

March 19, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204, U.S. Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
S-230, U.S. Capitol
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, DC 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader McConnell, and Minority Leader Schumer:

On behalf of the 22 undersigned organizations representing physicians and patients currently faced with the onset of Coronavirus Disease 2019 (COVID-19), we ask your consideration for inclusion of the following provisions as you draft legislation to help stave off the extreme challenges created by the crisis.

Protect Frontline Physicians

Ensure Physicians Have the Equipment they Need: Expedite personal protective equipment (PPE), including N95 production and other protective gear, as well as ventilators.

Ensure Good Samaritans are Protected When Crossing State Lines: In order to assist overwhelmed state and local health systems, volunteer surgeons, anesthesiologists, and other health care professionals will be needed to provide coverage. The current federal and state Good Samaritan laws provide some civil liability protections for volunteer health care providers, but only if they are licensed in the state where the services are provided. The Good Samaritan Health Professionals Act (S.1350/H.R. 6283) provides certainty by extending federal Good Samaritan civil liability protections (equivalent to the protections found in the federal Volunteer Protection Act of 1997 and many state laws) to inter-state volunteers who are licensed in their home state.

Prevent Frivolous Lawsuits for Telehealth: Physicians should be protected from frivolous lawsuits related to new perceived violations of HIPAA during telehealth treatment. Provided a physicians' intent is to virtually treat a patient in their best interest and to the best of the physicians' ability given the limitations of technology available to both the physician and the patient, such physicians should not be held liable for any perceived or actual HIPAA violations.

Utilize and Support Existing Resources

Fund Military-Civilian Partnerships: As the health care system continues to respond to COVID-19, trauma centers and trauma surgeons and anesthesiologists remain on the front lines of care for emergency situations. Not only do hospitals have to prepare to treat patients with coronavirus, but they must maintain resources and staffing to respond to traumatic injuries such as vehicle crashes, falls, industrial and farm

accidents, firearm injuries, and natural disasters. It is crucial during a national pandemic to maintain trauma readiness through additional resources and staffing. The MISSION ZERO Act was signed into law on June 24, 2019, as part of S. 1279, The Pandemic and All-Hazards Preparedness and Advancing Innovation (PAHPAI) Act. (Public Law No: 116-22). This program will help to facilitate military-civilian trauma care partnerships, embedding military trauma professionals in civilian centers. These partnerships further advance trauma care and provide greater civilian access through additional staffing and sharing of best practices. We encourage Congress to fully fund this program at the authorized amount of \$11.5 million.

Temporarily Allow Physician-owned Hospital Expansion: Congress should temporarily lift the moratorium that prohibits physician-owned hospitals (POHs) from expanding while the President's applicable COVID-19 emergency declaration is in effect. This would enable POHs to respond to the immediate and growing need to expand hospital capacity. This would last as long as the President's applicable COVID-19 emergency declaration is in effect. The current moratorium blocks POHs from offering desperately needed relief to an over-burdened hospital system.

Ensure Efficient Access to Necessary Care

Relieve Unnecessary Prior Authorization: To prevent delays in medically necessary care, Congress should consider relieving prior authorization requirements by adopting the Improving Seniors' Timely Access to Care Act (HR 3107). Congress should also consider extending this beyond Medicare Advantage to all health plans, including ERISA.

Protect Physician Practices

At very few moments in history has it been more relevant than today that physicians put the focus of care entirely on the patient, and not be distracted by the business operations of the care they provide. Practices are making the necessary sacrifices with no question, but when they resurface from this battle, they need to know their businesses will stay afloat.

Small Business Relief for Physician Practices: Ensure physician practices are recognized as small businesses with access to small business assistance/relief programs or efforts.

Ensure Physicians have the Disability protections that they Need: Doctors who are not employees of hospitals are **answering the call** to treat patients who are potentially infected with COVID-19. As these doctors put their health at risk and jeopardize their own business, including the livelihood of their staff, Congress should protect these physicians and their small businesses.

Loss Forgiveness for the Bundled Payment for Care Improvements Initiative: Because the majority of elective cases will be canceled or rescheduled, there is the expectation that case volumes will plummet. As a consequence, there will be a disproportionate case mix of mainly unplanned admissions. Instituting a period of loss forgiveness for participants in the program would provide significant relief for many physicians.

Additionally, we ask for the **suspension** of the following to ensure that closures of independent physician practices are not an unnecessary consequence of this virus:

- **Suspend Budget Neutrality** - Suspend budget neutrality requirements (at least for the E/M policy changes related to the complexity add-on and increasing the E/M component of global codes) for Medicare Physician Fee Schedule changes announced for 2020 and 2021;
- **Suspend Sequestration** - Suspend the 2% annual Medicare budget sequester (time frame TBD) and updating the RVUs of the Global packages;
- **Suspend MACRA Reporting Requirements** - Suspending MACRA's reporting requirements (time frame TBD, but at least for 2020 and perhaps 2021); and
- **Suspend Medical Student Loan Repayment** - Temporarily suspend medical student loan repayment and consider deferment of the interest.

Sincerely,

American College of Surgeons

American Academy of Facial Plastic and Reconstructive Surgery

American Academy of Ophthalmology

American Academy of Otolaryngology – Head and Neck Surgery

American Society of Cataract and Refractive Surgery

American Association of Neurological Surgeons

American Association of Orthopaedic Surgeons

American College of Obstetricians and Gynecologists

American College of Osteopathic Surgeons

American Society for Metabolic and Bariatric Surgeons

American Society for Surgery of the Hand

American Society of Anesthesiologists

American Society of Colon and Rectal Surgeons

American Society of Plastic Surgeons

American Urogynecologic Society

American Urological Association

Congress of Neurological Surgeons

Society for Vascular Surgeons

Society of American Gastrointestinal and Endoscopic Surgeons

Society of Gynecologic Oncology

The American Society of Breast Surgeons

The Society of Thoracic Surgeons