December 16, 2020

Michael F. Consedine
Chief Executive Officer
National Association of Insurance Commissioners
444 N. Capitol Street NW
Suite 700
Washington, DC 20001

Re: Efforts to Address the COVID-19 Pandemic

Dear Mr. Consedine:

On behalf of the American College of Physicians (ACP), the largest medical specialty organization and the second largest physician group in the United States, I am writing to share ACP's recommendations to the National Association of Insurance Commissioners (NAIC) regarding telehealth flexibilities and other changes that may inadvertently limit access to care at a time when the Coronavirus Disease-19 (COVID-19) pandemic continues to upend the traditional practice of medicine. ACP members include 163,000 internal medicine physicians, specialists, and medical students dedicated to scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

ACP appreciates the leadership of NAIC's members during the COVID-19 pandemic to ease burdens on clinicians and expand reimbursement flexibilities so that physicians can safely treat their patients while preventing the spread of COVID-19. In particular, flexibilities to waive cost-sharing for treatment and testing for patients with and without COVID-19, temporary extensions of certain prior authorization flexibilities, direct payment relief for physicians, pay parity for in-person and telehealth visits, and relaxing of early prescription refill limits have all contributed to ensuring the integrity of the patient-physician relationship. These policy changes will allow physicians to meet patients where they are while patients and their care teams adapt to this new practice environment and have been pivotal in mitigating the effects of the COVID-19 pandemic. At the same time, more can and needs to be done by insurance plans to ensure that patients can safely get the care they need during this dire public health emergency.

ACP is hearing troubling information about insurer efforts to curtail telehealth expansion even as cases of COVID-19 continue to rise rapidly. In many instances, insurers have informed physicians that they are not continuing some of the flexibilities and/or payment increases for telehealth and audio-only services. In fact, some plans are actually seeking recoupment of payment provided for telehealth services previously rendered due to insurer error in incorrectly providing payment at facility rates instead of non-facility rates. **Given the escalating pace of new COVID-19 infections and the extensive financial impact these realities are causing for physician practices, which impacts patient care, we call on NAIC to urge**

their members to continuously update physicians about policy/guidance changes and ensure that claim processing teams are appropriately handling claims. The severe nature of this pandemic and the increasingly shifting policy and regulatory landscape means that physicians and their teams must constantly adapt to changing realities. It is vital that physicians have as much economic certainty as possible to allow them to appropriately plan and care for their patients. **ACP recommends that all insurers continue their telehealth and audio-only pay parity policies and other flexibilities through the end of 2021, or until such a time when effective vaccines and treatments are widely available, with an option to extend further based on the experiences of patients and physicians.**

ACP also understands that some health insurers use proprietary platforms to provide telehealth services to patients in their networks. **While it is understandable that these insurers have their own platforms, we encourage NAIC to work with these plans to provide additional transparency about their telehealth payment policies for the use of proprietary versus non-proprietary platforms**. It is incredibly important that physicians know and understand these policies to ensure such approaches do not interfere with ongoing patient-physician relationships, nor contribute to fragmented care due to the clinicians' decisions to use other approved telehealth technology in place of proprietary platforms. The patient-physician relationship is the bedrock of all health care decisions, and we are happy to work with NAIC to ensure that patients and physicians have the appropriate information about these policies.

Additionally, CMS has finalized through rulemaking the implementation of the office visit Evaluation and Management (E/M) documentation and valuation changes as of January 1, 2021. Unfortunately, ACP has become aware that some payers do not intend to implement these increases beginning in 2021. The recommendations for valuation increases, documentation changes, and code selection for these codes represented the collaboration of 50+ medical societies and found substantial increases in physician work and compelling evidence that the nature of physician practice had significantly changed since the last revaluation of these codes. These recommendations were accepted by CMS and, as mentioned above, are scheduled to go into effect in January 2021 in the Medicare program. **We call on NAIC to encourage their members to recommend that payers adopt these valuation and documentation changes to ensure that physicians in their networks are appropriately compensated for the significant changes in physician work and practice workflows that have occurred since the last revaluations.** Most experts agree that the COVID-19 pandemic will continue into 2021. Without these changes to office visit E/M codes incorporated into payer reimbursement policies, physicians risk facing dual crises: economic uncertainty as a result of decreased office visits and different reimbursement policies for different payers which will complicate their main task – caring for patients. Furthermore, we urge NAIC to ask their members to provide coverage of recently finalized G-code, G2211 (*Visit complexity inherent to evaluation and management associated with medical care services that serve as the continuing focal point for all needed health care services and/or with medical care services that are part of ongoing care related to a patient's single, serious condition or a complex condition.) (Add-on code, list separately in addition to office/outpatient evaluation and management visit, new or established.)* **The College agrees with CMS that the revised office visit E/M codes still do not adequately describe or reflect the resources associated with primary care and certain types of specialty visits. We support CMS' decision to establish the G2211 add-on code to account for these resources and encourage NAIC to urge their members to provide coverage of this important new code to ensure that physicians have the resources they need to care for their patients.**

Finally, ACP is extremely concerned about recent finalized policy from CMS announcing that the agency will not increase the valuation of immunization administration codes as originally proposed. Instead, CMS will maintain existing valuations for vaccine administration codes. Given that CMS has traditionally cross-walked valuations of vaccination administration codes for novel pathogens to existing vaccine administration codes, we are concerned that given the evolving understanding of COVID-19, this practice will not account for the necessary resources to administer these new vaccines. For example, some of the COVID-19 vaccines require an initial dose followed by a booster dose. There remains the distinct possibility that significant physician and clinical staff follow-up may be required between the first and second doses, especially if the patient receives the doses from two unaffiliated practitioners. We are concerned that this work may not be captured in existing vaccination administration codes. **Given the significant patient counseling regarding the COVID-19 vaccine that is expected—and that is, in fact, already underway, as patients are already reaching out to their internal medicine physicians asking questions—as well as the record-keeping and vaccine storage requirements, we urge NAIC to work with their members to ensure prompt payment of vaccine administration and other related claims and work hand-in-hand with physician practices to ensure that physicians have the resources they need to care for their patients.** Along these lines, CMS recently finalized a new G code –G2252 *(Brief communication technology-based service, e.g. virtual check-in, by a physician or other qualified health care professional who can report evaluation and management services, provided to an established patient, not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 11-20 minutes of medical discussion.* **We recommend that NAIC urge their members to provide coverage of G2252 on an interim basis as a method for clinicians to provide any additional patient counseling as necessary regarding the COVID-19 vaccine.**

ACP is encouraged by the actions taken by insurers to date that will enable physicians and their teams to safely treat COVID-19 patients and prevent further spread of the disease while continuing to care for the rest of their patients in a way that minimizes risk for everyone. At the same time, we implore insurers to continue to work to ensure that expanded telehealth options are available to patients, that the upcoming office visit E/M increases and documentation changes are incorporated, and that insurers work with physicians to ensure vaccine ease of access. As the untold impact of this pandemic continues to unfold, ACP would like to offer our full assistance to you in efforts to support medical practices through the immediate crisis and begin the rebuilding process. Please contact Corey Barton, Associate, Regulatory Affairs, at cbarton@acponline.org with questions or for additional information.

Sincerely,

Jacqueline Fincher, MD, MACP
President
American College of Physicians