



**CALIFORNIA
HOSPITAL
ASSOCIATION**

*Providing Leadership in
Health Policy and Advocacy*

November 9, 2020

Sent electronically

Dear Members of the California Congressional Delegation:

On behalf of the 40 million Californians who rely on our state's hospitals and health systems, thank you for your commitment to supporting our fight against the COVID-19 pandemic, caring for our patients, and protecting our health care heroes. As the pandemic continues, we ask for your continued support as you work with your colleagues in the final days of the 116th Congress. In addition to protecting important Medicare and Medicaid programs, it is critical that you develop another relief package to help our nation cope with this unprecedented public health and economic challenge.

The COVID-19 pandemic has devastated California's economy, and hospitals are no exception. Hospitals answered the call to respond to COVID-19 quickly and with an extraordinary investment. They immediately created additional physical space, purchased protective and clinical equipment, hired more staff, and suspended many non-emergency services. These enormous operational and resource challenges continue to strain hospitals in unprecedented ways. Without federal aid to offset hospitals' financial losses and forthcoming reductions in the state budget, patients and communities will suffer.

First and foremost, as hospitals are facing both a financial crisis and a public health and pandemic response crisis, they need an immediate and substantial lifeline of financial resources. In addition, hospitals need support in the following ways:

1. Safeguard front-line providers from legal action
2. Improve the Medicare Accelerated and Advance Payment Program
3. Extend and expand the Federal Medical Assistance Percentage (FMAP) increase
4. Delay Medicare and Medicaid cuts to prevent program disruption
5. Support our health care workforce
6. Deploy an integrated and coordinated response
7. Eliminate regulatory and administrative burdens
8. Preserve private negotiations between hospitals and insurers

California hospitals have treated an average of over 3,700 daily COVID-19 cases since the end of March, with almost 1,200 of those daily cases being treated in ICUs. COVID-19 cases in California are beginning to surge yet again, but the state has not yet experienced the dramatic uptick of some other states. If it does, and if over the next three weeks California experiences just *half the rate of increase* in total cases that Wisconsin experienced over the previous three weeks (~53%), there will be approximately 250,000 additional cases in California. A rapid increase of this magnitude would put enormous strain on hospitals.

California's hospitals are bracing for the fall and winter surge and implementing lessons learned from the early days of the pandemic. Our patients are benefiting from new COVID-19 therapies and approaches to critical care. It is important progress, but it does not put a dent in the work that remains to protect the stability and long-term financial viability of California's health care delivery system. Early and conservative

estimates put California hospitals' losses through the end of 2020 at more than \$14 billion ([The Financial Impact of COVID-19 to California Hospitals, June 2020](#)). A more recent [report](#) notes that three-quarters of hospitals and health systems are concerned about the financial viability of their organizations, and one-third saw year-over-year operating margins decline more than 10% during the second quarter of 2020.

Hospitals are facing not only a financial crisis, but also a public health and pandemic response crisis. They need an additional and substantial financial lifeline. Without it, Californians' access to care is in jeopardy.

In May, the House of Representatives passed the HEROES Act, which includes a significant increase in support for both health care providers and our front-line heroes. It includes several, but not all, of the important steps needed for California's hospitals to continue to care for our communities. As you work to continue to fund the federal government and the next COVID-19 relief package, CHA respectfully requests that legislation include several critical actions to support patient care, sustain our workforce, and preserve our health care infrastructure.

Support Additional Funding for Hospitals

Hospitals and health care systems need a rapid injection of federal funding to offset massive revenue losses from the suspension of non-urgent surgeries and procedures, at a time when they continue to incur major expenses related to increasing bed capacity, purchasing personal protective equipment (PPE), and hiring needed staff.

The Public Health and Social Services Emergency Fund — known as the Provider Relief Fund (PRF) — was established and funded by the CARES Act and supplemented by the Paycheck Protection Act. It is an important first step toward overcoming these financial challenges. However, as the pandemic expands, it is clear that much more will be needed for hospitals to continue to provide the high-quality care Californians deserve.

As an example of the gap between how CARES Act funds are allocated and what's needed, California's hospitals have so far received about 4.8% of the fund distributions — despite the fact that they care for about 12% of the nation's population. Future distributions from the PRF must account for hospitals' financial losses and investment in preparing for the pandemic along with the direct cost of care for COVID-19 patients. Further, it is critical that hospitals have clear and consistent guidance on the reporting requirements for accepting these much-needed funds. *The future stability of our health care delivery system depends on additional and specifically targeted funding for hospitals.*

Safeguard Front-Line Providers from Legal Action

During this unprecedented emergency, hospitals and health care professionals continue to provide care under extraordinary circumstances — in many cases, having to make challenging decisions about how to allocate scarce medical equipment and PPE due to inadequate supplies, testing kits, ventilators, and more. *Congress should implement a limited waiver of liability for hospitals and health care professionals during the nationally designated COVID-19 emergency that will allow providers to continue delivering the best possible care under less-than-ideal conditions.*

Improve the Medicare Accelerated and Advance Payment Program

Hospitals are grateful for Congress' authorization and the Centers for Medicare & Medicaid Services' swift action to implement the Medicare Accelerated and Advance Payment Program. This program, established in the CARES Act, has quickly moved billions in much-needed Medicare funding to hospitals

and other providers nationwide. Congress has responded as well with helpful modifications to the program to reduce the interest rate and extend the repayment terms.

Congress should act to forgive these loans. As the pandemic continues to grow in California, hospitals are faced with an escalation of both the public health and economic crisis. The Medicare Accelerated and Advance Payment Program has been a vital lifeline to California's health care providers, but now that we have a better understanding of the depth of the pandemic, these loans must be forgiven.

Extend and Expand the Federal Medical Assistance Percentage (FMAP) Increase

The Families First Coronavirus Response Act included a much-appreciated 6.2% temporary boost in the FMAP to support states and the health care delivery system. *It is critical that the increase be continued to assist both states and providers during this period of extreme financial duress.*

Delay Medicaid Cuts and Program Disruption

Hospitals appreciate that the CARES Act included a delay in the steep Medicaid disproportionate share hospital (DSH) reductions that were scheduled to go into effect in May. However, an additional delay is needed to allow hospitals to focus on the task at hand, which is to continue to be ready to serve vulnerable communities during this crisis — and be there for them after the crisis subsides. *Congress should eliminate the Medicaid DSH cuts set to go into effect December 12, 2020, through September 2021, ensuring more certainty during these difficult times and allowing providers to remain focused on our most vulnerable patients.*

Support our Health Care Workforce

Health care workers across the state have responded to the call of duty in unprecedented ways. Some are coming out of retirement. Others are traveling to hospitals in other parts of the state to assist in areas experiencing surges. These front-line and essential employees put themselves and their families at risk of exposure to COVID-19 every day. *Congress should support our health care heroes with funds for childcare, meals, housing, transportation, and protection for their retirement benefits.*

Deploy an Integrated and Coordinated COVID-19 Response

Combating a pandemic like COVID-19 necessitates unprecedented levels of cooperation between states and the federal government on issues like testing, vaccine production and distribution, therapeutics, and more; as we learn more about this disease, these joint efforts must be enhanced and refined. For example, the supply chain for PPE will remain uneven as hot spots emerge in different regions of our state and across the country. Providers will need a coordinated strategy among local, state, and federal agencies to ensure an adequate supply in the coming months.

Eliminate Regulatory and Administrative Burdens

As the current PPE supply chain remains spotty at best, it is simply not feasible at this time to adhere to an even higher standard, as proposed in previous bills. Unfortunately, a provision in the HEROES Act would mandate certain PPE criteria and create a scenario where hundreds of hospitals could be out of compliance each day. *Congress should avoid adding to hospitals' burden as they work to procure supplies and protect all who work in hospitals.*

Preserve Private Negotiations Between Hospitals and Insurers

While we share the desire to protect patients from surprise medical bills, now is not the time to impose payment cuts on providers. *Importantly, COVID-19 patients are protected from surprise bills.* Hospitals in

California continue to work closely with insurers to secure appropriate payments for out-of-network care while limiting patients' exposure. Setting a benchmark or other rate would eliminate hospitals' ability to negotiate and secure fair payment.

As our state labors to climb out from under the economic and societal devastation wrought by COVID-19, it is vital that its hospitals — and the critical community care they deliver — are secure. We cannot reignite our state's economy, the largest in the nation, without the health care safety net that hospitals provide.

Thank you for your continued support and attention to the needs of California's hospitals and the patients they care for.

Sincerely,



Carmela Coyle
President & CEO