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PHYSICIAN CLINICAL REGISTRY COALITION

August 5, 2022

VIA ELECTRONIC MAIL

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Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
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Re: Feedback Regarding the Measure Set Review Process

Dear Dr. Schreiber:

The undersigned members of the Physician Clinical Registry Coalition ("Coalition") write to express our serious concerns regarding the Centers for Medicare and Medicaid Services' ("CMS") Measure Set Review ("MSR") process. The Coalition is a group of medical society- and board-sponsored clinical data registries that collect and analyze clinical outcomes data to identify best practices and improve patient care, and that support clinicians with Merit-Based Incentive Payment System ("MIPS") reporting requirements. We are committed to advocating for policies that encourage and enable the development of clinical data registries and enhance their ability to improve quality of care through the analysis and reporting of clinical outcomes. Most of the members of the Coalition are measure stewards, meet the definition of clinician-led clinical data registry under the 21st Century Cures Act, and have been approved as Qualified Clinical Data Registries under the MIPS program.

The Consolidated Appropriations Act of 2021 ("CAA") authorized the National Quality Forum ("NQF") to provide feedback to CMS on quality and efficiency measures that could be considered for removal. Consolidated Appropriations Act, H.R. 133, 116th Cong., tit. 1A § 102(c)(4) (2020) (codified at 42 U.S.C. § 1395aaa(b)(4)). This process is referred to as the MSR process. During a presentation on April 21, 2022, NQF stated that the CAA "presents an opportunity for CMS to [r]eceive additional stakeholder feedback on potential measure removal in their quality programs [and i]ncrease transparency about measures being considered for removal."

The current MSR process, however, does not accomplish these goals. The MSR process, in its current form, does not provide adequate opportunity for feedback from the public,

including measure stewards. Stakeholders were provided only five business days to submit comments on the measures considered for removal. Moreover, during the public comment period, stakeholders were provided insufficient information to provide meaningful feedback on the selected measures. The rationale for removing each measure was not provided until after the conclusion of the public comment period. This lack of information, coupled with the inadequate timeframe to submit public comments, undercuts the purpose of the MSR process and call into question whether the Measure Applications Partnership ("MAP") Advisory Groups, Workgroups, and Coordinating Committee are provided adequate information to holistically review the quality measures and render appropriate recommendations. Feedback from specialty societies is crucial to help ensure that specialty-specific measures are not inappropriately removed when the specialty has a limited measure set. Removal of these measures may create scoring inequities and jeopardize the ability of clinicians to participate in a program.

Therefore, the Coalition urges CMS to consider the flaws in the 2022 MSR process that have been identified in this letter when evaluating the NQF recommendations and require NQF to fix those flaws. In addition, we recommend that NQF provide detailed summaries of the MAP Workgroup's discussions and concerns.

Determining the meaningfulness of quality measures under the current MSR process is not in the public's best interest. Measure stewards should be considered valuable stakeholders in the review progress. Medical specialty organizations make great investments in measure development that support CMS programs. Measure stewards are granted approval of their measures on an annual basis. Measure stewards support and explain their MIPS measures, both electronic and nonelectronic, to CMS and its contractors during the review cycles. Measure stewards also support QCDR measures through the Self-Nomination process with validity and reliability testing. In addition, measure stewards must comply with requirements for measure update and maintenance activities that are overseen by CMS and its contractors. Further, these measures are already subject to removal by CMS if they are topped-out or lack benchmarks.

Many measures selected for removal cover the breadth and scope of medical care and provide benchmarks and metrics that cover diagnoses and procedures of interest. Clinicians have differing practice styles and patient populations. To pigeonhole them into fewer measures that do not align with or are peripheral to their practice patterns can distort their performance profiles. Reducing the number of meaningful quality measures, particularly measures that serve specific medical specialties or measures that are reported by thousands of clinicians, marginalizes the very clinicians who champion quality improvement and shoulder the responsibility of quality reporting.

Inadequate Timeframe for Public Feedback

Measure stewards were not consulted nor informed about the MSR process until the public comment period for the MSR proposal was announced on May 18, 2022. We hope that in future cycles, NQF will provide advance notice to measure stewards that their measures were selected for review.

Additionally, as stated above, stakeholders were given only five business days to provide feedback. Most medical specialty associations that develop and steward quality measures have robust public comment process with provider-led committees that provide insight on a continual basis regarding quality program policies. To complete a review process in such a short period of time lacks feasibility and respect for the clinical community. A five-business-day comment period is unreasonable, particularly compared to the comment period required under the Administrative Procedure Act and the Medicare statute, and it creates a significant burden on measure stewards.

Moreover, during the Rural Health Advisory Group MSR Meeting, only ten minutes were allotted for public comments on the seven measures up for review, leaving just 1.5 minutes for each measure. NQF was asked about the lack of opportunities for public and measure steward feedback and claimed that it did not have time to ask for input due to other MAP review processes that must happen before the end of this year, and that the bulk of the meeting time was reserved for discussion among the NQF workgroup members, and not for measure stewards. Call participants were told that this is the "first year" of the process, and that stakeholders can provide input on the process to make it better for next year. However, this assurance offers no recourse to stewards with measures recommended for removal in the current MSR cycle.

Lack of Transparency

Transparency is essential to the integrity of any decision-making process. The Coalition urges NQF to provide greater transparency in the MSR process. Under the current process, NQF provided a survey for MAP Workgroup and Advisory Group members to nominate measures in selected federal programs for removal. However, the specific survey questions and accompanying spreadsheet used by such members to aid in measure nomination were not made publicly available, and the public had no opportunity to comment. It is unclear what type of metrics or benchmarks were provided to MAP members, if any, which raises concerns as to whether survey respondents had insufficient and only cursory information on which to make their decisions. Furthermore, the survey methodology and response rates have not been shared with the public. The measures discussed to date have had as few as three survey responses supporting their removal according to the NQF presentations.

In addition, NQF did not provide the rationale for removing each measure prior to the conclusion of the public comment period on May 25, 2022. Although the MAP Clinician Workgroup Summary Sheets, the MAP Hospital Workgroup Summary Sheets, and the MAP PAC-LTC Workgroup Summary Sheets (collectively, the "Summary Sheets") describe the rationale for removal consideration and the votes for removal consideration, NQF did not post the Summary Sheets until June 6, 2022—almost two weeks after the end of the public comment period. The Summary Sheets provided material information that should have been provided to stakeholders prior to commencement of the public comment period. Because material information was not provided to the public prior to

the comment period, stakeholders were unable to provide complete, meaningful comments.

Lastly, NQF needs to implement sufficient safeguard to ensure that all public comments are considered. It has come to our attention that the Summary Sheets, which describes the public comments, left off some stakeholder feedback submitted during the comment period.

Therefore, the Coalition urges **CMS to consider the flaws in the 2022 MSR process that have been identified in this letter when evaluating the NQF recommendations and instruct NQF to revise the MSR process to address the aforementioned concerns**. **Additionally, we recommend that NQF provide detailed summaries of the MAP Workgroup's discussions and concerns.**

We appreciate your consideration of our feedback. If you have any questions, please contact Rob Portman or Leela Baggett at Powers Pyles Sutter & Verville, PC (Rob.Portman@PowersLaw.com or Leela.Baggett@PowersLaw.com).

Respectfully submitted,

American Academy of Dermatology
American Academy of Neurology
American Academy of Ophthalmology
American Academy of Otolaryngology – Head and Neck Surgery
American Academy of Physical Medicine and Rehabilitation
American Association of Neurological Surgeons
American College of Emergency Physicians
American College of Gastroenterology
American College of Radiology
American College of Rheumatology
*American Gastroenterological Association
American Society for Gastrointestinal Endoscopy
American Society of Anesthesiologists
American Urological Association
Congress of Neurological Surgeons
*Society of Interventional Radiology
Society of NeuroInterventional Surgery
The Society of Thoracic Surgeons

** This letter was submitted to CMS on July 7, 2022. Two organizations signed on to this letter after its submission on July 7, 2022.*

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