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February 13, 2009

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

Speaker Pelosi and Majority Leader Reid:

On behalf of the 74,000 Fellows of the American College of Surgeons (ACS), I thank you for the opportunity to comment on the "American Recovery and Reinvestment Act of 2009" (H.R.1). The surgical community stands ready to work with you on reforming our health care system. Consistent with the ACS Statement on Health System Reform, we are pleased that this legislation takes appropriate steps to ensure that all Americans can easily retain their health care coverage should their employment status change. The Fellows of the American College of Surgeons believe that access to health insurance will strengthen our delivery system. We are pleased to see this priority in H.R. 1.

Additionally, we applaud the inclusion of \$10 billion for the vital research being done at the National Institutes of Health (NIH). Since 1922, the ACS Commission on Cancer has worked to establish standards that ensure quality, multidisciplinary, and comprehensive cancer care delivery in health care settings. This consortium of professional organizations is dedicated to improving survival and quality of life for cancer patients through standard-setting, prevention, research, education, and the monitoring of comprehensive quality care. We are pleased that this funding will be directed to programs tasked with finding a cure for this disease.

The ACS believes that the utilization of clinical research in informing physicians and patients of the efficacy of treatment options holds much promise for increasing the quality and safety of health care delivery. Providing appropriate funding to accelerate the effort of comparing the clinical outcomes of medical treatments and services in an unbiased scientific manner is consistent with ACS policy of providing safe, high quality care to all surgical patients. We are pleased that the conference report emphasized that it was not the intent of the conferees to utilize this federal body to "mandate coverage, reimbursement, or other policies for any public or private payer." However, we are troubled that the conference report does not specifically reference this as "clinical" comparative effectiveness research. We believe that the intent of this body should be to assess overall value, not just cost, and we look forward to working with the Secretary as this body is established.

The establishment and adoption of an interoperable, nationwide health information system, assisting physicians in the acquisition and implementation of these systems, and improving the quality and safety of care provided are all goals we share. We are encouraged by the financing provided upfront to invest in technology infrastructure,



The Honorable Nancy Pelosi
The Honorable Reid
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including the expansion of existing clinical registries and quality improvement tools. The ACS has a quality improvement database, known as the American College of Surgeons National Surgical Quality Improvement Program (ACS NSQIP), that has been implemented in over 200 hospitals nationwide and reduced post-operative mortality by 27% between 1991 and 2001. We hope that as the Secretary reviews the available options to invest funds to meet these needs, ACS NSQIP will be considered.

The ACS applauds the inclusion of bonus payments as a means of facilitating the adoption and implementation of health information systems. Particularly, we support the special attention given to rural and underserved communities. We do have some concerns directly tying these funds to participation in a quality improvement program. We are not opposed to physicians being encouraged to participate in such programs, but to disqualify access to health information systems based upon such criteria raises concerns. The implementation and adoption of an interoperable HIT system may precede an individual physician's ability to participate in such a reporting system. While they are mutually beneficial, we do not believe they should be directly linked. Additionally, we believe that imposing penalties for nonadopting providers on such an aggressive timeline will not foster adoption, but rather discourage physicians from participation. We share the goal of a nationwide health IT system, but we must fully implement the incentives and allow physician compliance before facing the unintended consequences of burdensome penalties.

With regard to information privacy and security, while we have concerns with provisions that require users of electronic health records (EHRs) to maintain an accounting of all non-oral disclosures of personal health information for the purposes of treatment, payment, and health care operations for a period of three years, we appreciate the authority of the Secretary to determine the necessary information to be included. Our hope is that, as the Secretary promulgates a rule on what information this accounting will include, this burden as well as the capacity of current EMR systems will be heavily scrutinized. As many physician specialties face crippling shortages in the health care workforce, our goal should be to remove administrative burdens. Even the most sophisticated EMR users would struggle to maintain compliance with this costly and bureaucratic requirement.

As surgeons who care for patients in the most acute situations, we believe a nationwide, interoperable HIT system has the potential to enhance the provider-patient relationship by enabling a more customized and informed dialogue. We also would encourage members to include the comments of all health care providers when executing the provisions outlined in H.R. 1. The needs of health care providers can be as diverse as the providers themselves. Again, we thank the Congress for its continued efforts to improve the health care delivery system and we look forward to working together to advance our shared goals.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas Russell".

Thomas Russell, MD FACS
Executive Director