

March 13, 2020

The Honorable Gavin Newsom
Governor
State of California
State Capitol Building
Sacramento, CA 95814

RE: COVID-19 California Response

Dear Governor Newsom:

The California Medical Association (CMA) would like to thank you for your ongoing leadership on California's response to novel coronavirus, or COVID-19. We appreciate the actions that you have taken during this public health crisis including proclaiming a state of emergency, the work your administration has done to increase testing capacity, and the efforts undertaken to provide up-to-date and unified guidance on COVID-19 responses. We especially appreciate the ongoing commitment from your administration to solicit feedback and guidance from physicians and their patients regarding challenges to providing effective patient care in the current environment and steps that your administration can take remove those barriers.

As you know, the issues regarding responding to COVID-19 continue to evolve rapidly. Many of the issues in our letter dated March 2, 2020 still need to be resolved and new issues have emerged as well. This letter reflects the concerns and needs of the physicians on the front lines of helping to respond to COVID-19. We highlight the following issues with recommendations for solutions.

Expanding Telehealth

We continue to urge action that supports expanded use of telehealth, which can help physician practices manage screening and care while reducing potential exposure and continued spread of COVID-19. Physicians want to implement telehealth but face ongoing barriers to implementation. For example, both providers and clinics are being asked to screen patients and see patients through telehealth, including telephone, to prevent further spreading of the illness. However, providers and clinics are uncertain whether public and private health plans will pay for services delivered via telehealth.

With regard to Medi-Cal, we recommend that the state direct the Department of Health Care Services (DHCS) to issue an All-Plan Letter reminding plans and providers that DHCS' updated telehealth policy ensures access and coverage of telehealth and that it should be used, and covered, for COVID-19 related services. We urge the state to direct the Department to interpret its policy broadly to allow maximum flexibility in the provision and accessibility of telehealth services and to direct its contractors, including Medi-Cal managed care plans, accordingly.

With regard to Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs), action needs to be taken to remove the many restrictions and payment rules for telehealth coverage, many of which differ from those of individual providers and hospitals. Recently adopted legislation, as follows, ensures that FQHCs and RHCs may receive Medi-Cal coverage for services provided through telehealth, but only during a state of emergency.

- AB 1494 (Aguiar-Curry, 2019) Welfare and Institutions 14132.723 - allowed telehealth including telephone visits to be covered for clinics.
- AB 2576 (Aguiar-Curry, 2018) Government Code 8628.5 - allows community clinics to provide and be reimbursed for other services provided telephonically.

DHCS believes that the provisions allowing payment for telehealth services during emergencies requires a declaration from the President declaring a federal emergency after which the State may seek federal approval to use Medi-Cal funding to pay for telehealth services provided in clinics. While this may be accurate, the state can prepare by taking steps to be able to immediately begin paying for clinic telehealth services upon receipt of federal approval. DHCS can prepare by developing:

- Necessary documentation, standardized claim reporting and billing codes across payors; and
- Procedures for retroactive coverage for the services being provided already through telehealth by providers and clinics.

Additionally, to the extent federal funding is not immediately available, DHCS should consider providing for reimbursement of telehealth services, including telephonic services, provided by enrolled community clinics on or after March 4, 2020 using State-only funds.

Finally, with regard to commercial health plans, we similarly recommend that the Department of Managed Health Care (DMHC) and the California Department of Insurance (CDI) issue guidance to plans that they should also cover all telehealth services related to COVID-19, consistent with DHCS policy and AB 744 (Aguiar-Curry, 2019), which was signed last year, but has a delayed implementation date of January 1, 2021. We recommend that DMHC direct commercial health plans to begin developing the necessary documentation and standardized claims report and retroactive payment procedures to cover telehealth services for COVID-19 and other medical services. A directive or executive order requiring health plan coverage of services provided by telehealth could operationalize all of these recommendations. Please see the attached proposed executive order language that would implement these recommendations.

Consistent Messaging and Guidance

Physicians and their patients need coordinated and consistent messaging and guidance on the changing situation and how health care workers should respond. The compilation of a consolidated location to find all COVID-19-related guidance is a start. As you build on that resource, you are helping to avoid a piecemeal local response, which frustrates the health care communities' response and confuses the public. For example, physicians understand that a state stockpile of medical supplies exists, including items such as masks, but have

limited information about how to request supplies and who is eligible to make such requests. Centralized and easily accessible guidance on this issue would be helpful, reduce the need for physicians to spend valuable practice time trying to track down supplies and allow them to focus on caring for patients.

We further recommend building a statewide, sustained public education campaign that would supplement existing work and create a tool to help counter misinformation that contributes to panic. Regular public service announcements from the California Department of Public Health (CDPH) on the state's response to COVID-19, including progress in infection control and how to access information and services, would build trust in the state's capacity to effectively respond to this crisis.

Use of Droplet Precautions

We continue to encourage the application of droplet precautions in health care settings and request that the State:

- 1) Work with Cal/OSHA to reconsider its determination that COVID-19 is spread via airborne transmission and that employers should apply the Aerosol Transmissible Diseases (ATD) standard (California Code of Regulations, title 8, section 5199), which contains requirements for protecting employees from diseases and pathogens transmitted by aerosols; and
- 2) Work with the CDC to clarify guidance that PPE protections for droplet protection is the appropriate standard for protecting health care workers.

We understand that Cal/OSHA has determined that COVID-19 is an airborne infectious disease covered by the ATD standard which requires a different precautions than droplet transmission. This determination conflicts with guidance from the CDC that COVID-19 spreads via droplet transmission. The ATD standard requires adherence to a different set of requirements related to training, engineering and work practice controls, personal protective equipment, medical services, and laboratory operation.

Lack of consistent guidance from the State that regarding how COVID-19 is transmitted generates uncertainty and concern from health care workers regarding whether their facility's PPE protocols are appropriate and strains the limited supply of protective equipment and spaces in health care facilities.

Testing

We support efforts to quickly expand community testing to efficiently identify individuals who do and do not have COVID-19. Testing should be available to patients with a physician's order for testing and results should be provided to public health authorities and physicians quickly so that the results can be communicated and appropriate care can be provided to patients. Physicians have reported difficulty accessing testing supplies, including kits and swabs. Until sufficient testing supplies are available, we need clear guidance on how limited testing supplies should be directed and which patients should be prioritized for testing. Finally, we recommend that the state direct public and private health plans to collaborate to

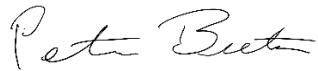
facilitate standardization on payment and coding procedures for COVID-19 testing and to provide clear guidance to physicians on payment and coding related to testing.

Healthcare Workers

During this public health crisis, California's health care workforce is a vital asset. It is critical that the state provide clear guidance regarding how decisions about the quarantine and furlough of health care workers should be made. CMA supports that healthcare workers exposed to COVID-19 patients should self-monitor for symptoms and may continue to work if they are asymptomatic. If health care workers exhibit COVID-19 symptoms, they should be tested. If the results are positive, furlough would be applied as is currently done for influenza. Adherence to this structure will help to ensure that the state health care workforce is not unnecessarily reduced during this epidemic and patients continue to have access to care.

We will continue to work with you and your Administration as California navigates the COVID-19 pandemic. Thank you for your consideration.

Sincerely,



Peter N. Bretan, Jr., M.D.
President

cc: Sonia Angell, MD, MPH
Bradley Gilbert, MD

