



March 26, 2020

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, DC 20510

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

On behalf of the American College of Physicians (ACP), I am writing to share our views on certain health-related provisions of the final version of the Coronavirus Aid, Relief, and Economic Security Act or the “CARES Act”, H.R. 748. We commend you for taking essential steps to support the health and economic security of our nation during a national crisis. At the same time, we also are concerned that while the CARES Act advances several key priorities as recommended by ACP in our previous communications, there still may not be sufficient or timely enough support for physician practices to sustain them during this national emergency. We are hearing from many smaller primary care practices in particular that they soon may not be able to make payroll without more direct support and could even be forced to close their doors. ACP appreciates that there are provisions in the bill to provide tax relief and access to low-interest loans for small businesses, and to establish an emergency fund that may allow some practices to qualify for direct payments to offset lost revenue. However, additional steps must be taken to support and sustain practices, as outlined below.

The American College of Physicians is the largest medical specialty organization and the second-largest physician membership society in the United States. ACP members include 159,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness. Internal medicine specialists treat many of the patients at greatest risk from COVID-19, including the elderly and patients with pre-existing conditions like diabetes, heart disease and asthma.

ACP appreciates that the CARES Act:

- 1. Includes support to help sustain physician practices by establishing an emergency program by funding the Public Health and Social Service Emergency Fund (PHSSEF) with \$100 billion to**

reimburse, through grants or other mechanisms, eligible health care “providers” for health care-related expenses or lost revenues that are attributable to coronavirus.

Due to the severity of the increased costs and reduced revenue being experienced by physicians on the frontlines of patient care as they shift from in-person visits to virtual consultations—which often aren’t covered by payers, or are paid at substantially lower rates than in-person visits—many practices are under severe economic stress. **Without immediate and direct support, these practices may not be able to meet payroll and will be at risk of closing, at a time when they are needed most.** It is not clear to ACP that the PHSSEF can administer support for practices in time to sustain them. We are also concerned that the administrative burden required to access these funds could be a barrier to physician practices, especially small and medium-size practices. In addition, those small and medium-size practices will be competing with large health systems and hospitals, perhaps putting them at a disadvantage for receiving these funds.

We ask that Congress do everything possible to ensure that the administration implements this provision in a way that ensures rapid disbursement of funds to financially distressed practices, preferably prospectively or concurrently, in a way that makes it feasible for small practices to apply and receive funding. We also recommend that the administration set aside a sufficient portion of the \$100 billion expressly to support physician practices that are experiencing substantial revenue losses so that physician practices aren’t competing with hospitals for funding, and ask Congress to provide such direction to the administration.

2. Contains provisions to provide payroll tax relief, loans, and other programs to help smaller businesses that may help physicians in practices that qualify.

While we strongly support and appreciate these programs, we urge that Congress provide oversight to the administration to ensure that such assistance is implemented in a way that provides physician practices, especially small and medium-size practices, with access to the relief as rapidly as possible to make a difference. The bill specifically provides for an employee retention credit for employers subject to closure due to COVID-19. This provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19 related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year. It is not yet evident how effective this provision will be for physician practices.

3. Provides a Paycheck Protection Loan Program and loan forgiveness. Businesses with fewer than 500 employees would be able to cover payroll costs with up to a \$10 million fully guaranteed loan at four percent in order to help keep workers paid and employed. Businesses that maintained their payroll may also be allowed to receive loan forgiveness on a paycheck protection loan over an eight-week period in order to rehire workers who were laid off. Like other provisions in the legislation, this will need to be implemented as quickly as possible, and in a way that makes it accessible to small physician practices in particular.

4. **Includes advance tax credits.** ACP believes the advance tax credits for expanded paid sick and family leave will be helpful to many physician practices. This provision too will need to be implemented in a way that is readily accessible to smaller physician practices.
5. **Funds the manufacturing, supply, and distribution capacity for Personal Protective Equipment (PPE).** ACP appreciates the \$16 billion for the Strategic National Stockpile (SNS) to procure PPE, ventilators, and other medical supplies for federal and state response efforts. **ACP continues to stress that all possible means are used to ensure that there is sufficient PPE immediately available to every physician, nurse, and health worker on the front lines of caring for patients who may have COVID-19 without delay.** ACP also appreciates the provision to require that PPE be included in the SNS. ACP is disappointed that the bill does not require the Occupational Safety and Health Administration (OSHA) to establish protections for health care workers.
6. **Suspends the Medicare sequester throughout the rest of 2020.** This will provide appropriate relief to physicians and hospitals from scheduled cuts.
7. **Reauthorizes funding for critical health programs,** including Community Health Centers (CHCs), the National Health Service Corps (NHSC), the Teaching Health Center Graduate Medical Education (THCGME) program, Title VII health professions (including Primary Care Training and Enhancement) and Medicare quality measure endorsement. ACP supports the additional funding for the Centers for Disease Control and Prevention (CDC) and the PHSSEF.
8. **Protects patients from some out-of-pocket expenses associated with COVID-19 testing and treatment.** Several provision in the bill require payers to cover such services at no-cost to patients. Additional steps should be taken to ensure coverage for vulnerable patients, including expanding Medicaid coverage fully funded by the federal government.

ACP strongly recommends that the following additional steps be taken by Congress and the administration:

1. **Require that all payers cover and pay for audio-only telephone consultations between physicians and their patients, and/or urge CMS to require such payments.** *While virtual telehealth visits may be covered in some cases by insurers, they typically are paid far less than in-person visits, and do not include traditional audio-only phone calls with patients, only video-enabled telehealth applications.* Many patients, especially seniors, have access to phones but not video-enabled telehealth apps. As physicians convert in-person visits to virtual ones, practices are experiencing huge reductions in revenue while still having to pay rent, meet payroll, and meet other expenses without patients coming into their practices. Requiring all payers to cover and reimburse physicians for audio-only will ensure that patients without advanced video-sharing capabilities are able to get care virtually, while helping to sustain physician practices.
2. **Ensure Medicaid parity throughout the duration of the COVID-19 national emergency.** We strongly support the renewal of applying the Medicare payment rate floor to primary care services furnished under Medicaid and are very disappointed that this did not make it into the final bill. This will ensure that primary care physicians and internal medicine and pediatric subspecialists are paid no less than they would be paid under Medicare for the duration of the COVID-19 public health emergency.

3. **Enact a grant program expressly to support and sustain physician practices.** We strongly supported the Immediate Relief for Rural Facilities and Providers Act of 2020 as an amendment to the CARES Act as introduced by Senators Bennett and Barrasso. We are disappointed that this amendment, which would have provided direct grants and low-interest loans to physicians during this crisis, was not included in the bill. Accordingly, we strongly recommend this grant program be included in subsequent COVID-19 legislation.
4. **Require that the administration pay physicians and hospitals 110 percent of the Medicare rates for providing COVID-19-related treatment for uninsured persons, and increase Medicare physician fee schedule payments to physicians for the duration of the public health emergency (or retroactively to the date of the national emergency declaration).**

ACP appreciates the many provisions in the legislation to help small businesses, including physician practices; reduce patients' out-of-pocket costs; expand coverage for testing and treatment; and increase the nation's capacity to respond to COVID-19, including funding and stockpiling of personal protection equipment. We offer the above recommendations for additional steps in the hope they will be addressed in subsequent COVID-19 legislation, by effective and timely implementation by the administration of the provisions in the bill in a way that expressly supports physician practices, and through congressional oversight.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert M. McLean". The signature is fluid and cursive, written over a light blue horizontal line.

Robert M. McLean, MD, MACP
President