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February 4, 2021

Dear New York Congressional Delegation:

On behalf of the Healthcare Association of New York State and our statewide membership, thank you for your commitment to supporting hospitals and health systems in our ongoing efforts to combat the COVID-19 pandemic. Our experience with the pandemic has demonstrated the critical importance of a robust, reliable healthcare system that is at all times prepared to respond to any kind of emergency.

New York's hospitals and health systems have been on the front lines of the COVID-19 pandemic for over a year and remain committed to doing their part to overcome the virus as swiftly as possible. However, the staggering losses suffered from the pandemic thus far — human and fiscal — are taking their toll.

The COVID-19 relief bills signed into law in 2020 were crucial to keeping hospitals and health systems and other providers afloat and in the fight against the virus. Yet, as we grapple with the current COVID-19 wave and strive to implement a monumental vaccination effort, additional federal support is needed to ensure we stay ahead of the virus, save lives and protect our healthcare workers and the communities they serve during this pandemic and beyond.

As Congress considers legislation to provide additional COVID-19 relief and stimulate the economy, we urge the delegation to work together to seek passage of the following provisions to support New York's hospitals and health systems.

Support for state and local governments

New York state is projecting a budget gap of more than \$30 billion over the next two years as a result of revenue loss and costs associated with the COVID-19 pandemic. New York's budget division is projecting \$14.9 billion in lost revenue in the current year, including a 15.3% decline in tax receipts as a result of COVID-19. Without adequate federal aid, hospitals will likely face up to a 20% cut this year for services provided to Medicaid enrollees. This massive cut would be on top of the \$2.2 billion in Medicaid cuts already adopted this year and is not sustainable for hospitals and the patients they serve, particularly in the middle of a pandemic.

The federal government must help mitigate these unprecedented reductions and support states as they continue to address the ongoing pandemic.

HANYS urges Congress to fund a robust state stabilization pool in a COVID-19 relief package or other legislative vehicle. Without these critical resources, we fear that drastic funding reductions would most certainly hit New York's hospitals and health systems at a time when we can least afford it.

HANYS urges Congress to implement an additional increase in the Federal Medical Assistance Percentage for states. We appreciate that Congress has taken action throughout the pandemic to provide a temporary FMAP boost. With unemployment claims skyrocketing and people losing access to insurance coverage, enhanced FMAP funding of at least 14%, retroactive to the start of 2020, is needed to help states like New York maintain vital healthcare services while they manage the surge of COVID-19 during a major economic downturn.

HANYS also urges Congress to adjust federal Medicaid Disproportionate Share Hospital funding to account for the increased FMAP to ensure that total Medicaid DSH payments to hospitals are held harmless.

Federal aid and regulatory relief for healthcare providers

An analysis completed for HANYS by Kaufman, Hall & Associates, LLC estimates that in just a little more than one year (second half of March 2020 through April 2021), hospitals across the state will suffer between \$20 billion and \$25 billion in losses and new expenses due to the COVID-19 response. This reflects about 25% to 30% of our hospitals' patient service revenue in a year – a devastating blow to any business, but especially devastating to hospitals fighting on the front lines of COVID-19, which must also retain essential healthcare services 24/7.

Provider Relief Fund: HANYS appreciates the strong work of the New York delegation in 2020 to secure much-needed funding for providers through the Public Health and Social Services Emergency Fund (Provider Relief Fund) to help reimburse COVID-19-related expenses and lost revenue resulting from the cancellation of non-emergent procedures. Still, New York's hospitals and health systems continue to face tremendous fiscal challenges and uncertainty as the ongoing pandemic poses significant threats to public health. At the same time, New York's hospitals and health systems – still grappling with the latest wave of COVID-19 patients – are implementing a massive vaccine administration effort, which includes costly storage, staffing, supplies and other expenses that will need to be reimbursed. **HANYS urges Congress to provide additional PRF funding for hospitals and health systems.**

Sequestration: HANYS appreciates that Congress took action as part of COVID-19 relief efforts last year to temporarily stave off Medicare sequestration cuts. Still, with these cuts now scheduled to take effect March 31, 2021, New York's hospitals will incur \$196 million in sequestration cuts over the next year, totaling nearly \$3 billion over the next ten years. **HANYS urges Congress to pass the *Medicare Sequester COVID Moratorium Act* (H.R. 315), legislation that would eliminate the 2% Medicare sequestration cuts at least through the public health emergency.**

Medicare Accelerated/Advance Payment Program: Through the Medicare Accelerated/Advance Payment Program, established in the CARES Act, CMS was authorized to send billions in much-needed Medicare funding advances to hospitals and other providers nationwide. We appreciate that in recognition of the substantial financial disruptions occurring at hospitals responding to the COVID-19 pandemic, Congress went further to significantly improve the payment terms of the program and delay the timeline for repayment. Yet, as we continue to struggle with the COVID-19 pandemic and the ability of hospitals across the state to recover financially slips into 2022 at the earliest, hospitals will continue to face tremendous fiscal and operational challenges, making payment of these loans untenable. **HANYS urges Congress to allow for loan forgiveness under the Medicare Accelerated/Advance Payment Program, similar to the Paycheck Protection Program. At minimum, HANYS urges Congress to further extend the timeframe for repayment and further address the interest rate providers are subject to incurring.**

HANYS urges Congress to ensure that all hospitals, including an extended neoplastic disease care hospital under clause (vi) of Section 1886(d)(1)(B) of the Social Security Act, **are able to access Medicare Accelerated Loans as authorized in the CARES Act and are subsequently treated with parity on loan forgiveness or improved repayment terms.**

340B eligibility: In response to the COVID-19 pandemic, elective procedures were halted to contain the spread of the virus and people have generally avoided seeking non-urgent healthcare services. As a result, Medicaid patient volume has decreased and compromised hospital eligibility to participate in the 340B Drug Pricing Program. Loss of eligibility would deprive these safety net providers of critical 340B savings that are used to provide more comprehensive healthcare services to patients at a time when they need it most. **HANYS urges Congress to hold 340B hospitals harmless in their recertification of eligibility until the COVID-19 pandemic subsides and patient volumes return to traditional levels.**

Critical Access Hospital status: In 2015, CMS made regulatory changes to the mileage definition of “primary road” as it relates to mileage requirements for CAH status to include any road in the “National Highway system,” which includes New York state routes. The new definition jeopardizes the status of New York hospitals that received CAH status under the previous guidance. Despite blanket waivers issued by CMS during the COVID-19 crisis allowing flexibility for other CAH regulations, CMS has yet to officially address the threat posed by the new mileage requirement. **HANYS urges Congress to pass the *Protecting Rural Access to Care Act* (H.R. 489) to safeguard existing CAHs by restoring the 2015 distance standard.**

Healthcare workforce

Healthcare workers across the state have been responding to the pandemic call of duty in unprecedented ways. Some came out of retirement. Others are traveling to work in hospitals in other parts of the state or country to assist hospitals that are surging with COVID-19 patients. Healthcare workers on the front lines of the COVID-19 pandemic are working tirelessly to care for patients and our communities. The jobs these essential workers perform are heroic under any circumstance, let alone in the midst of a pandemic.

HANYS urges Congress to support these heroic healthcare workers by:

- **providing tax-free child care, housing, transportation and education benefits for hospital workers;**
- **passing the *Health Care Worker and First Responder Social Security Beneficiaries Choice Act*, legislation to suspend the retirement earnings test for retired healthcare workers and first responders who choose to assist in the COVID-19 response effort to ensure they continue to receive their Social Security benefits as they would have before this crisis;**
- **providing bonus pay tax credits for hospital workers; and**
- **creating a compensation fund for COVID-19 healthcare workers and their families, akin to the 9/11 victims compensation fund.**

The Association of American Medical Colleges projects the need for physicians to increase dramatically in coming years. Meanwhile, the COVID-19 pandemic has stretched the healthcare system to its limits and has shone a spotlight on the need to ensure a robust workforce. HANYS strongly supports legislative efforts to increase the number of Medicare-supported residency slots in teaching hospitals. We greatly appreciate that Congress recently passed legislation as part of the Consolidated Appropriations Act of 2021 to add 1,000 new full-time equivalent residency positions

beginning in FFY 2023. This is an important step, but more needs to be done to meet the nation's projected needs.

HANYS urges Congress to pass the *Resident Physician Shortage Reduction Act* to increase the number of Medicare-supported residency slots in teaching hospitals and help build the healthcare workforce.

Telehealth Expansion

Telehealth has emerged as a shining success story during the pandemic, providing vital access to care during this unprecedented crisis. Congress and the administration have taken important steps during the COVID-19 pandemic to extend critical telehealth policies and flexibilities that have enabled hospitals and health systems to remove barriers to accessing care, limit exposure to the virus by reducing unnecessary emergency department and urgent care visits and reduce costs and other burdens associated with in-person appointments.

Hospitals and health systems need certainty that the policies and flexibilities they have successfully leveraged throughout the pandemic will be maintained so they can continue to use and invest in innovative ways to deliver care via telehealth.

HANYS urges Congress to maintain and build upon policies that provide a sustainable statutory and regulatory reimbursement framework for telehealth, including:

- **lifting restrictions on the location of the patient;**
- **aligning payment with in-person services;**
- **expanding the types of facilities eligible to serve as distant sites; and**
- **expanding the types of practitioners eligible to provide and bill for virtual services.**

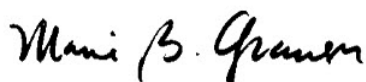
Healthcare Infrastructure

New York's hospitals and health systems have been stretched to their limits on the front lines of the COVID-19 pandemic. As the nation's hospitals and health systems work to recover from the pandemic, now is the time for a robust federal investment in hospital infrastructure to help bolster access to care and ensure the hospitals and health systems that cared for us during the pandemic can recover and rebuild stronger for the patients and communities that rely on them. As we begin to look ahead to recovery, **HANYS urges Congress to pass an infrastructure package that includes funding and access to capital for hospitals and medical facilities.**

HANYS, as always, stands ready to serve as a resource for the entire delegation in support of your efforts to represent and protect your constituents. We thank you for your continued commitment and partnership as we work to overcome COVID-19 and ensure our hospitals and health systems can continue to be relied upon by our communities beyond the pandemic.

If you have questions, please contact me at bgrause@hanys.org or (518) 431-7765.

Sincerely,



Marie B. Grause, RN, JD
President