April 16, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515

The Honorable Charles Schumer
Minority Leader
United States 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 American Osteopathic Association (AOA) and the more than 151,000 osteopathic physicians and medical students we represent, thank you for the steps you have already taken and are continuing to take to protect Americans during the Novel Coronavirus (COVID-19) pandemic. Osteopathic physicians (DOs) are on the frontline of healthcare delivery in primary care, emergency medicine, and other medical specialties. DOs are providing care for patients, in-person and virtually, across all practice settings and in every state. We offer the following recommendations as you consider next steps to address new and continuing economic and health concerns related to COVID-19.

During this unprecedented time, DOs have remained steadfast in delivering healthcare on the frontlines caring for patients across primary care, emergency medicine, critical care and all medical specialties in every state in America. The AOA appreciates the additional funding for the numerous programs included in the “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act). However, additional resources are needed if we are to get back to normal.

The following recommendations are oriented around policies that will help maintain access to care. We want to ensure that patients in all communities have safe access to care in all settings, and preserving the viability of physician practices is an integral part of our nation’s health care system.

Medicare and Medicaid Payment Parity
DOs play a critical role in increasing access to health care in our country, including rural and underserved urban areas. While DOs make up approximately 12% of all physicians in the United States, they comprise 40% of the physicians practicing in medically underserved areas, and they need your help. In particular, those in specialties like pediatrics and family physicians that disproportionately see a higher share of Medicaid patients.

The AOA greatly appreciates that the CARES Act expanded Medicare coverage for telehealth and other services for the duration of the COVID-19 public health emergency. This is very helpful for our physicians who see Medicare beneficiaries. However, those who disproportionately care for a larger Medicaid population in
their practices also need financial assistance. **We urge Congress to increase Medicaid payment rates to align with Medicare fee-for-service payments for the duration of the public health emergency.**

**Medicare Accelerated and Advanced Payments**

The AOA appreciates the expansion of the Accelerated and Advance Payment Program, which has provided flexibility to physicians who need financial assistance. However, we have heard significant concerns about the ability of physician practices to repay this amount of money while patients remain at home and physicians delay non-essential procedures and visits to preserve protective equipment and slow the spread of the virus, and there are statutory solutions needed to help physician practices.

**We recommend postponing the recoupment until 365 days after the advance payment is issued and extending the repayment period.** Currently, physicians who seek financial assistance through advance payment must repay it in four months by offsetting future claims. We urge Congress to postpone recoupment until 365 days after the advance payment is issued and to extend similar repayment flexibility offered to other industries affected by the pandemic, like Section 4003, to physician practices. No one knows when the current public health emergency will end; extending the repayment period will help physician practices stay open and maintain continuity of care for patients.

Due to the uncertainty of the impact of this pandemic, **we also urge Congress to direct CMS to reduce the per-claim recoupment amount from 100% to a maximum of 25% during the repayment period.** This will ensure that while the Medicare program is being repaid the funds advanced through this mechanism, the recoupment process is not structured to only delay a sudden stoppage of Medicare revenues to practices.

In addition, the statute currently requires any outstanding debt after the initial repayment period expires to begin accruing interest at a rate of 10.25%. **We would strongly request that Congress reduce the interest rate for advanced payments due to the COVID-19 pandemic during the extended repayment period to zero,** allowing physician practices to focus immediately on the needs of their patients and communities, such as implementing telehealth, and keeping the lights on while other procedures and visits are postponed.

**Liability**

The COVID-19 pandemic has rapidly altered the delivery of care across our health care system. The Centers for Disease Control and Prevention (CDC), the U.S. Department of Health and Human Services (HHS), and state governments have issued guidance and recommendations to address the immediate needs of patients with COVID-19 and manage a limited availability of medical equipment and supplies. Although necessary, these measures have raised serious concerns about the potential liability of physicians and other clinicians who are responding to the pandemic and continue to provide high-quality patient care while adhering to these guidance and recommendations. Examples of increased liability risk facing physicians and other clinicians include, but are not limited to, providing treatments or care outside their general practice areas and for which they may not have the most up-to-date knowledge, inadequate supplies of safety equipment that could result in the transmission of the virus from patient to physician and then to additional patients, or directly from one patient to another, shortages of equipment, such as ventilators, that can force facilities and physicians to ration care, and inadequate testing that could lead to delayed or inaccurate diagnosis. In these and other scenarios, physicians and other clinicians face the threat of medical liability lawsuits due to circumstances that are beyond their control.
The AOA appreciates the inclusion of important liability protections for health care volunteers who respond to the COVID-19 in the CARES Act, but additional action is needed to protect the vast majority of physicians and other healthcare professionals on the frontline of this pandemic. Due to the unprecedented strain this epidemic has placed on our healthcare system, we strongly urge Congress to consider extending Federal Tort Claims Act liability protections to physicians and other clinicians providing care to COVID-19 patients or otherwise adhering to guidance or protocols from a government entity during this national public health emergency.

Support for Resident Physicians and Students
Today, osteopathic medicine is one the fastest growing health care professions in the country, with one in four medical students in the United States attending a college of osteopathic medicine. Nearly 57% of doctors of osteopathic medicine (DOs) practice in primary care, partnering with patients and their families throughout every stage of life, including our nation’s seniors. A large portion of osteopathic medical schools and residency programs are located in rural and urban underserved communities, and many of its resident physicians and medical students are playing a critical role in responding to this health crisis and providing care to patients on the frontlines.

For residents, COVID-19 is inflicting additional strain as they are redeployed from their primary training programs and put their personal well-being on the line caring for the sickest patients, many without appropriate personal protective equipment (PPE). Some medical schools, such as New York Institute of Technology College of Osteopathic Medicine, are graduating their students early to deploy them to care for patients during this public health crisis. For these residents and early graduated medical students, whose academic debt averages over $200,000, we urge Congress to provide at least $20,000 of federal student loan forgiveness or $20,000 of tuition relief.

These benefits should also be made available to third- and fourth-year medical students who are willing, and deemed appropriate, to begin providing early direct patient care for patients with COVID-19, or who are making other significant contributions to the pandemic response through research, public health, and telemedicine. For example, third year medical students from the Kentucky College of Osteopathic Medicine have been volunteering in hospitals and nursing homes.

Medical Leave for Physicians and Other Health Care Professionals
The AOA supported the passage of H.R. 6201 – the Families First Coronavirus Response Act, and understands the critical nature of having physicians ready for the mass influx of patients that are anticipated as COVID-19 continues to spread across the county. However, we are concerned that section 3105 of the Act exempts health care employers from the bill’s emergency family and medical leave provisions. The AOA strongly recommends that federal funding for paid family, medical and sick leave be guaranteed to physicians, as was done for other employees, so that they have access to medical leave or receive other financial relief to offset any related costs associated with necessary time off because of personal illness or to care for a family member.

CARES Act
The AOA encourages Congress to provide additional funding for the newly authorized and expanded small business loans under the Small Business Administration. It is clear that the new small business loan program authorized in the CARES Act, the Paycheck Protection Program (PPP), is already overwhelmed with applicants seeking assistance. The PPP needs an urgent infusion of additional funding in order to adequately respond to the need for these loans. Many physician practices are small businesses and it is important that this program be available to help them stay afloat as it is other small businesses.
The AOA also strongly supports continued adequate funding for the production and distribution of national rapid testing and Personal Protective Equipment. Safety for both patients and frontline providers during the COVID-19 outbreak is integral to flattening the curve.

The AOA greatly appreciates your efforts to not only improve access to care and coverage, but to also improve the health and well-being of all Americans during this unprecedented pandemic. As new therapies and our understanding of the virus continue to evolve, we look forward to continuing to work with your offices and stand ready to be a resource to you during this difficult time as to ensure that every American has access to the highest-quality of care. Thank you for your leadership and all that you are doing for our country.

If you have any questions regarding the recommendations outlined above, please reach out to David Pugach, JD, AOA Senior Vice President of Public Policy, at DPugach@osteopathic.org or (202) 349-8753 if you have any questions, or if the AOA can be a resource in any way.

Sincerely,

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