



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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For Immediate Release

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Grassley, Baucus Urge Colleagues to Support Bill Reining in Doctor-Owned Specialty Hospitals

WASHINGTON – Sen. Chuck Grassley, chairman of the Committee on Finance, and Sen. Max Baucus, ranking member, today urged their colleagues to co-sponsor their legislation to promote fair competition among hospitals.

The senators said that innovation and fair competition are critical and must be fostered, but this competition must be on a level playing field. Their legislation would ensure that specialty hospitals compete fairly on the basis of cost and quality. “Fair competition cannot occur when physician-owners are able to steer profitable patients to their facility and direct others to community hospitals,” they said.

“Specialty hospitals continue to raise a number of troubling issues,” Grassley said. “Congress needs to take additional action to address these issues. Physician-owned specialty hospitals treat the most profitable patients and services, leaving community hospitals to treat a disproportionate share of less profitable cases, Medicaid patients and the uninsured. That way, specialty hospitals can undermine community hospitals.”

“I am an advocate of efficient and innovative health care,” Baucus said. “But I don’t think it is fair to promote a system in which physicians can send healthier and more profitable patients to hospitals they own while referring less profitable patients with more extensive health problems to other institutions.”

Grassley and Baucus introduced their *Hospital Fair Competition Act of 2005* on May 11. The bill came after a March Finance Committee hearing and a series of government reports showing these hospitals treat patients who are less sick and hence more profitable, do not have lower costs than community hospitals, and treat lower shares of Medicaid patients.

The bill prohibits physicians from referring Medicare and Medicaid patients to new specialty hospitals in which they have an ownership interest. Grassley and Baucus set the effective date of the bill at today’s date — June 8, 2005, regardless of when it is enacted — because a current moratorium on specialty hospitals expires today.

Grassley and Baucus said they hope to enact their bill as soon as possible. In the meantime, the federal Centers for Medicare and Medicaid Services is not approving any new specialty hospitals for six months, or until January 2006.

Also, the Government Accountability Office this week will release a report examining the number of specialty hospitals under development. The report, requested by Grassley and Baucus, found that an additional 37 physician-owned specialty hospitals could open within a year or two if the government takes no action to rein them in. And, if the agency approves other newer facilities still under development, it would result in a doubling of the current number of specialty hospitals.

Today, Grassley and Baucus sent a “Dear Colleague” letter to all of their fellow senators to solicit support for their bill. The text follows. The GAO report will be available on Thursday at www.gao.gov.

June 8, 2005

Dear Colleague:

We urge you to cosponsor the **Hospital Fair Competition Act of 2005**.

As you may know, the Medicare Payment Advisory Commission (MedPAC), the Government Accountability Office (GAO) and the Department of Health and Human Services (HHS) have each found that physician-owned specialty hospitals tend to select the healthiest and most profitable patients, leaving full-service community hospitals to treat a disproportionate share of less profitable cases, poor patients and the uninsured. This patient selection is the result of a loophole in Medicare law, and we believe the loophole should be closed.

Current Medicare law generally prohibits physicians from referring Medicare and Medicaid patients to facilities in which they are full or partial owners. Congress enacted the self-referral law in response to several studies showing that physician-owners make more referrals to facilities they own, and order substantially more services at higher costs. An exception exists, however, if the physician has an ownership interest in the “whole hospital.” But physician-owned specialty hospitals – those concentrating predominantly or solely on heart, orthopedic, or surgery – are whole hospitals in name only. In fact, they more closely resemble a department or subdivision within a hospital rather than an actual whole hospital. And the law explicitly prohibits physician owners from referring patients to a hospital subdivision.

The **Hospital Fair Competition Act of 2005** would close this loophole by prohibiting new specialty hospitals from qualifying for the “whole hospital” exception. Existing specialty hospitals -- those in operation or under development before November 2003 -- would be able to continue operating under certain restrictions.

In addition, the bill would level the playing field between specialty hospitals and community hospitals by eliminating incentives in the payment system to cherry-pick the healthiest and most profitable patients. Finally, the bill would lift bans in current law to allow hospitals and physicians to share savings if they work together in innovative ways to improve the efficiency of patient care.

We support innovation and competition in health care. But such competition must be fair, conducted on a level playing field. **The Hospital Fair Competition Act** levels the competitive playing field in several areas, and we urge you to support it.

Sincerely,
Charles E. Grassley
Max Baucus