March 20, 2020

The Honorable Nancy Pelosi                              The Honorable Mitch McConnell
Speaker                                                 Majority Leader
U.S. House of Representatives                           U.S. Senate
Washington, DC 20515                                    Washington, DC 20510

The Honorable Kevin McCarthy                           The Honorable Charles Schumer
Minority Leader                                          Minority Leader
U.S. House of Representatives                           U.S. Senate
Washington, DC 20515                                    Washington, DC 20510

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

On behalf of the American College of Obstetricians and Gynecologists, representing more than 60,000 physicians and partners dedicated to advancing women’s health, thank you for the actions you have taken thus far to address COVID-19. Obstetrician-gynecologists, as trusted women’s health physicians, are on the frontlines of responding to this global pandemic. While we are starting to realize the short-term implications of COVID-19 on our economy, workforce, and public health, we also must anticipate the long-term impacts of the virus on the financial and physical health of our Nation.

As you consider additional action in response to this global pandemic, we urge you to prioritize the following recommendations for inclusion in any legislative package:

- **Financial assistance for small businesses, including small and medium-sized physician practices.** Many physicians in private practice are small business owners, operating small and medium-sized clinical practices. Due to the impacts of COVID-19, including recommendations of social distancing, postponing nonurgent outpatient visits and delaying elective surgeries and procedures, many of these small businesses are facing serious financial strain. Our members are confronting difficult financial decisions in an effort to continue serving their patients, including layoffs of office staff, reduced or completely foregoing salary, and even bearing the operating costs of their practices with their own private funds. These temporary solutions are not sustainable and threaten access to care for patients lasting far beyond the current pandemic. Your assistance in support of physician practices is essential to the long-term health of our Nation. **We urge you to recognize physician practices as small businesses and enable them to access small business assistance or relief programs.**

- **Moratorium on federal funding to implement the harmful Medicaid Fiscal Accountability Rule (MFAR).** If finalized as proposed, MFAR would alter the options for states to finance their share of the Medicaid program and enforce new requirements on supplemental payments to physicians, resulting in states being forced to reduce eligibility, cut benefits and services, increase beneficiary cost-sharing, or limit clinician payments. The impact of this regulation is incredibly concerning especially in the face of the COVID-19 pandemic and our Nation’s rising rates of
maternal mortality and severe maternal morbidity. **We urge you to bar federal funds from being used to implement MFAR.**

- **Ensure physicians have the equipment they need.** Expedite personal protective equipment (PPE), including N95 production and other protective gear, as well as ventilators.

- **Temporary suspension of medical student loan repayment and deferment of interest.** As our obstetrician-gynecologists in training and young physicians in practice attempt to navigate this time of intense professional uncertainty and significant psychological stress, **we urge Congress to temporarily suspend medical student loan repayment and defer interest payments for the duration of the national emergency.**

- **Enhanced liability protections for certain physicians providing health care services during the COVID-19 pandemic.** The medical community continues to be faced with a growing number of patients with suspected or confirmed COVID-19, while at the same time operating with a paucity of clinical evidence on the virus and its impacts on certain populations, including pregnant women. In this time of extreme stress on our health care system, good Samaritan liability protections, particularly for those physicians volunteering their services during this pandemic, are essential to ensuring continued access to care for the patients who need it most.

In addition, the HHS Office for Civil Rights recently announced that it is exercising its enforcement discretion and waiving potential penalties for HIPAA violations pertaining to certain technologies used for telemedicine during the COVID-19 emergency. As long as a clinician’s intent is to treat a patient’s condition virtually in their best interest by the means possible and limitations of the technology available to the patient, a clinician should be protected and not held liable for perceived HIPAA violations. **We urge you to include liability protections for “good Samaritans” and clinicians trying to adhere to recent telehealth changes, specifically regarding perceived HIPAA violations.**

In addition to the priorities listed above, ACOG supports the following priorities as a way to provide relief to the health care system while increasing access to care during this national emergency:

- Supporting state initiatives to close the postpartum coverage gap and extend continuous Medicaid coverage for 12 months after delivery
- Encouraging Medicaid and private payers to expand access to telemedicine, similar to Medicare, and reimburse telemedicine visits at the same level as face-to-face visits
- Reimbursing Medicaid E/M visits, both face-to-face and telehealth, at Medicare rates
- Ensuring physicians have the disability protections they need
- Suspending budget neutrality requirements for the recent E/M policy changes in the Medicare Physician Fee Schedule, and updating the RVUs of the global packages to reflect increased reimbursement for E/M visits effective 2021
- Increasing caps on Medicare graduate medical education funding to assist hospitals with the financial strains of responding to COVID-19
- Suspending Medicare sequestration
- Suspending MACRA reporting requirements
- Relieving prior authorization requirements in both public and commercial payers
- The inclusion of associations, nonprofits and other tax-exempt organizations within any federal aid packages or supplemental appropriations measures

Furthermore, we understand that you may be considering addressing surprise medical billing as part of the COVID-19 response. ACOG does not believe that surprise billing should be addressed in this package.
While we agree it is an important issue in need of congressional attention, we are concerned that the speed with which the current COVID-19 response legislation is being compiled may result in a surprise billing solution with unintended consequences negatively impacting patient access to care and creating further instability in the health care system. Instead, we look forward to continuing to work with you toward a surprise billing solution that takes a balanced approach, leveling the playing field for physicians and insurers, including a baseball-style dispute resolution process and dispute resolution guidelines that reflect commercially reasonable rates. It is crucial that any solution to surprise medical billing not reduce patient access to in-network physicians, especially during this national emergency.

Thank you for your commitment to addressing the public health emergency caused by the COVID-19 pandemic. We look forward to continuing to work with you to ensure legislation meets the needs of women and their physicians.

Sincerely,

Maureen G. Phipps, MD, MPH, FACOG
Chief Executive Officer
American College of Obstetricians and Gynecologists