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April 13, 2020

The Honorable Nancy Pelosi, Speaker
United States House of Representatives
1236 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mitch McConnell, Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Kevin McCarthy, Leader
United States House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Charles Schumer, Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Submitted Electronically

**Re: Including Additional Aid to Physiatrists in a Fourth COVID
Legislative Package**

Dear Speaker Pelosi and Leaders McConnell, McCarthy, and Schumer:

I am writing regarding the fourth COVID-19 legislative package. As a medical specialty organization, the American Academy of Physical Medicine and Rehabilitation (AAPM&R) has been hearing clinician and patient needs from the frontlines. We want to thank Congress for the swift actions it has already



taken to lessen the burden on physician practices so that they may focus on patient care during this time. It is our hope that the following ideas will contribute to Congress' ongoing work to prepare the nation for the progression of COVID-19 such that hospitals and communities can handle forthcoming surges, patients will not be overwhelmed with crippling medical bills after recovering from COVID, and physiatry practices considered "non-essential" can re-open after the crisis has passed.

AAPM&R is the national medical specialty organization representing more than 9,000 physicians who are specialists in physical medicine and rehabilitation (PM&R). PM&R physicians, also known as physiatrists, treat a wide variety of medical conditions affecting the brain, spinal cord, nerves, bones, joints, ligaments, muscles, and tendons. PM&R physicians evaluate and treat injuries, illnesses, and disability, and are experts in designing comprehensive, patient-centered treatment plans. Physiatrists utilize cutting-edge as well as time-tested treatments to maximize function and quality of life.

I. Surge Preparation

Personal Protective Equipment: Due to the rapidly growing number of cases and suspected cases of COVID-19, the provision of health care is changing to accommodate an overwhelming surplus of patients with a lack of equipment, resources, space, and health care workers. While communities are doing their best to prepare for surges of COVID-19 cases, AAPM&R urges Congress to increase funding for manufacturing and distribution of personal protective equipment (PPE) within the United States. We implore Congress to do all it can to ensure that PPE is made widely available to all facilities, health care workers, and other health care staff in the United States. It is the position of AAPM&R that all physicians and health care workers require PPE to work with patients to ensure personal, patient, and community safety from the spread of COVID-19. AAPM&R's recent position statement on PPE is attached.

Additionally, we encourage Congress to heed the [position](#) of the American Medical Association to take critical steps to protect health care workers by ensuring "manufacturing of PPE is operating at maximum possible capacity" and creating a "tracking system of acquisition and distribution of critical PPE supplies."¹

¹ AMA urges critical steps to protect frontline health care workers. March 28, 2020. <https://www.ama-assn.org/press-center/ama-statements/ama-urges-critical-steps-protect-frontline-health-care-workers>.

Medical Liability: As physicians are providing life-saving care with a lack of equipment, resources, space, members of the care team, and understanding of this new virus, we ask that greater medical liability protection is provided to physicians working across the country. Physiatrists, like many medical specialists, are heeding the calls to action to join the frontline in providing critical care to COVID-positive patients. We appreciate all the work that has been done to expand liability protections in the CARES Act to provide civil immunity to physicians and clinicians who volunteer to provide care during this public health emergency. However, we believe more needs to be done for physicians, including those who are not providing direct care to COVID-19 patients, but whose medical practice and treatment decisions have shifted due to the pandemic. Physiatrists, like other physicians and clinicians, are currently under tremendous burden as they work to restore the pulmonary function of COVID-19 patients, treat muscular weakness and deconditioning from the illness, and expand care to cover the overflow of patients entering inpatient rehabilitation facilities, where physiatrists traditionally practice. The current state of health care has our members across the country working in dramatic situations, such as treating patients without proper PPE, admitting acute care overflow patients to inpatient rehabilitation facility parking lots, and working with fewer staff as frontline workers themselves contract the virus. During this difficult time, a broader federal Good Samaritan statute for all physicians providing health care in good faith should be implemented to protect them from civil liability for any injury or death alleged to have been sustained directly in the course of providing medical services. Such a statute would enable physicians to more comfortably treat patients in this hectic environment without fear of consequences simply for providing necessary and potentially lifesaving care. Broad protections would also provide physician immunity from civil liability for harm resulting from government directives to cancel, delay, or deny care as a result of the COVID-19 pandemic.

II. Patient Access to Necessary Care

Uninsured Access to Post-Acute Care: Due to the sudden and devastating nature of the pandemic, we ask that Congress set aside funds to pay for treatments related to COVID-19 for the uninsured. While the effects of COVID-19 are still being discovered, we do know the effects can be devastating and that many Americans infected are being put onto ventilators. According to TheHill, the American Hospital Association estimates that 960,000 people will need ventilators to prolong their life and fight the virus

during the pandemic in the United States.² Patients who require prolonged ventilation, meaning ventilation that is not used following surgery or other routine care, often need post-acute care (PAC) to restore respiratory muscles to optimum function. Additionally, patients who require prolonged ventilation have not moved in weeks and may require rehabilitation to help with muscle weakness and pain. We are grateful for the Congressional funding to hospitals for free COVID testing for the uninsured. However, we believe all subsequent treatment, including any post-acute care rehabilitation needs to restore respiratory and other muscle function, should also be waived for the uninsured.

III. Financial Security

Telemedicine: We appreciate all that Congress has done to ensure telemedicine flexibility while citizens are social distancing and trying to stay away from crowded or other areas that have high risk of infection. That includes allowing telemedicine to include audio-only phone calls for those who are unable to connect via audio and visual means. However, we ask that payment parity be provided for telemedicine conducted via audio-only phone calls. These phone calls are much more than follow ups or brief check-ins. These phone calls, which are necessary to reach patients remotely, function as physician visits and should be reimbursed as such. We ask that Congress make this change explicit in statute or urge CMS to use its authority to make the change administratively.

Student Loans: As many of our members in the private practice and outpatient setting are closing doors, being furloughed, and being laid off, we ask that Congress provide student loan relief for physicians. As the pandemic has highlighted, physicians play a special part in society by keeping Americans healthy. During the COVID-19 outbreak, many “non-essential” procedures are reasonably halted to prevent the spread of the virus. However, “these non-essential” procedures can make all the difference in the quality of life and capabilities of Americans. These “non-essential” procedures are also the livelihoods of many physiatrists who have incurred hundreds of thousands of dollars of debt to become physicians. As such, we ask that physician borrowers of federal student loans be given additional flexibility and relief.

Additional Funds to the Payroll Protection Program: The recently rolled out Payroll Protection Program (PPP) will be a rescuer for many of our members

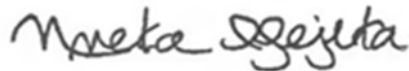
² Sullivan, Peter. Severe Ventilator Shortage Sparks Desperate Scramble. March 26, 2020. <https://thehill.com/policy/healthcare/489734-severe-ventilator-shortage-sparks-desperate-scramble>

who are forced to temporarily close their practices due to the pandemic. We are grateful for all the work Congress and the Small Business Association (SBA) has done to put the PPP together. We understand the decision to make the PPP first-come, first-serve in this hectic climate where it seems as though everything changes every few hours. We are aware of the very real possibility that the initial funds provided to the PPP may run out and run out very quickly as businesses rushed to apply on April 3. To prevent this possibility, we support any additional funding to this program to ensure that those in need can access funds that will be job- and livelihood-saving.

As physiatry practices are being dramatically altered by COVID-19, whether it's because physiatrists are being redeployed to critical care units or if it's because their practices have been closed, we are also prescient of the fact that COVID-19 will overwhelm Post-Acute Care, as it is overwhelming Emergency Departments, Intensive Care Units, and general medicine floors around the country. COVID-positive patients will need rehabilitation after being taken off ventilators, whether it's for returning pulmonary function, treating muscle weakness and pain, or other unknown complications from COVID-19 treatment. Physiatrists stand willing and able to help COVID-positive patients throughout the continuum of care. We encourage Congress to keep the long-term trajectory of these patients in mind.

Again, we'd like to thank you for your work and leadership during this time of crisis. If you have any questions or if AAPM&R can be of further assistance to you, please contact Reva Singh at 847-737-6030 or by email at rsingh@aapmr.org for further information

Sincerely,



Nneka Ifejika, M.D., M.P.H., FAHA
Chair, Health Policy and Legislation Committee

AAPM&R Position Statement on the Necessity and Preservation of Personal Protective Equipment

The American Academy of Physical Medicine and Rehabilitation (AAPM&R), the national medical organization representing more than 9,000 physicians who are specialists in physical medicine and rehabilitation (PM&R) and are also known as physiatrists, is compelled to raise awareness of the extreme shortage of personal protective equipment (PPE) and assert the critical need for physiatrists, as well as all health care workers, to have adequate protection when caring for patients. The world is in the midst of the COVID-19 pandemic, and the United States in particular has reached the status of epicenter after rising to the highest number of confirmed infections globally as of March 26, 2020. New information about the novel coronavirus becomes available every day of this fast-moving crisis. At this time carriers of the COVID-19 virus can be without symptoms and can spread the infection to others, placing medical personnel and patients at high risk for both contracting and further spreading the disease if proper protective measures are not practiced. Inadequate means of widespread and rapid testing for the COVID-19 infection in the United States is further compounding the problem. Use of PPE including masks, gowns, and gloves provides a necessary barrier to decrease risk and a layer of reassurance for both patients and health care providers.

AAPM&R is adamant that physiatrists and all caregivers must have access to and be permitted to use PPE for all face-to-face interactions. Physiatrists treat patients with a vast variety of conditions, including immunocompromising illnesses, and are doing their part to keep patients from presenting in potentially overwhelmed hospitals and emergency departments. For physiatrists and their health care teams to safely and effectively treat patients, they need to safeguard their own health. In situations where PPE is not supplied by their employer, AAPM&R supports our members' need to supply their own PPE without any threat of discipline or other negative consequences. AAPM&R strongly objects to health care providers being forced to deliver in-person patient care without availability of appropriate PPE.

In line with recommendations from the CDC, multiple state medical boards, and others, the AAPM&R's Board of Governors, in a statement released on March 20, 2020, urged all members in the outpatient community to "immediately transition to virtual medical appointments (e.g., telemedicine) for those patients who do not have emergent or urgent medical conditions." The Board's recommendation was intended to "reduce the risk of both exposure and transmission of COVID-19 between and among patients, providers, and medical staff." This measure is aligned with actions being enforced nationwide as physicians and health care providers in all medical specialties are being asked to postpone or cancel procedures that are not medically urgent in order to preserve the severely short supply of PPE. While physiatrists across the country have taken extreme and financially devastating measures in their individual practices to adhere to these recommendations, they are nevertheless still being called upon to see patients face-to-face for a variety of reasons in both inpatient and outpatient settings.

We anticipate that the exposure of physiatrists to COVID-19 positive patients will increase in all settings, including inpatient rehabilitation facilities (IRF), skilled nursing facilities (SNFs), long-term care facilities (LTCs), and ambulatory clinics, as the outbreak worsens in some geographic areas. For example, traditional IRF beds may increasingly be used for overflow acute inpatients, as now permitted due to recent waivers of government regulations, and some recovering COVID-19 patients will require rehabilitation following prolonged ventilator treatment. Our member physiatrists stand ready to serve their patients as they always have, but they deserve adequate protection for themselves, their patients, and their family members in order to safely provide necessary care and avoid further virus spread.

If adequate protection cannot be made available by their employers, then alternatives to providing face-to-face patient care must be permitted, and the clinical judgment of the physiatrist must prevail in these circumstances until such time that widespread, reliable testing can ensure low-risk (e.g., proven uninfected) in-person patient encounters. Furthermore, AAPM&R calls on the nation's leaders in government and industry to immediately collaborate to resolve the critical shortage of PPE and COVID-19 testing kits including rapid testing. In the interim, AAPM&R supports further study and implementation by our members of appropriate use and potential extended use and re-use of PPE as recommended by the FDA (<https://www.fda.gov/media/136449/download>) and ECRI (<https://www.ecri.org/landing-covid-19-medical-devices-respirator-masks>) and as warranted by the physiatrist's best clinical judgment.