



April 3, 2020

Leader Mitch McConnell
Majority Leader, US Senate
317 Russell Senate Office Building

Speaker Nancy Pelosi
Speaker of the US House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

FROM: National Hospice Stakeholders

- National Hospice and Palliative Care Organization
- National Association for Home Care and Hospice
- National Partnership for Hospice Innovation
- LeadingAge
- Visiting Nurse Associations of America/ElevatingHOME

RE: COVID-19 Requests

The organizations listed above want to thank you for your leadership in this time of extraordinary challenge for our country. The providers that we represent are all focused solely on doing what is best for our patients, their families, and our program staff and volunteers during this unprecedented time. Since over 95 percent of our services are delivered in patients’ homes and other places of residence where people live, it is vital to maintain access to high-quality hospice and palliative care during this emergency. It is in this spirit that we offer the following specific recommendations for legislative and regulatory flexibilities.

Introduction

The National Hospice and Palliative Care Organization (NHPCO), the National Association for Home Care and Hospice (NAHC), National Partnership for Hospice Innovation (NPHI), the Visiting Nurse Associations of America/ElevatingHOME, and LeadingAge are committed to ensuring that all Americans have access to affordable, high quality hospice care and request. America’s hospice providers deeply appreciate Congress’s swift and effective efforts to combat the COVID-19 crisis. In addition to continuing to provide services to our patients, who are among the most vulnerable of populations, hospice providers stand ready to continue to offer expert advice on how to support to patients and families in the community during this public health crisis and

we look forward to continued collaboration with Congress to ensure quality serious-illness and end-of-life care for all Americans, and a robust Medicare Hospice Benefit for years to come.

Priorities for Hospice Providers in 4th COVID-19 Legislative Package

1. Hospice Providers Need Inclusion in Priority FEMA PPE Distribution and Testing

Hospice providers are front line healthcare workers who, for the most part, often provide care in the home and are increasingly being exposed to the COVID-19 disease. Hospice and palliative care providers are having trouble accessing personal protective equipment (PPE) due to the worldwide shortage related to decreases in exports from select countries and increases in demand. Across the country, health care workers on the frontlines of the escalating fight against COVID-19, the disease caused by the novel coronavirus, describe a grim scene of rationed supply with some providers labeling the situation on frontlines feel like 'lambs to the slaughterhouse'. This is an enhanced issue for our provider community because so much of our care is provided in a patient's home, and most equipment cannot be reused when the caregiving staff care go to another home to provide services. PPE needs include the following: isolation gowns, masks (including n95 respirators and surgical masks), face shields and goggles, and medical grade gloves.

As providers who are working on the front lines of the pandemic, we strongly support provisions to help ensure continued access to personal protective equipment (PPE), including the provision to designate PPE as a covered countermeasure.

The standard procedure when FEMA is the federal authority in response to a federally declared emergency is as follows:

- Provider request to local/county authorities
- Local/county authorities to state
- State to Regional FEMA office

Since this is a new process for PPE, providers are being told to reach out to their local emergency management agencies to ensure that hospice is "on the list" for PPE supplies. Large number of providers are being turned away and not being given access to PPE from local and county authorities.

In addition, we request that hospice providers be given priority access to testing for both patients and staff, as directed by the federal government and States.

Recommendations:

Congress needs to give priority to access to home and community-based care providers, which includes hospice providers. Our request is supported by the recent announcement from the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) declaring that the delivery of healthcare services (including hospice) are considered essential "to help State and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security."

We are pleased that hospices are on the CISA list of medical services because our provider community provides critical care to patients at the end of life, most often in the community. However, the challenge is in the language used here: We recognize that State, local, tribal, and territorial governments are ultimately in charge of implementing and executing response activities in communities under their jurisdiction, while the Federal Government is in a supporting role.

As State and local communities consider COVID-19-related restrictions, CISA is offering this list to assist prioritizing activities related to continuity of operations and incident response, including the appropriate movement of critical infrastructure workers within and between jurisdictions. Accordingly, this list is advisory in nature. It is not, nor should it be, a federal directive or standard in and of itself. The hospice and palliative care community is relying on the CISA list as one form of identification for hospice as critical infrastructure workers. We need this designation to be identified as priority for the distribution of PPE. Anything stronger that can be stated during this national emergency would be essential for many community-based providers to continue to care for vulnerable and very sick patients.

Suggested Language for Hospice PPE Priority in a DHS/FEMA title:

“Sec. _____. For the emergency declared on March 13, 2020, by the President under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191), priority status shall be granted to post-acute care settings and community-based settings including; home and community-based services, hospice, home health, skilled nursing facilities, palliative care, and disability services providers to access personal protective equipment and related supplies, which are necessary for the delivery of health care services and long-term services and supports essential to protect patients, health care workers and communities, and for ensuring continuity of functions critical to public health and safety as well as economic and national security.”

2. Funding

The costs of decreased admissions, paying out additional leave, losing staff and being able to care for a full load of patients, paying for extra PPE, and other unforeseen costs are already causing shortfalls for hospice providers. While we appreciate the money that was put forth in the CARES Act, hospice providers will not have access to the same level of funding as other types of providers (like hospitals) and it is unclear at this point how some of the CARES Act monies will be distributed. This crisis continues and any future stimulus package should include money to pay for current increased costs that programs are incurring to ensure patient and staff safety and to mitigate losses and anticipated increased costs so that these essential agencies can continue to operate into the future.

We look forward to working with the Congress on the best way to address the financial issues facing our providers and present a few different approaches for discussion

Approaches we support:

1. An across the board 1% increase in the hospice Medicare per diem rate for the duration of the emergency or through Dec 31, 2020, whichever comes earlier.
Justification: We believe this approach would reach our providers the most quickly and allow them both to continue to serve patients in the current crisis and maintains some reserves for business post-crisis.
2. Create a \$3 billion grant funding program targeting hospice and palliative care programs that mirrors the language from the draft bill, [Section 70562](#), Health Provider Assistance Program. If this option is most amenable to the Congress, we look forward to discussing the parameters.

Other funding options:

3. We support the Health Provider Loan Program ([Section 70561](#)) as drafted but ask that a loan program be implemented in conjunction with monies that do not have to be paid back in order to preserve our members' ability to meet costs throughout the crisis and continue to provide care into the future.
4. We support an expansion of the Small Business Administration Paycheck Protection Program with a higher cap on the number of employees.

3. Support Enhanced Access to Advance Care Planning

We recommend that the Congress expand the types of providers eligible to bill the advance care planning codes to clinical social workers and registered nurses, waive the deductible and cost-sharing for advance care planning visits, and allow for advance directive portability as drafted in the 115th Congress' *Patient Choice and Quality Care Act*. These provisions would allow for increased access to advance care planning and to advance directives, which will be particularly critical during COVID-19.

4. Support legislation that increases and enhances the hospice and palliative care workforce during COVID-19 and beyond

The COVID-19 crisis has underscored the need for the passage of the *Rural Access to Hospice Act* (S. 1190/H.R. 2594) and the *Palliative Care Education and Training Act (PCHETA)* (S. 2080/H.R. 647). Both bills would alleviate workforce shortages and lack of preparedness that are being underscored under by the COVID-19 crisis. The Rural Access to Hospice Act would allow practitioners at Federally Qualified Health Centers (FQHCs) and Rural Health Centers (RHCs) to serve as attending physicians to hospice patients. In short order all areas of our country will be experiencing serious staffing shortages, and existing staffing limitations in rural areas will be exacerbated. This crisis has underscored the workforce shortages in rural areas and passing this bill would help to alleviate these pressures now and into the future. PCHETA would support the training of more palliative care professionals, the need for which has been underscored during the crisis. We recommend that the Congress move forward with both pieces of legislation.