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December 4, 2016

To: United States Department of Labor

From: Richard N. Gottfried

Re: Proposed Revision of Annual Information Return/Reports; Docket # EBSA-2016-0010; RIN 1210-AB63

I submit the following comments on this proposed rulemaking as chair of the Committee on Health of the New York State Assembly. I am familiar with the comments and proposal submitted in this matter by the National Academy for State Health Policy (NASHP), in collaboration with the APCD Council and the NAHDO. I strongly urge the Department to amend and adopt the rulemaking in accordance with those comments and proposal.

New York State is in the process of establishing an all-payer claims database system covering a broad range of health care practice settings. We understand the extraordinary importance of this data for guiding public and private efforts to improve health and the quality, affordability and accessibility of health care. However, because of the Gobeille decision, our system will not be entitled to information relating to New Yorkers who are covered by self-insured plans, which is a majority of New Yorkers with non-government health coverage. This will seriously reduce the effectiveness and value of the database for achieving its important public health purposes.

For decades, the Medicare database has been an extraordinary source for research (with appropriate safeguards for confidentiality) on health policy and practice. Similarly, in New York and other states, data reported by hospitals has been invaluable.¹ While these two sources are limited as to the Medicare population or the hospital setting, they point to how important and valuable a full APCD database can be. *Overcoming the devastating limitations of the Gobeille decision is critically important to achieving the goals of an APCD system.*

¹ That data is reported by each hospital, not by the payer, and is therefore not affected by the Gobeille decision. However, collecting all-practice-setting data from providers would require collecting data from tens of thousands of diverse providers. Collecting data from payers is orders of magnitude easier and more practical, and less burdensome on the reporting entity.

Health insurers operating in multiple states are readily able to provide data to individual state APCDs. There is no policy reason why multi-state self-insured plans (which are generally administered by insurance companies acting as administrators) cannot do the same. In my view, the most sensible solution is for self-insured plans to comply with state APCD programs just as insurers do. Regrettably, under the Gobeille decision, that action appears to be off the table.

The NASHP proposal is a sensible and practical plan, including a demonstration phase, to create a system, uniform across all states, that will provide states, the federal government, researchers, stakeholders and the public with the data needed to better understand, analyze, and improve what is happening in health care and health.

Adopting the NASHP proposal would be a major step for protecting and promoting the public health and public interest.

Thank you for your consideration of these comments.

A handwritten signature in black ink, reading "Rick Gattfried". The signature is written in a cursive style with a large, stylized "R" and "G".