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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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<http://help.senate.gov>

June 17, 2014

The Honorable Sylvia Burwell
United States Department of Health and Human
Services
Office of the Secretary
200 Independence Avenue, SW
Washington, DC 20201

The Honorable Thomas E. Perez
United States Department of Labor
Office of the Secretary
200 Constitution Avenue, NW
Washington, DC 20001

The Honorable Jacob J. Lew
United States Department of the Treasury
Office of the Secretary
1500 Pennsylvania Avenue, NW Washington,
D.C. 20220

Dear Secretaries Burwell, Lew, and Perez,

As Members of the US Senate Health, Education, Labor and Pensions Committee, which holds jurisdiction over major portions of the Patient Protection and Affordable Care Act (ACA), we remain vigilant in ensuring the Act is properly and efficiently implemented as intended by Congress.

We congratulate you and your Departments on the Administration's ongoing hard work and good faith efforts to efficiently deliver the many benefits of this important law to the American people and implement the vital reforms to our health care system contained within.

We write today regarding the appropriate implementation of Section 2706 (a), the provider "non-discrimination" provision contained in the Act. As Section 2706 (a) originated in our committee, we have a clear and precise understanding as to the provision's intent. Simply put, Section 2706 (a) is intended to prohibit health insurance plans from discriminating against entire classes of licensed and certified health care professionals solely on the basis of the provider's licensure or certification.

Despite the clear intent of this provision of law, we believe that the Departments of HHS, Treasury, and Labor clearly erred when they released an April 29, 2013 FAQ document that did not comport with the congressional intent of Section 2706 (a). Unfortunately, the FAQ continues to be employed by various parties as a justification to avoid properly applying the requirements of this section of the Act and to deny beneficiaries access to the full range of health care providers envisioned by the law.

The Department has chosen to issue a Federal Register notice (79 FR 14051) requesting additional public comment as to the appropriate interpretation of this provision. We believe the congressional intent of Section 2706 (a) is clear and it is our expectation that your Departments will move forward to correct the currently issued FAQ in keeping with the intent we outlined above. We trust that this action will be accommodated in an expeditious manner.

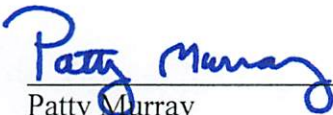
Respectfully,



Tom Harkin
Chairman
Senate HELP Committee



Barbara A. Mikulski
United States Senator



Patty Murray
United States Senator




Bernard Sanders
United States Senator



Michael F. Bennet
United States Senator




Sheldon Whitehouse
United States Senator



Elizabeth Warren
United States Senator



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