LEUKEMIA & LYMPHOMA SOCIETY®
fighting blood cancers

July 5, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Schumer
Democratic Leader
United States Senate
Washington, DC 20510

Subject: LLS Perspective on the draft Better Care Reconciliation Act (amending H.R. 1628), as published by the Senate Budget Committee on June 26, 2017

Dear Majority Leader McConnell & Democratic Leader Schumer:

On behalf of the Leukemia & Lymphoma Society (LLS) and the one million two hundred ninety thousand Americans living with a blood cancer diagnosis, I am writing to express our significant concerns regarding the impact of the Senate's Better Care Reconciliation Act (BCRA) on blood cancer patients, survivors, and their families. Until the Senate makes the significant changes necessary to address the concerns outlined below, LLS urges all senators vote 'no' on the BCRA on the Senate floor.

LLS supports legislation that advances our four core principles for meaningful coverage: promote affordability, guarantee access, ensure quality, and encourage stability. Unfortunately, the Senate's BCRA draft fails the test of advancing these principles and represents a step backward in improving the lives of American cancer patients. The Senate draft bill would put insurance coverage out of reach for many blood cancer patients and increase out-of-pocket costs for many others—threatening their access to life-saving treatments. At the same time, the legislation does not address the financial and bureaucratic barriers that most distress blood cancer patients. Rather, the BCRA takes control away from consumers and patients and puts it back in the hands of insurers. The Senate should reject this approach.

In this letter, we summarize the specific concerns we have regarding the negative impact this bill will have related to the ability of blood cancer patients to secure and maintain access to affordable, high-quality health coverage.

Guaranteeing Access

Since the enactment of the Affordable Care Act (ACA), one key patient protection has provided peace of mind for millions of cancer patients, survivors, and their families: An insurer offering health insurance to your healthy neighbor cannot deny you coverage or charge you more for your coverage simply because you have been diagnosed with cancer. Although the BCRA maintains the some of the ACA's pre-existing condition patient protections, the BCRA's provision to allow states to relax requirements for federal patient protections would erode this guarantee by allowing insurance companies to sell plans designed only for healthy consumers—leaving cancer patients without access to meaningful coverage.[1]

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Another existing guarantee that cancer patients rely on is the federal prohibition on insurance companies using 'lifetime limits' to permanently cap the amount of spending the plan will allow for a particular patient. Prior to the enactment of this protection in the ACA, cancer patients were left without coverage once their costly cancer treatments had totaled to one million dollars or another arbitrary amount. LLS is particularly concerned that the BCRA's state waiver framework repeats the mistake of the House-passed AHCA by allowing plans to reinstate lifetime and annual limits for vital cancer treatments.[2]

Specifically, under a waiver obtained through the BCRA's new rules, an insurer could use one state's low standards for Essential Health Benefits (EHB) to eliminate these protections for services like prescription drugs, which many blood cancer patients rely on to control their cancer.[3] For example, an insurer operating in a state that does not require prescription drug coverage as an EHB could continue to cover prescription drugs for its enrollees—and even advertise drugs as a covered benefit—while simultaneously subjecting that coverage to a lifetime limit. Once drug spending on behalf of a patient reached a certain threshold, the insurer could refuse to provide further coverage—eliminating the ability of that patient to access her cancer therapy. These changes would impact patients who receive coverage through a large employer—even if the employee lives in a state that has not waived the federal benefits protections—in addition to those who purchase small group coverage or individual insurance plans. Cancer patients have good reason to be concerned about losing this vital protection: A 2017 survey of employer benefit administrators found that if federal patient protections are repealed, fifteen percent of employers would take "immediate action" to institute lifetime dollar limits.[4]

At the same time, the BCRA erects a new barrier that would prevent a cancer patient who is currently insured but who had recently been uninsured from purchasing new coverage on the individual market—even if that patient is relying on their coverage to receive cancer treatment.[5] This "lock out" provision would leave many cancer patients facing a choice between incurring enormous costs for their cancer treatment fully out-of-pocket or forgoing necessary and potentially life-saving care.

Promoting Affordability

The BCRA includes several policies that would increase costs for patients who are currently enrolled in commercial insurance plans or on Medicaid. These changes would have the most significant impact on Americans who are older and those with lower incomes—putting insurance coverage and the care provided under that coverage completely out of reach for millions of Americans.

In the individual insurance market, the bill would raise healthcare costs dramatically for many blood cancer patients through a combination of policies that increase premiums for consumers most likely to receive a blood cancer diagnosis, increase deductibles and other cost-sharing for patients who need costly cancer treatments, and allow insurers to subject spending for necessary services to unlimited patient cost-sharing.

First, the BCRA would significantly increase the amount many cancer patients would need to pay in monthly premiums to receive coverage. The BCRA's reduction in the value of benchmark plans, increase in premium variation for older Americans, and changes to the ACA's income-related premium assistance formula combine to require many patients to pay more each month to purchase coverage. For example, under the BCRA, a 60-year old cancer patient with an income of $24,000 would pay $220

more per month to purchase a plan of similar value. A patient of similar age with a slightly higher income would pay $383 more per month for a similar plan.[6] Meanwhile, even purchasing an insurance plan that covers substantially less in benefits than the average plan today, a 64-year old patient with an income of $56,800 would pay an additional $967 each month.[7]

In addition to increases in monthly premiums, the BCRA would shift even more costs to consumers who use their health coverage through the use of higher deductibles and copays. Policies that push an even greater share of costs onto consumers are especially harmful for cancer patients, who are more likely to incur significant healthcare costs every year. The bill increases the amount patients are required to pay in cost-sharing in two important ways. First, the BCRA's reduction in benchmark plan actuarial value means that insurance plans eligible for premium assistance would cover a smaller share of services—from 70% of average costs under the ACA to 58% of average costs under the BCRA. This lower value leads to higher deductibles and cost-sharing. For example, plans sold on ACA marketplaces today that cover 60% of average costs have an average combined deductible of $6,105—nearly $2,500 higher than plans that cover 70% of average costs.[8] Second, the BCRA completely eliminates the ACA's cost-sharing assistance funding that currently reduces out-of-pocket costs for millions of consumers. The combination of these changes would increase the average deductible for a cancer patient making $18,000 per year from approximately 1.4% percent of the patient's annual income to 30% of the patient's annual income.[9] These changes led the Congressional Budget Office (CBO) to conclude that under the BCRA "most people purchasing [nongroup insurance] would have higher out-of-pocket spending on health care."[10]

Compounding the impact of these changes, similar to the lifetime limits concern outlined above, the BCRA would allow plans in the nongroup insurance market and the employer market to exempt spending on vital services from a patient's annual out-of-pocket maximum. This framework would allow insurers to exempt cost-sharing on anti-cancer prescription drugs and other essential services toward the patient's annual out-of-pocket maximum—putting patients on the hook for thousands more in out-of-pocket costs each year. As a result, a patient facing higher monthly premiums, a higher deductible, and higher copayments would also lose the guarantee that their increased out-of-pocket spending would eventually end.

Cancer patients enrolled in Medicaid are some of the most vulnerable Americans—facing significant health problems, low-incomes, and often disability. The BCRA would eliminate the ACA's additional funding for the Medicaid expansion population and transform Medicaid into a per-capita capped payment program, in which federal funds are not responsive to inevitable changes in per-beneficiary spending as populations change and new medical breakthroughs come to market. Even more concerning, the BCRA would allow states to go further and turn Medicaid into a block granted program, in which federal funds are capped and completely divorced from real world fluctuations in Medicaid demand and healthcare costs.

The CBO has noted that the underlying bill's Medicaid changes will drastically cut the funding dedicated to providing care for our most vulnerable patients and will lead to millions of additional uninsured Americans.[11] As states respond to these reductions by eliminating coverage for the expansion population, these low-income consumers are unlikely to have the resources to afford private, individual market coverage, especially given the smaller premium assistance and complete elimination of cost-sharing subsidies under the BCRA. In addition to many losing coverage, LLS is also concerned

that these new fiscal constraints will require states to make short-sighted, cost-focused decisions that could imperil access to quality cancer care for the patients who remain on Medicaid.

The provisions discussed above are key to understanding the BCRA's impact on cancer patients, as policies designed to guarantee access to coverage are effectively false promises unless accompanied by the financial assistance necessary to allow a cancer patient to actually maintain and use that coverage.

Ensuring Quality

The BCRA makes a number of changes that would erode current rules that provide cancer patients the peace of mind that all insurance options provide basic value to the consumer and coverage for necessary benefits.

The bill would establish a framework for states to change the specifications for EHB standards, allowing insurers to sell insurance but provide little to no coverage when a patient receives a diagnosis of a condition like blood cancer. If EHBs were modified to drop coverage of high-cost services that are utilized by a small number of people, coverage for certain expensive drugs—like anti-cancer drugs, for example—could be at risk.[12] CBO anticipates that these EHB changes would impact close to half of the population.[13] In addition to the commercial insurance changes above, the bill curtails federal spending on the Medicaid program and also eliminates EHB requirements for Medicaid coverage—opening the door to Medicaid benefit designs and eligibility rules that ration remaining Medicaid dollars and deprive the most vulnerable enrollees of necessary care.[14]

The erosion of these core patient protections would allow private insurers and state Medicaid plans to carve out coverage for vital services such as chemotherapy, anti-cancer prescriptions drugs, and stem cell transplants. As a result, the BCRA would allow insurance that leaves life-saving cancer care out of reach even for cancer patients with insurance coverage.

Encouraging Stability

The BCRA creates significant instability for cancer patients on private, individual market insurance plans and on Medicaid. In particular, the bill's elimination of the existing individual and employer mandates could lead to dramatic changes in risk pools that could threaten the ability of plans to manage risks in 2017 and participate in the individual market in 2018. In contrast to the individual mandate's structure of penalizing consumers who remove themselves from the risk pool, the BCRA's 'lock out' provision preventing consumers from gaining coverage due to a coverage lapse the previous year seems to exacerbate adverse selection problems by providing an additional incentive for currently healthy consumers who are uninsured to avoid coverage until they need insurance.

As a result of these changes and those in the sections above, CBO projections show that the BCRA would lead to 15 million Americans losing their insurance coverage in just the first year of implementation, with an estimated 22 million total additional uninsured Americans after a decade of implementation.[15] These policies have the potential to further skew the individual market risk pools and disincentivize insurers from participating in markets that have little competition under the ACA.

In addition to these concerns, the BCRA also includes a provision to allow states to create a Medicaid eligibility "work requirement." This policy threatens to take health insurance away from many low-income cancer patients who lose their jobs and are physically unable to work or search for employment

while they are undergoing their cancer treatment. Cancer patients know all too well that a cancer diagnosis reverberates across a family's financial wellbeing, often causing the patient and even caregivers to lose their employment as they dedicate themselves to fighting the cancer. No government at any level should tell a cancer patient undergoing treatment that they are going to lose their health insurance because they also lost their job.

Summary

LLS shares Congress' goal of achieving higher quality care at a lower cost to American families. Unfortunately, in its current form, the BCRA aggravates existing problems by weakening key patient protections that cancer patients need to access life-saving treatment, increasing out-of-pocket costs for families, creating additional instability for vulnerable patients covered by Medicaid and individual market plans, and eliminating standards that hold insurers accountable for providing value to patients.

LLS and our patients are committed to working with Senate leaders to advance policies that address the many significant obstacles to care that remain today, even with the existing protections provided by the ACA. We sincerely hope that our concerns with the BCRA will help underline the need for a deliberate and thoughtful process as the Senate continues to consider changes to improve the healthcare system. Improving this legislation will require an open and honest debate including extensive engagement with patient organizations, provider associations, researchers, and health sector industries.

LLS is ready and willing to work with congressional leaders on both sides of the aisle to make the improvements necessary to advance a bill that works for all consumers, including cancer patients. LLS stands ready to provide our perspective to ensure that no patient loses access to the treatment they need to win their battle with cancer.

Sincerely,

Dr. Louis J. DeGennaro, Ph.D.
President & Chief Executive Officer

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[9] Ibid.
[10] Congressional Budget Office. "Cost Estimate: H.R. 1628, Better Care Reconciliation Act of 2017." June 26, 2017. Accessed at: https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/52849-hr1628senate.pdf
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[13] Ibid.
[14] Rosenbaum, Sara. Health Affairs Blog. "Medicaid Round Two: The Senate's Draft 'Better Care Reconciliation Act of 2017.'" June 24, 2017. Accessed at: http://healthaffairs.org/blog/2017/06/24/medicaid-round-two-the-senates-draft-better-care-reconciliation-act-of-2017/
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