AMERICAN SOCIETY OF PLASTIC SURGEONS®
THE PLASTIC SURGERY FOUNDATION™

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May 15, 2020

The Honorable Steven Mnuchin
Secretary
United States Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

RE: Paycheck Protection Program

Dear Secretary Mnuchin,

The American Society of Plastic Surgeons (ASPS) thanks Congress and the Administration for providing desperately needed financial resources to small businesses, including physician practices, during the current Public Health Emergency. Your swift action in crafting and implementing the Paycheck Protection Program (PPP), among other economic stimulus initiatives, has kept small businesses across the nation viable and millions of Americans on payrolls.

We are writing today to urge you to make necessary refinements to the PPP, so that physicians' offices can continue treating patients during the COVID-19 pandemic and its aftermath. As the largest association of plastic surgeons in the world, representing more than 7,000 members and 93 percent of all board-certified plastic surgeons in the United States, it is our responsibility to advance quality care for patients and promote public policy that protects patients. Our top priority is to ensure that patients receive necessary services wherever and whenever they need our care. Without the improvements we outline below, many practices be forced to temporarily or permanently close their doors, eliminating reliable access to care for a number of patients across the country.

We ask for your serious consideration of the following improvements to the PPP as you develop additional COVID-19 relief packages:

Regulatory Action

Repeal the 75/25 Rule:

In its April 15 Interim Final Rule, the SBA provides that it "has determined that the non-payroll portion of the forgivable loan amount should be limited to effectuate the core purpose of the statute and ensure finite program resources are devoted primarily to payroll. The Administrator has determined in consultation with the Secretary that 75 percent is an appropriate percentage in light of the Act's overarching focus on keeping workers paid and employed."

This means that a cap of 25% has been set on non-payroll allowed uses such as lease costs and utilities. Medical practices across the country have been encouraged by their state medical societies to reopen their practices at limited staffing levels in an effort to protect patients and staff due to PPE shortages and social distancing guidelines .We also have heard several reports that employers have a difficult time staffing up for re-openings for lack of being able to compete with the expanded unemployment. This means they are struggling to re-establish their payrolls and, while we thank the Administration for providing recent flexibility on situations where an employer is unable to rehire employees, the 75/25 rule will still harm employers whose payroll cannot constitute 75% of their loan proceeds.

Furthermore, the rule disproportionately affects medical practices, who tend to have high overhead costs and must lease large, expensive spaces that can accommodate the equipment needed to perform surgical procedures and provide other medical care. This effect is exacerbated for small medical practices in very high-cost areas such as Miami, New York City, Washington, D.C., and others, because these practices will have even higher monthly lease costs in proportion to their payrolls.

Physicians have also been under increased financial distress as they have had to incur new expenses such as the installation of new air purifying systems, touch-less thermometers, COVID-19 test kits, and other prevention expenses to safely reopen their practices. Therefore, we respectfully request the Administration to allow capital and equipment costs including supply expenses related to preventing the spread of COVID-19 to be considered operating costs under the loan program.

Covering these overhead costs is a prerequisite to medical practices being able to re-open, and stay open. While keeping employees on the payroll is the first priority for any business owner, we must also ensure that these employees will have an actual place of employment to return *to*. Given that the statute provides only very limited allowed uses for loan proceeds, there is a built-in safeguard to ensure that employers are spending all PPP funds in the way that Congress envisioned. *We urge the Administration to repeal the 75/25 rule and instead provide employers with the flexibility they need to spend their loan proceeds on the limited allowed uses in the way that most helps their business*.

Optional Extension of Loan Maturity

The CARES Act provides the Administration with the flexibility to provide small businesses with up to ten years before repaying their loans at up to 4% interest. The Administration has set the maturation at two years, with a 1% interest rate. At this time, the duration of the Public Health Emergency is uncertain, and the increasingly stressed margins of many medical practices may not provide enough profit to pay loans back in only two years. The loan amounts are equal to 250% of monthly payroll: thus, the amounts can be large, and the prospect of paying back any balance within two years is daunting, especially during the bleak economic future we are facing.

As such, *we strongly urge the Administration to utilize its discretion to provide a longer loan maturation period, with retroactive application for any loans already issued*. Understanding that the Administration may have been seeking to strike a balance between a low interest rate and a short pay-back term, we recommend keeping interest rates as low as possible when extending the terms of any loan's maturity, thus giving small businesses like physician practices a better chance at rebounding more quickly as the overall economy improves.

Congressional Action

Set Aside Funds for Businesses Under 10 Employees

The initial $350 billion round of funding for the PPP was exhausted in just over two weeks. As of

Sunday May 10, over half of the additionally appropriated PPP funding has been committed. We greatly appreciate Congress providing additional appropriations to the program, but remain concerned about the speed at which the funding will run out, especially as compared to the time that Congress will need to make any substantive, legislative changes to the program. Thus, we urge you to appropriate additional funding with any substantive amendments to the PPP. Furthermore, *we urge Congress to set aside some portion of the appropriated funds for businesses with less than ten employees*. Most physician practices are not large operations; prioritizing businesses such as these will ensure that independent medical practices can continue to serve patients during the pandemic and in the aftermath, as our healthcare system confronts a large wave of pent-up medical needs.

Extend June 30 PPP Date

Currently, the "covered period" for PPP loans ends on June 30, 2020. Given the uncertain trajectory of the virus and the fact that businesses will not be "back to normal" by June 30, *we urge Congress to extend the statutory end date of the program through the end of this year and provide regulators the power to extend it further*. This will provide a stronger on-ramp to medical practices and other small businesses as they try to regain their footing in the uncertain future ahead.

We recognize the tremendous efforts by Congress and the Administration during these challenging times. Given the financial strain many physician practices are under due to COVID-19, we respectfully request that the Administration and Congress work to include the policy changes listed above so physicians can continue to serve our nation's patients to their fullest ability. Please don't hesitate to contact Patrick Hermes, Director of Advocacy and Government Relations, at phermes@plasticsurgery.org or (847) 228-3331 to request any additional information or with any questions. Thank you for your consideration.

Sincerely,

Lynn Jeffers, MD, MBA, FACS
President, American Society of Plastic Surgeons

CC: The Honorable Mike Crapo, United States Senate
The Honorable Marco Rubio, United States Senate
The Honorable Sherrod Brown, United States Senate
The Honorable Ben Cardin, United States Senate
The Honorable Jovita Carranza, U.S. Small Business Administration