be especially vital to individuals in underserved rural or urban areas where

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APRNs represent key access to primary care. ANA believes that AHP-type plans would do little to cover the uninsured and are not an acceptable answer to the very real access and affordability concerns facing small businesses and their employees.

ANA has developed a proposal based on improving the Medicare program and expanding it into a program of health care coverage for all Americans. This proposal for a universal Medicare system would take the best of Medicare—a social health insurance program that has succeeded in providing coverage to virtually all elderly and disabled Americans for 40 years—and use it as the basis for a comprehensive, seamless program to ensure that every American citizen or resident has access to needed health care benefits.

## RATIONALE

The number of uninsured Americans remains unacceptably high, at nearly 43 million people, or 15 percent of the U.S. population. Too many Americans are simply not reached by employer-based insurance, private plans, or existing public programs. They include those who work for employers that do not provide health benefits, part-time or seasonal workers in positions that do not offer benefits, the self-employed, families who do not qualify for Medicaid, and people for whom coverage is available but who cannot afford to pay the premiums.

The uninsured experience worse health and die sooner as compared to individuals who are covered by health insurance. The Institute of Medicine reports that lack of insurance at the community level is associated with financial instability for health care providers and institutions, reduced hospital services and capacity, and significant cuts in public health programs, all of which impact access to certain types of care for all residents, even those who have coverage. ☺

## MEDICAL MALPRACTICE LIABILITY/TORT REFORM

### POSITION

The American Nurses Association (ANA) supports a balanced, multi-pronged legislative approach to address the current medical malpractice liability problem, which includes:

- Systemic changes to improve patient safety and reduce medical errors, such as establishment of a nation-wide mandatory, state-based error reporting system; the enactment of whistle blower protections; and other reforms identified in the statement on “Building Safe Health Care Systems for Informed Patients” that was adopted by the ANA House of Delegates in 2000;
- An independent commission to study and report to Congress and the President on the factors that have contributed to the current problem and on the impact that limitations on health care liability litigation and recoveries have had at the state level;
- Common-sense liability reforms, such as periodic payment of future damages, adoption of the collateral source rule, and providing liability protections for health care workers providing care in emergency situations; and
- More vigorous oversight and regulation of professional liability insurance industry practices and premiums;
- Opposition to dollar caps on health care liability litigation, which ANA views as premature, before receipt of the report of an independent commission on the liability issue.

### BACKGROUND


As the costs of medical malpractice liability insurance have continued to rise, posing a threat to patient access and provider availability, the issue of medical malpractice/tort reform has generated increasing attention and concerns from the health care, legal and insurance communities as well as from state and national policy makers, consumers, and the media. The resolution of the Medical Malpractice/Tort Reform issue is a priority for the Bush Administration, and many organizations are being asked to engage in advocacy on this issue. Multiple factors have contributed to the recent cycle of medical malpractice rate increases including the health care liability system, failure to adequately prevent medical errors, short staffing in many health care facilities, and the need for reforms within the insurance industry.

Although there is general agreement among the stakeholders that this issue remains a problem for some specialties and in some areas of the country, there is little agreement on the causes and even less agreement about possible solutions to address the issue. Physicians and insurance companies—which are on one side of the issue lobbying for

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caps on non-economic damages—are pitted against the trial lawyers, who are advocating for insurance reform. Consumer advocacy groups are lobbying for legislation on medical errors, including disclosure rules and safety standards. They maintain that high malpractice premiums also reflect weak insurance profits and investment decisions, not just frivolous malpractice suits.

## RATIONALE

A problem that arises from multiple factors cannot be solved by legislation that addresses only one of these factors, such as the imposition of limits on health care liability litigation and recoveries. The impact of such limitations at the state level is the subject of much debate and an impartial evaluation of what has happened in the states is needed in order to inform the decisions of policy makers on whether such limitations should be adopted at the federal level. 

## MEDICARE REFORM/PRESCRIPTION DRUGS

### POSITION

The American Nurses Association (ANA) supports the creation of a standard, affordable prescription drug benefit within the Medicare program. ANA maintains that the Medicare program should provide all beneficiaries with affordable access to needed medications and health care services.

### BACKGROUND

America's nurses have long supported our nation's efforts to create a health care system that assures access, quality, and services at affordable costs. ANA has also historically supported the mission and philosophical underpinning of the Medicare program. We were the first health professional association to endorse the creation of Medicare in the 1960s.

In 2003, Congress passed the Medicare Prescription Drug and Modernization Act (MMA, P.L. 108-173). This law made the largest wholesale changes to the Medicare program since its inception, and created a new Medicare Part D to cover the costs of prescription drugs. Beginning in 2006, Medicare beneficiaries were offered a voluntary prescription drug benefit through private health plans. These plans will include premiums and deductibles averaging roughly \$600 in 2007. The benefit maintains a large coverage gap, during which beneficiaries will receive no drug benefits, although they will continue to pay premiums. Some individuals with lower incomes will receive more generous benefits, while wealthier seniors will have to pay more for their Medicare Part B premium.

The MMA explicitly prohibits the government from negotiating with pharmaceutical manufacturers for lower prescription drug prices, and has thus failed to provide access to less expensive drugs from foreign countries. This prohibition on direct prescription drug price negotiation restrains Medicare from using its market power to secure lower cost medications. Medicare plans now pay more on average for common medications than the VA and the state Medicare programs.

ANA did not support the MMA because it contains an insufficient prescription drug benefit, one that will continue to leave beneficiaries with prohibitively high medication costs. In addition, the law relies heavily upon the private market to deliver the meager prescription drug benefit. History shows that these private plans are incapable of meeting the needs of America's seniors and the disabled population.

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## RATIONALE

ANA supports the creation of a benefit that ensures that all Medicare beneficiaries have reliable and affordable access to needed medications and health care services. In evaluating and responding to Medicare prescription drug benefit proposals, ANA evaluates whether or not the benefit advances this overarching goal. ANA support is based on the following principles:

- The benefit must offer comprehensive coverage that ensures affordable access to needed prescription drugs for all Medicare beneficiaries and grants assistance with cost-sharing to lower-income beneficiaries.
- All Medicare beneficiaries must be eligible for prescription drug coverage regardless of their income or health status.
- The benefit must be based on a standard, national Medicare benefit package that covers needed drugs and biologicals.

Regarding cost containment, ANA supports Medicare and/or its contractors being able to negotiate prices with pharmaceutical companies. CMS must begin to investigate methodologies for objectively determining appropriate drug prices under Medicare. ☺

## GENETIC NONDISCRIMINATION

### POSITION

The American Nurses Association (ANA) supports the enactment of federal legislation that protects individuals from discriminatory treatment and adverse consequences on the basis of their genetic information by employers and/or insurers.

### BACKGROUND

Genomics, the study of the genome and its use of genes, has gained much attention through successes like the Human Genome Project, where experts have mapped the human genome. Even before 2003, when the human genome sequence was completed, hundreds of tests were being developed through genomic research to screen for genetic diseases.

Genomic issues are of interest to patients, providers, insurers, and/or employers alike. First are the patients, who want to take advantage of advancements in genetic screening and treatment, have the treatment covered by their health insurance, and still be able to keep a job if it turns out they have a disease or a predisposition to one. Second, health care providers also have an interest in getting the best care for the patient while preserving the patient-provider relationship. If there are no protections against discrimination, people will be less likely to authorize genetic tests: this could often prevent people from being tested or even participating in genetic research studies needed to understand, treat, and prevent diseases.

Third, the payers (i.e., health insurance companies) are interested in protecting their profits, and therefore want to know if those they are covering have a genetic disease or are pre-disposed to a disease that might require significant expenditure in health care treatments. Finally, there are the employers who are increasingly concerned about how to reduce their burden of the high costs of health care. These gaps in privacy protection and corresponding lack of legal protection makes it easy to see how an asymptomatic person with a genetic disease may be denied health care coverage, even if they never end up getting sick.

A proposed way to prevent discrimination of genetic information in the workplace and in health insurance is to enact federal laws banning such practices and enforce stiff penalties to violators. ANA has supported genetic anti-discrimination legislation ever since its initial introduction in the 104th Congress in 1996. This year, Rep. Louise

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Slaughter (D-NY) is once again championing this issue with the introduction of the Genetic Information Nondiscrimination Act of 2007 (H.R. 493). The bill would:

- Set limits on genetic testing to prevent genetic discrimination by health insurance companies and employers,
- Prohibit mandated testing, and
- Stop insurance companies from setting premiums or deciding on eligibility based on genetic information.

Introduction of a companion bill in the Senate is anticipated. President Bush has also urged Congress and business leaders to work together to pass a bill that would prevent employers from denying people jobs—and insurance companies from denying eligibility—based on genetic profiles.

#### RATIONALE

As a strong proponent of comprehensive health care reform that would make appropriate health care accessible for all Americans, ANA has consistently supported genetic nondiscrimination legislation. ANA supports legislation that would prevent insurance providers from regressive policies which ultimately defeat the risk sharing purpose of insurance. This position is supported by the Code of Ethics for Nurses, which requires nurses to safeguard the patient's right to privacy by protecting information of a confidential nature and furthermore states that the rights, well being, and safety of the patient should be the determining factor in arriving at any professional judgment concerning the disposition of confidential information. 🙏

## HEALTH CARE QUALITY MEASURES AND INFORMATION

### POSITION

ANA advocates for the development and implementation of a valid health care quality measuring system to assess performance results that are understood and accepted by all participating providers. In addition, ANA supports the public reporting of transparent and comprehensible information so that consumers can be empowered to make value-based decisions about their health care. To accomplish these ends, ANA will continue to actively advocate for the inclusion and reporting of ANA-developed nursing-sensitive quality indicators as a way to improve quality patient care.

### BACKGROUND

Today, in response to variations in the quality of health care and rising health care costs, many policy makers and purchasers of health care services are experimenting with strategies to link payment more directly to the quality of care provided. Through a number of public reporting programs, demonstration projects, pilot programs, and voluntary efforts the current payment system is being transformed by rewarding providers for delivering high quality, efficient clinical care. An increasing number of purchasers/payers of health care services, including the Centers for Medicare and Medicaid Services (CMS) are embracing value-based purchasing or pay-for-performance programs along with public reporting of performance in an effort to improve the quality and cost-effectiveness of care while achieving high value for their health care dollars.

The core of any of these pay-for-performance programs are the measures used to rate the providers performance. The selection of quality measures is a topic that is particularly controversial for health care providers. It is impossible to determine performance and tie it to levels of reimbursement unless there is a valid measuring system to assess the outcomes that are understood and accepted by the participating providers. These concerns are among the significant factors to be considered in the health care environment where the quality of work may be difficult to measure and where many health care professionals are resistant to a change in the way they practice.

Quality measures can be process measures or outcomes measures or a combination of both. Some programs utilize patient outcome measures to assess the results of treatments for a particular disease or condition in terms of mortality, morbidity, health status, and quality of life. Other programs focus on improving the delivery of health care services and collect data on process measures such as indicators related to the methods and procedures used to provide health care services. In addition, many programs may include non-clinical performance measures as ways to determine levels of payment. For example, patient satisfaction scores, the adoption and use of information technology, and productivity measures (such as number of patients seen and/or prescribing patterns) are also being used as part of performance criteria in some value based purchasing programs.

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The definition and unification of quality measures that can be used across a large number of reporting initiatives, the implementation of risk adjustments for clinical outcome measures and the identification of the level and type of incentives that will effectively impact professional practice without compromising care are among the significant challenges that have yet to be resolved.

## RATIONALE

ANA has pioneered efforts to improve patient care, including the collection and dissemination of health care quality data. ANA's National Database of Nursing Quality Indicators (NDNQI) has been collecting data on nursing practice and patient outcomes in acute care for seven years.

ANA has participated in the National Quality Forum (NQF), which has endorsed over 100 quality indicators and performance measures encompassing a broad array of health topics including hospital care, patient safety, diabetes, cardiac surgery, nursing services, and nursing home care and is in the process of endorsing measures in ambulatory care, behavioral health, prescription medication use, deep vein thrombosis, and measures of care in academic health centers.

ANA has also successfully worked with JCAHO to develop the measurements for the 15 NQF nursing-sensitive quality indicators in preparation for reporting them in pay-for-performance programs.

ANA strongly supports the Patient Safety Act, legislation that would require health care facilities to make information publicly available about their staffing levels, patient care outcomes, and specific kinds of errors and avoidable patient care problems. Enactment of this legislation would take a strong step towards ensuring quality care by providing the public with the information they need to make informed decisions. 

## STEM CELL RESEARCH

### POSITION

The American Nurses Association (ANA) supports the ethical use of stem cells for research and therapeutic purposes that impact health.

### BACKGROUND

In 1998 a scientist at the University of Wisconsin published a report that described the establishment of a human embryonic cell line created from the successful removal of cells from unused embryos at a fertility clinic. This and other cell lines developed in the same way can be used for important healthcare research. While similar research can be done with adult stem cells, adult cells have not produced the full range of cell types that embryonic cells produce. Stem cells have the ability to divide and to transform into specialized cells. Human embryos that remain frozen and unused after in-vitro fertilization represent one of the most promising sources of embryonic stem cells. If these embryos are donated and used for stem cell research they may contribute to alleviating suffering and enhancing quality of life instead of remaining frozen or being discarded.

In 2001, President Bush announced that federal funds could only be used to support research using human embryonic stem cells lines that were derived before that date. The NIH Human Embryonic Stem Cell Registry currently lists about 21 embryonic stem cell lines. New and vigorous cell lines must be obtained to have appropriate samples, representing the diversity of our population, available for research.

ANA recognizes that stem cell research raises significant ethical considerations. ANA supports federal funding of stem cell research conducted within strict scientific and ethical guidelines, and believes that this funding should be free of conditions that may unnecessarily impede its progress and achievements. ANA also supports the ethical use of somatic cell nuclear transfer (SCNT or “therapeutic cloning”) and rejects the use of stem cell technology, or any technology, for the purposes of reproductive cloning.

While ANA recognizes there are opposing views on stem cell research, we believe the benefits to be realized for the many individuals who suffer from diseases and disabilities outweigh this dissent. Stem cell research is helping us understand fundamental cellular specialization and the application of that understanding.

### RATIONALE

Stem cell research will have a significant impact on health and quality of life. Research and therapeutic processes use adult, fetal and embryonic stem cells to explore the possibilities of growing new organs and tissues to replace those that are damaged or diseased. Collectively, these sources promise to achieve research goals and to develop new therapies. ANA recognizes the potential for stem cell research to provide relief through prevention, diagnosis and/or treatment for patients with a wide variety of complex diseases. ☺