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May 31, 2017

The Honorable Johnny Isakson  
United States Senate  
Washington, D.C. 20510

The Honorable Phil Roe  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Mark Warner  
United States Senate  
Washington, D.C. 20510

The Honorable Earl Blumenauer  
United States House of Representatives  
Washington, D.C. 20515

RE: Patient Choice and Quality Care Act of 2017

Dear Senators Isakson and Warner and Representatives Roe and Blumenauer:

On behalf of the American Bar Association, with over 400,000 members, I want to convey our appreciation for your untiring bipartisan efforts in advocating for meaningful access to patient-centered advance care planning. We commend you for your leadership in the upcoming introduction of *The Patient Choice and Quality Care Act of 2017*.

The ABA has strongly promoted the value of advance care planning and the use of advance health care directives by all adults for decades. Recent ABA policies urge widespread support of high-quality advance care planning and protocols such as Physicians Orders for Life-Sustaining Treatment (POLST), which strengthen the documentation of advance care plans and promote access to and financing of high-quality, comprehensive long-term supportive services for persons with advanced illness. *The Patient Choice and Quality Care Act of 2017* addresses each of these policy goals.

An expanding body of medical literature demonstrates the importance of recurring physician-patient-family communications as essential to making patients' values and goals of care honored in the course of their health care. Advance care planning conversations and personal priorities change across the arc of one's life and health status. The quality of these conversations depends on education of health professionals and the public. Documentation of these discussions in the form of advance directives must be accessible in electronic medical records and portable across care settings.

*The Patient Choice and Quality Care Act of 2017* is a valuable step forward in preparing health systems that utilize advance care planning and, when faced with advanced progressive illness, ensuring that patients receive comprehensive, family-centered care that is consistent with their goals and values, and honors their dignity.

The ABA especially commends the bill's provisions to:

- Integrate advance care planning into a holistic advance illness-management demonstration program;

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- Facilitate the development of quality measures for advance care planning;
- Enhance the portability of advance directives;
- Strengthen the documentation of advance directives and portable treatment orders by hospitals, skilled nursing facilities, home health agencies, and hospice programs;
- Create standards for incorporating advance care planning documents into electronic health records;
- Provide grants to improve public awareness of advance care planning and to develop, expand, and provide a national support center for POLST programs.

These provisions are consistent with an understanding that advance care planning is effective when it identifies and respects the individual's treatment goals and personal values, particularly as individuals begin to confront serious, progressive, life-limiting conditions. The process ensures that patients' values and goals drive their care, rather than the preferences of providers, insurers, government, or others.

*The Patient Choice and Quality Care Act of 2017* also recognizes that the quality of care for patients with advanced, progressive illness is greatly enhanced when a systemic process exists that converts the wishes of these patients into an effective set of medical orders. The clinical protocol, most commonly called Physicians Orders for Life-Sustaining Treatment, has been shown effective in eliciting goals of care for patients and incorporating those goals into a plan of care reflected in actionable medical orders that address high probability medical contingencies, including hospitalization, cardiopulmonary resuscitation, and the use of artificial nutrition and hydration. The majority of states have adopted some version of POLST. *The Patient Choice and Quality Care Act of 2017* provides valuable support to the states to initiate and expand POLST programs and to provide needed training and technical support through a National Resource Center on POLST Programs.

While we strongly support the portability of health care advance directives across the states, we recommend affirming the principle that in the absence of an advance directive, any clear expression of a person's health care wishes should be honored, consistent with applicable law. Common law and constitutional principles dictate that the wishes of a patient be respected within the framework of generally accepted health care standards. However, the presence or absence of a valid advance directive can sometimes become a dominating focus of attention, overriding a focus on the actual goals and wishes of the individual regardless of how they are communicated. A few states have included variations of that language in their advance directive laws, and it serves as an integral framing principle of the individual's right to make health care decisions.

The ABA thanks you and your staff for working with the various stakeholders to develop legislation that addresses the needs of so many people in need of advance care planning. We stand ready to assist you in moving this legislation forward.

Sincerely,



THOMAS M. SUSMAN