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COMMITTEES
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ON AGING

April 7, 2009

Robert M. Kolodner, MD
Office of the National Coordinator for
Health Information Technology
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Dr. Kolodner:

As you work to develop regulations for the health information technology (HIT) provisions included in the American Recovery and Reinvestment Act, I respectfully ask that you take into account the considerable cost burdens and operational challenges that health care providers, particularly early adopters of HIT systems, will face in implementing the accounting for disclosures provision.

I am fully supportive of the need to improve our technological infrastructure to improve health care quality and affordability and am very proud of the advancements that many health care systems have already made in the implementation and use of HIT. These health care providers had the foresight and desire to adopt HIT before direct federal funds were made available to them.

Under the American Recovery and Reinvestment Act, health care providers are required to provide an accounting for all disclosures of personal health information, including treatment, payment, and health care operations. This means that each time a record is released directly by providers for purposes such as treatment and billing, the provider must be able to account for it.

The intent of this provision is good, and is meant to simply notify patients of who has accessed their private health information. However, health care providers are legitimately concerned that this provision will not be useful to individuals and will place enormous administrative and cost burdens upon them. One hospital system estimates the accounting for disclosures provision would cost approximately \$250 million over three years to move toward compliance. If not addressed, this will have a negative financial impact on early adopters of HIT and counteract the positive benefits of the economic stimulus.

I urge you to consider the cost of compliance with the accounting for disclosures provision and provide necessary flexibility in promulgating regulations for its implementation. I also urge you to provide flexibility in the effective dates for this expanded reporting.

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Thank you for your efforts to develop regulations that balance HIT advancement, privacy protections, health care costs, and patient safety. HIT is crucial to the future of health care, and we are committed to advancing policies that increase efficiencies, improve patient care and decrease health care costs.

Sincerely,

A handwritten signature in cursive script that reads "Herb Kohl". The ink is dark and the signature is centered on the page.

Herb Kohl
United States Senator