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November 12, 2020

Sent electronically

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 work to fight the COVID-19 pandemic. As we face a second COVID-19 wave during influenza season, your continued support at the federal level is more important than ever to our member nonprofit and public hospitals, health systems, nursing homes, home health agencies and other healthcare providers.

As you return to Washington to complete the work of the 116th Congress, we look forward working with you on several outstanding priorities that we hope will be addressed to help keep hospitals and health systems firmly in the fight against COVID-19, save lives and protect our healthcare workers.

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 the COVID-19 pandemic.

Without 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.

HANYYS urges Congress to:

- **Provide direct funding for state and local governments:** HANYYS asks Congress to include a \$500 billion state stabilization fund as requested by the National Governors Association, in a COVID-19 relief package or other legislative vehicle to help mitigate these unprecedented reductions and support states as they continue to address the ongoing pandemic. 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.
- **Implement additional FMAP increase:** HANYYS appreciates that Congress has taken action throughout the pandemic to provide a temporary boost in the Federal Medical Assistance Percentage for states. With unemployment claims skyrocketing and people losing access to insurance coverage, enhanced FMAP funding of at least 14% 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 apply the 14% FMAP retroactively to January 2020 through federal fiscal year 2021 and be maintained at this level so long as the national unemployment rate remains above 5%. Increases in FMAP from the Families First Coronavirus Response Act and new enhancements must count all Medicaid enrollees and allow maximum flexibility for states, with matching levels of accountability.

Eliminate harmful cuts to Medicaid DSH

New York hospitals have been subject to nearly \$29 billion in reimbursement reductions over the last ten years, with more cuts scheduled to come. Now is not the time to undermine the financial viability of the safety net by allowing additional cuts to move forward. HANYS is grateful that the CARES Act and subsequent legislation delayed the steep Medicaid Disproportionate Share Hospital reductions that were scheduled to go into effect in May. However, the short-term delay provides little opportunity to plan for the future and the cuts will hit hospitals across New York at a time when they are experiencing new surges of the COVID-19 pandemic.

- **Eliminate Medicaid DSH cuts:** We urge Congress to take immediate action to relieve New York hospitals of over \$650 million in scheduled Medicaid DSH cuts set to go into effect Dec. 11, for at least two years. The cuts would double to over \$1.3 billion next year and continue to balloon in following years. Additionally, HANYS asks that Congress temporarily increase state DSH allotments to offset an unintended cut in Medicaid DSH funding to safety net hospitals that results from enhanced FMAP provided to states.

Provide additional federal aid 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 those businesses fighting on the front lines of COVID-19, which must also retain essential healthcare services 24/7.

HANYS urges Congress to:

- **Provide additional funding to the Public Health and Social Services Emergency Fund (or Provider Relief Fund):** HANYS appreciates the strong work of the New York delegation to secure much-needed funding for providers through the PHSSEF to help reimburse COVID-19-related expenses and lost revenue resulting from the cancelation of non-emergent procedures. Still, New York's hospitals and health systems continue to face tremendous fiscal challenges and uncertainty as the pandemic continues to pose significant threats to public health.

At the same time, New York's hospitals and health systems are currently preparing for surges in COVID-19 patients and vaccine administration, which includes costly storage, staffing, supplies and other costs that will need to be reimbursed.

- **Eliminate the Medicare sequestration cuts:** HANYS appreciates that Congress took action as part of COVID-19 relief efforts to temporarily stave off sequestration cuts. Still, with these cuts now scheduled to take effect Jan. 1, 2021, New York's hospitals will incur over \$260 million in sequestration cuts over the next year, totaling \$3 billion over the next ten years. HANYS urges Congress to pass legislation that would eliminate the 2% Medicare sequestration cuts at least through the public health emergency.

- **Allow for full loan forgiveness under the Medicare Accelerated/Advance Payment Program:** HANYS is grateful for Congress' authorization and CMS' swift action to implement the Medicare Accelerated/Advance Payment Program. This program, established in the CARES Act, has moved 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 the COVID-19 pandemic continues to move at rapid speed across the country 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.

Ensure provider liability protections

During this unprecedented emergency, hospitals and healthcare professionals are working tirelessly to provide the best possible care to COVID-19 patients and remain safe under extremely adverse conditions. At the same time, they are working to ensure other patients continue to receive the highest quality care. However, hospitals and healthcare professionals are encountering unparalleled challenges in their efforts to provide care, at times facing critically low shortages of staff, personal protective equipment and testing kits, delayed testing, shortages of inpatient and intensive care unit beds and critically low access to lifesaving devices such as ventilators.

- **HANYS urges Congress to implement a limited waiver of liability for hospitals and healthcare professionals during the nationally designated COVID-19 emergency that will allow providers to continue delivering the best possible care.**

Support our healthcare workforce

Healthcare workers across the state have been responding to the 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 essential workers by:

- **providing tax-free child care, housing, transportation and education benefits** for hospital workers;
- **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.

Maintain and expand telehealth gains

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 reduce costs and other burdens associated with in-person appointments, remove barriers to accessing care and limit exposure to the virus by reducing unnecessary emergency department and urgent care visits.

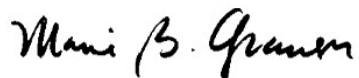
Hospitals and health systems need certainty that the policies and flexibilities they have successfully leveraged throughout the pandemic will be maintained so they can continue to utilize and invest in innovative ways to deliver care via telehealth.

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.**

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 together toward our shared goal of overcoming the COVID-19 pandemic. If you have questions, please contact me at bgrause@hanys.org or (518) 431-7765.

Sincerely,

A handwritten signature in black ink that reads "Marie B. Grause". The signature is written in a cursive, flowing style.

Marie B. Grause, RN, JD
President