

# **NPAF** National Patient Advocate Foundation

The Patient's Voice | *since 1996*

## **EXECUTIVE BOARD**

**Nancy Davenport-Ennis**  
CEO, President

Patient Advocate Foundation

**Edward G. Connette, Esquire**  
Board President

Essex Richards, PA

**Christian Downs, MHA, JD**  
Board Vice President

Executive Director

Association of Community Cancer Centers

**Leah Arnett, RN, BSN, MHCA**  
Board Secretary

Nursing Director

University Health Services

University of Texas at Austin

**John L. Murphy**  
Board Financial Officer

Saguenay Capital, LLC

**Bruce Avery, MD**  
Hematology-Oncology Knoxville

University of Tennessee

**Alan J. Balch, Ph.D.**  
Vice President

Preventive Health Partnership

**Rene Cabral-Daniels, JD, MPH**  
Vice President of Grant Programs

Williamsburg Community Health Foundation

**Richard D. Carter, Esquire**  
Carter & Lay

Patient Advocate Foundation

**Dennis A. Gastineau, MD**  
Director, Human Cell Therapy Laboratory

Divisions of Transfusion Medicine & Hematology

Mayo Clinic

**Venus Ginés, MA**  
Founder & CEO

Dia de la Mujer Latina, Inc.

**The Honorable Phil Hamilton**  
Virginia House of Delegates

Virginia House of Delegates

**Pearl Moore, RN, MN, FAAN**  
CEO (Ret.)

Oncology Nursing Society

**Roy Ramthun**  
President

HSA Consulting Services

**Sheldon Weinhaus, Esquire**  
Weinhaus & Potashnick

Weinhaus & Potashnick

## **SCIENTIFIC BOARD**

**Lori Williams, PhD, DSN<sup>®</sup>, RN, AOCN**  
Chair, PAF Scientific Board of Directors

University of Texas

MD Anderson Cancer Center

**David Brizel, MD**  
Professor

Duke University Health System

Radiation Oncology Department

**Robert M. Rifkin, MD, FACP**  
Director, Cellular Therapeutics

Rocky Mountain Blood & Marrow Transplant Program

Rocky Mountain Cancer Centers

**F. Marc Stewart, MD**  
Professor of Medicine, University of Washington

University of Washington

Fred Hutchinson Cancer Research Center

**Richard L. Theriault, DO, MBA**  
Professor of Medicine

MD Anderson Cancer Center

## **HONORARY BOARD**

**The Honorable Mary T. Christian**  
Virginia House of Delegates (Ret.)

**The Honorable Patrick Dougherty**  
Missouri State Senate (Ret.)

**Paula Trahan-Rieger, RN, MSN, ACON, FAAN**  
Chief Executive Officer

Oncology Nursing Society

**Leo Sands**  
Executive VP & Chief Administrative Officer

US Oncology

**Doris Simonson**

May 7, 2010

Mr. Jay Angoff

Office of Consumer Information and Oversight

Department of Health and Human Services

Attention: DHHS-2010-MLR

Hubert H. Humphrey Building

Room 445-G

200 Independence Avenue, S.W.

Washington, DC 20201

RE: Medical Loss Ratios; Request for Comments Regarding Section 2718 of the Public Health Service Act

Dear Mr. Angoff:

The National Patient Advocate Foundation (NPAF) would like to thank you for the opportunity to submit comments on Section 2718 of the Public Health Service Act which was added by Sections 1001 and 10201 of the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, enacted on March 23, 2010. NPAF is a non-profit organization dedicated to improving access to healthcare services through both federal and state policy reform. Our mission of creating avenues for improved patient access for uninsured and insured individuals is influenced by the experience of patients who receive case management services, including mediation and negotiation, from our companion organization, Patient Advocate Foundation (PAF). Last year, PAF received more than 4 million inquiries, online and by telephone, for information and assistance with access to care issues resulting from diagnoses of a chronic, debilitating or life-threatening disease. PAF serves patients in every state in the United States at no cost to the patient. In 2009, 55,384 patients were assigned a full-time case manager in order to reach positive resolution.

We would like to comment on the requirement for health insurance issuers offering individual or group coverage to submit annual reports to the Secretary of Health and Human Services showing the medical loss ratio (MLR) expressed as a percentage of premiums spent on reimbursement for clinical services and activities that improve health quality. The definition of medical loss ratio under the PPACA is different from the traditional definition used by state insurance commissions and the insurance industry generally in that it includes in the numerator not only clinical service spending but also an insurer's spending on activities to improve health care quality.

Jay Angoff  
May 7, 2010  
Page 2

Unless the regulations implementing the PPACA MLR provisions include clear, precise definitions of what such activities might include – and exclude – carriers will have a carte blanche invitation to shift costs that have historically been considered administrative into categories designated as quality improvement initiatives to ensure that they meet the MLR targets applicable to them under the law. The purpose of the PPACA MLR provision is to guarantee that consumers get value for their insurance dollars. Implementing regulations that fail to adequately guard against “gaming” of reported MLRs by the mis-identification of inappropriate costs as quality improvement spending would run counter to that intent. We are pleased to see the new PPACA law addresses the question of MLR and urge the adoption of a clear national standard to guide issuer reporting. From a patient perspective, we applaud the focus on quality improvement inherent in the PPACA MLR provision so long as the provision is implemented in a way that is consistent with the concept of appropriate patient payment for services that carry real value.

We also believe the MLR needs to be reported at the individual plan form level within a given state in order to comply with the spirit of the transparency requirement within the PPACA. Allowing for public release of only combined plan data at the company level will not accomplish the transparency objectives of the PPACA. The point of the law’s transparency requirement is to provide consumers with information that will inform prudent buying decisions. To achieve this objective, posted MLR data should be provided to the public in a way that allows consumers to link the data with the various purchasing options available to them. Most consumers do not understand how insurance works. To the extent that PPACA can open up the process and provide very specific information, the public’s understanding and its ability to make intelligent purchasing choices will be increased.

We thank you for the opportunity to comment from the patient’s perspective on the requirements regarding medical loss ratios. We would be pleased to respond to any questions about our recommendations that may arise during the implementation of the PPACA.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Nancy Davenport-Ennis". The signature is written in black ink on a white background.

Nancy Davenport-Ennis  
President and Chief Executive Officer