March 20, 2020

The undersigned large state medical associations represent hundreds of thousands of physicians who are on the front lines caring for patients during the novel coronavirus (COVID-19) pandemic. On behalf of our physician members, we thank you for your recent efforts to mitigate the health care and economic impact of the crisis. As you work to develop the third COVID-19 response plan, we urge you to consider additional issues to protect the viability of physician practices as they struggle to meet the needs of their patients and staff. COVID-19 is testing the capacity of our health care system. Congress’ ability to help physicians overcome supply shortages, health care staffing shortages, and the related financial challenges is essential to ensuring that our communities are appropriately served.

**Priorities for Congress:**

**Personal Protective Equipment (PPE), ventilators, test kits and related supplies:** PPE (masks, gowns, eye protection, and gloves), N95 respirators, ventilators, and other vital supplies are dwindling quickly. Physicians in each of our states are extremely frustrated and experiencing major shortages. The number of test kits and related supplies continue to be scarce. We cannot emphasize enough how important it is to address the supply shortages to keep our health care workforce healthy and able to treat patients.

**Request:** We appreciate the President’s Executive Order to trigger a wartime law to speed the manufacture, production and distribution of supplies but it must be implemented immediately, spur massive production and prioritize distribution to health care workers, emergency workers and the nation’s hot zones.
Telemedicine: We greatly appreciate the telemedicine waivers you authorized for Medicare and Medicaid. Telehealth will allow physicians to manage the care of their patients while reducing potential exposure and spread of the virus to both patients and health care workers.

Not all patients, particularly the elderly, can navigate virtual visits with audio and video capabilities. Further the requirement that a telephone or telehealth visit be initiated by a patient is a barrier to care as in-person visits are being cancelled and practices are converting these to telephone visits in order to get patients the care they need.

Request: The Medicare and Medicaid waivers must be clarified to include telephone visits. Telephone visits to Medicare patients should be paid at parity with commercial or Medicare in-person rates and the patient initiated requirement should be removed.

ERISA Telemedicine Mandate: Most of our states have either instituted or are working to implement similar mandates on the state-regulated private health plans to cover and reimburse providers at the same rates whether services are provided via telehealth or in-person.

Request: Because ERISA plans are not regulated by the states and comprise 50% - 80% of the commercials health care marketplace, we urge Congress to also require ERISA plans to pay physicians at in-person rates for covered services provided via telehealth, including the telephone.

Support for Physician Practices: Many physician practices are under great strain. Primary care offices, urgent care centers and emergency physicians are overwhelmed. Moreover, the Centers for Medicare and Medicaid Services and many states have ordered physicians to suspend non-essential surgeries and other procedures. We support those orders to ensure capacity to handle the COVID-19 surge, conserve protective equipment and honor the social distancing standards to curb the spread of COVID-19. However, suspending such services will create financial difficulties for physician practices and the nation needs these physicians to be available for COVID-19 related care. Moreover, physicians are dedicating additional resources to protective equipment and they need assistance with telemedicine.

Moreover, some physician practices have been exposed to the virus and others have contracted the virus. This requires quarantine time away from work. Physicians and their staff will need financial help to maintain stability in their practices so they can get better and return to work. While we fully understand that small businesses across the country are hard hit, we urge you to make special considerations for the physician workforce that is so vital to fighting the pandemic.

Request: We urge you to consider direct financial support, grants, no-interest or forgivable small business loans for physician practices, deferment of medical student loan payments, and other health care business grants to assist practices. Physician Medicare and Medicaid rates should be enhanced.

Request: We appreciate the provisions in HR 6201 and urge a further expansion of FMLA and sick leave for physicians and their staff. We would also urge that physician practices be given immediate access to tax credits, federal grants and interest free loans to offset the costs of such leave.
Request: To provide further stability for physician practices, we urge Congress to **suspend** several upcoming Medicare and Medicaid funding cuts, including:

1) Medicare sequestration cuts;

2) Medicare MACRA payment freeze. We would urge that Congress replace the freeze with a meaningful payment update;

3) The budget neutrality requirements on the new Medicare Physician Fee Schedule global surgery Evaluation and Management office visit changes that will result in an average 7% payment cuts to surgeons and other facility-based physicians who are central to our inpatient care capacity during the crisis.

4) The Centers for Medicare and Medicaid Services (CMS) proposed Medicaid Fiscal Accountability Rule (MFAR) that would cut state and federal Medicaid funding by as much as 50% in all 50 states. We urge Congress to block implementation of this rule in the face of the COVID-19 crisis. There is broad recognition that states will need Medicaid resources to fight the outbreak, particularly among the fragile elderly and disabled who are served by Medicaid. If this rule is implemented, state budgets will be devastated at a time when health care resources are needed more than ever.

**Suspend Administrative Practice Burdens**

Request: Physicians need to focus on patient care and therefore, we urge Congress to suspend all MACRA MIPS Quality Payment Program reporting and other administrative burdens for 2019-2020. Many physicians have lost staff because of exposure to Covid-19 and it is becoming more difficult for practices to focus on these less essential reporting requirements. CMS has lifted these requirements when states have declared statewide emergencies, for hurricanes and wildfires.

We urge Congress to suspend all prior authorization requirements and enact prior authorization reform (HR 3107) for Medicare and ERISA plans regulated by the federal government. Physicians must be able to respond quickly to patient needs during the crisis.

**Additional Issues**

**Surprise Medical Billing**: We also ask that Congress resist attempts to include surprise medical billing legislation that includes median contracted rate payment benchmarks because, as CBO has estimated, such a benchmark would result in 15-20% payment cuts for both out-of-network and in-network physicians. Such cuts will result in reduced access to care at a time when patients need access to all hospital-based physicians. However, we are supportive of legislation that builds on the bipartisan Ways and Means Committee proposal with arbitration factors that are fair and balanced for physicians, hospitals and insurers because it bases payment on current marketplace rates.
Thank you for giving physicians the support they need to meet the nation’s health care needs. We look forward to continue working with you to address the challenges we face as we fight the COVID-19 pandemic.

Sincerely,

California Medical Association
Florida Medical Association
Massachusetts Medical Society
Medical Society State of New York
Texas Medical Association
Washington State Medical Association