PREMIER TRANSFORMING HEALTHCARE TOGETHER®

September 17, 2021

The Honorable Charles Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representative
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, DC 20515

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

On behalf of the Premier healthcare alliance serving approximately 4,400 hospitals and health systems, hundreds of thousands of clinicians and 225,000 other provider organizations thank you for your leadership and focus on ending the pandemic and ensuring that our healthcare system is the strongest it can be emerging from the public health emergency.

The nation is depending on hospitals, health systems and non-acute providers to get us through the COVID-19 pandemic. The ability of health systems to continue to care for those infected, protect against the spread of the virus and safely manage care for non-COVID-19 cases hinges on continued federal action, now more than ever. The Premier healthcare alliance is calling on Congress to provide ongoing federal support and enact policies that will advance hospitals' and other providers' critical work to protect the public's health and innovate healthcare for the future.

Our recommendations are focused on:

- Supporting front-line caregivers throughout the pandemic
- Investing in the healthcare workforce
- Building a more transparent and resilient supply chain for medical products
- Ensuring continued movement to value-based care
- Alleviating the harm, burdens and costs of prior authorization in healthcare
- Ensuring high-quality non-acute care for our nation's most vulnerable seniors
- Making America a safer place for women to give birth
- Providing permanent flexibility for telehealth
- Providing relief through the 340B Drug Pricing Program

Supporting Front-line Caregivers Throughout the Pandemic

Fortify the Provider Relief Fund. The Provider Relief Fund has alleviated some of the financial stress that providers are under as they face the increased costs of responding to the public health crisis as well as natural disasters around the country, and lost revenue from the deferral of routine procedures and care. Even with this help, resources for many healthcare providers continue to be stretched thin or exhausted especially given the recent surge of COVID-19 cases across the country, we strongly urge Congress to provide additional emergency funding through this program. In particular, additional funding should be directed to facilities and providers that have been underrepresented in previous distributions including children's hospitals, long-term care (LTC) pharmacies, nursing homes and other non-acute facilities.

Prevent the Medicare payment "cliff" healthcare providers face on January 1, 2022. Without Congressional action, all healthcare providers face a 6 percent payment cut at the end of the year and clinicians paid under the physician fee schedule face a 9.75 percent total cut. This is due to:

1) The 2 percent across-the-board Medicare sequestration cut that has been in place for the last decade was put on hold during the public health emergency. The moratorium, however ends at the end of the year.

2) The statutory across-the-board Pay-As-You-Go (PAYGO) budget cuts resulting from the enactment of the American Rescue Plan Act of 2021 (ARP). If implemented, the 4-percentage point reduction in Medicare spending mandated by PAYGO would translate to an estimated $36 billion in FY 2022.

3) A one-year payment increase for clinicians will expire at the end of the year, causing clinicians paid under the physician fee schedule to take an additional 3.75 percent Medicare cut. Congress forestalled the cut—which resulted from increased work RVUs for office/outpatient E/M codes—at the end of 2020.

Such deep cuts would be devastating to healthcare providers' steadfast efforts to save lives during the public health emergency and would cancel out to a significant degree the provider relief funds that Congress has dedicated for that purpose. We urge Congress to waive the PAYGO implications of the ARP and take legislative action to avert the Medicare sequestration cut and the impending reductions to physician fee schedule reimbursement.

Reject using healthcare provider payments as offsets. Similarly, Premier urges Congress to resist going back to healthcare provider payments to finance other provisions in any upcoming legislative package this year. These cuts increase distortions in provider payment and cost-shifting, challenge hospitals with disproportionate share of patients covered by Medicare and Medicaid and threaten our critical healthcare infrastructure.

Investing in the Healthcare Workforce

Premier urges Congress to make critical investments in the healthcare workforce, which is currently experiencing severe shortages as a result of unprecedented pressures induced by the pandemic. Healthcare staffing challenges that existed before COVID-19 are now pushing our health system to its limits. Congress can help address these shortfalls by:

- Boosting graduate medical education and health professional training programs;
- Providing resources to increase wages, bonuses, and other incentives to recruit, retain and recognize the frontline heroes that make up the home healthcare workforce; and
- Granting flexibility to assist workers to pay school loans in exchange for their service as a home healthcare worker.

Building a More Transparent and Resilient Supply Chain for Medical Products

From the beginning of the COVID-19 pandemic, Premier has been at the forefront of response efforts working around the clock to ensure hospitals, health systems, and alternate site providers across the country had access to the necessary PPE, medical supplies and pharmaceuticals to treat COVID-19 patients. From Premier's 360-degree view of the healthcare supply chain, we recommend a cohesive and holistic strategy for stabilizing the US supply chain to respond to surge demand for critical medical supplies and drugs, which involves legislative action in the following key areas:

Using technology to gain upstream and downstream visibility into the supply chain to understand sources of raw materials and manufacturing facilities and products in inventories. A key component to an end-to-end supply chain solution is an on-call, nimble automated data collection infrastructure that the nation can call upon in any future crises similar in magnitude to COVID-19. Rather than standing up an inadequate and duplicative system as we experienced during the pandemic, the nation needs a system that can track critical product availability - from the raw materials, to manufacturer, to distribution, to state and national stockpiles, to hospital inventory. This system would provide visibility of supplies in hospital inventories with detailed information that would enable accurate and intelligent decisions about supply allocation and needs at the local, state, regional and national levels. This information would inform dynamic and appropriate product allocation and distribution strategies, minimize hoarding, and enable powerful and accurate prediction, enabling the nation to manage supplies during the crisis. Moreover, this data could be made available to providers in a metropolitan statistical area to help them understand community risks and enable intelligent purchasing.

This data infrastructure would also strengthen the SNS by:

- Creating visibility into inventory via a standardized data nomenclature and automated acquisition of data across the SNS, manufacturers, distributors, and within healthcare systems that is tied to real-time resource demand data.
- Providing inventory monitoring and advanced alerts of critical supply inventory levels warranting movement of product from the SNS to points of care, ramping up production of certain supplies, etc.

To accomplish these goals:

1. Policy changes are needed to deploy clear and efficient mechanisms for healthcare entities to report data in an emergency that supports supply chain management and surge re-deployment.
2. Rules must be established to provide assurances that government will not seize inventory and to ensure confidentiality around supplies held by different competitors.
3. HHS should develop and widely disseminate “rules of the road” about data access, use and possible re-use. At a minimum, the rules should confirm that supply data (currently questions 26-31) will only be used by local/state/federal agencies for the purpose of identifying potential supply shortages and deploying response efforts to benefit the hospital community.

Incentivizing domestic manufacturing of critical medical supplies. Premier has been a longstanding advocate for supply chain diversity and resiliency, partnering with manufacturers to fill gaps in production of critical drugs and creating an investment vehicle to help the nation enhance domestic and geographically diverse manufacturing capacity for masks, gowns, generic drugs and other crucial medical supplies. To sustain this progress and better insulate our nation from future supply chain disruptions, however, manufacturers need assurances of longer-term purchasing and the recognition of the capital requirements needed to expand domestic capacity in order to offer long-term, competitive prices.

To incentivize manufacturers to invest in domestic manufacturing while also ensuring that domestically manufactured goods are price competitive with globally sourced products, Premier recommends a two-part approach that leverages tax credits.

Part 1: 30 percent Tax Incentive for Manufacturers:

- A 30 percent tax incentive for investments to support the domestic manufacturing of critical medical supplies and drugs, including their raw materials.

Part 2: 10 percent Tax Credit & Guardrails:

- A 10 percent tax credit on the income generated from the sale of domestically manufactured goods. This would also help lower the cost of goods manufactured domestically and make them price competitive with globally sourced products.
- To be prudent, companies found to be price gouging or selling counterfeit products by the Department of Justice, Federal Trade Commission, or other agency should not be eligible for the tax credit. Guardrails would help ensure companies aren't artificially increasing their prices to take advantage of the tax credit from higher sales prices and support the integrity of the supply chain.

Strengthening the Strategic National Stockpile. The Strategic National Stockpile (SNS) is the supply chain of last resort for health systems, alternate site providers, and first responders. Therefore, the SNS must be built by providers for providers. To develop a truly cohesive and holistic national strategy for addressing future global pandemics and stabilizing the U.S. supply chain to respond to surge demand for essential medical supplies and drugs, we need an augmented approach to the SNS. This approach should:

- Provide transparency on what supplies were distributed to where and in what quantities;
- Maintain a minimum 90-day supply of critical products, as dictated by surge demand from hotspots;
- Leverage public-private partnerships to stock the stockpiles;
- Rotate product to healthcare providers before it expires;
- Allow health systems and regional buying groups to operate the stockpiles and explore opportunities to leverage health system warehouses to ensure proximity to supplies;
- Focus not only on quantity, but also the time to inventory and ensure the U.S. has contractual relationships established, including contingency and redundancy plans, to ramp up production;
- Rely on a public-private advisory council to provide input on the medical supplies and drugs housed in the SNS;
- Work proactively with group purchasing organizations to forecast demand and increase capacity/supply to avoid shortages;
- Leverage analytics and insights to assist providers in the delivery of care during pandemics;
- Carve out a customized stockpile for nursing homes; and
- Be pressure tested annually.

Preventing drug and medical device shortages. Premier applauds Congress for including sections 3101, 3111 and 3112 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act to mitigate drug shortages necessary for patient care during the pandemic. These provisions provide additional authority to the Food and Drug Administration (FDA) to proactively address drug shortages and develop market-based incentives for the manufacturing of these critical drugs, including on-shore manufacturing. The pandemic highlighted additional vulnerabilities in the pharmaceutical supply chain warranting revisiting drug shortages legislation to strengthen the FDA's ability to proactively address and respond to potential shortages. These include:

- Requiring manufacturers, including active pharmaceutical ingredient (API) manufacturers, to report the volume of product that is manufactured in each FDA registered facility
- Expanding the FDA drug shortage list to include regional shortages as well as shortages based on strength and dosage form
- Temporarily extending expiration dates for drug shortage products if determined to be scientifically sound

Similarly, Congress can build on section 3121 in CARES Act to further mitigate device shortages necessary for patient care during the pandemic by:

- Requiring device manufacturers to provide information about production volume for their devices, including for the raw materials;
- Requiring device manufacturers to perform risk assessments, implement risk management plans, and identify alternate suppliers and manufacturing sites; and
- Providing FDA with authority to allow temporary importation of unapproved devices, with appropriate scientific and regulatory controls, when it's in the interest of the public health.

Ensuring Continued Movement to Value-based Care

The Centers for Medicare & Medicaid Services (CMS) just announced that the accountable care organizations (ACOs) participating in the Medicare Shared Savings Program (MSSP) in 2020 generated $4.1 billion in gross savings, approximately $2.3 billion in shared savings for participants and saved Medicare $1.9 billion. This is the fourth consecutive year that the program has achieved net savings for Medicare. More than 12.1 million Medicare fee-for-service beneficiaries benefit from care furnished by providers affiliated with an ACO[1] who have brought all their value-based, wellness-focused care delivery sophistication to bear during the pandemic.

Changes to the current ACO model will remove barriers to even greater cost savings, better care coordination and faster movement to two-sided risk models. We urge Congress to support a continued emphasis on movement to value by passing the ***Value in Health Care Act of 2021 (H.R. 4587)***. This bill provides incentives to encourage additional providers to participate in alternative payment models (APMs). This includes extending bonuses for providers who participate in an APM an additional six years and making improvements to the MSSP, such as increasing the shared savings rate and removing distinctions that place hospital-led ACOs at a disadvantage. An independent analysis found the Value in Health Care Act would save $280 million over 10 years.

Alleviating the Harm, Burdens and Costs of Prior Authorization in Healthcare

While prior authorization is designed to ensure that evidence-based healthcare is practiced, it can also limit timely patient access to medically necessary services and is costly, time-consuming and burdensome for healthcare providers and insurers. A main culprit is a lack of automation of the prior authorization processes. In fact, 88 percent of prior authorizations today are conducted either partially or entirely manually, using faxes and phone calls. In a recent survey conducted by the American Medical Association, 91 percent of providers reported treatment delays due to current prior authorization processes and 28 percent say these delays resulted in a serious adverse event.

Congress can vastly improve the prior authorization for Medicare Advantage beneficiaries by passing the ***Improving Seniors' Timely Access to Care Act of 2021 (H.R. 3173)***, which has the broad support of more than 200 bipartisan cosponsors. H.R. 3173 would streamline, standardize and implement automation of the prior authorization process for certain Medicare Advantage services and procedures. Transitioning to fully electronic prior authorization transactions could save the health system $454 million annually, improve patient safety, end harmful care delays and remove provider burden.

Ensuring High-quality Non-acute Care for Our Nation's Most Vulnerable Seniors

Closing the digital divide to minimize infection spread in nursing homes. While data about infections in nursing homes is limited, the CDC estimates that, even prior to the pandemic, a staggering 1 to 3

[1] CMS Press Release, "Affordable Care Act's Shared Savings Program Continues to Improve Quality of Care While Saving Medicare Money During the COVID-19 Pandemic," August 25, 2021, https://www.cms.gov/newsroom/press-releases/affordable-care-acts-shared-savings-program-continues-improve-quality-care-while-saving-medicare

million serious infections occur every year in these facilities and as many as 380,000 people die of infections in nursing homes every year.[2] The Government Accountability Office points to widespread and persistent infection control deficiencies in the years prior to the COVID-19 pandemic.[3]

The digital divide between acute care and nursing home settings and the lack of real-time intelligence to prevent and manage a spread is at the root of this problem. Only an estimated 66 percent of skilled nursing facilities currently use an electronic health record (EHR)[4], let alone surveillance technology to provide meaningful assistance with infection control and preventing antimicrobial resistance. Employing a clinical surveillance tool significantly helped clinicians, pharmacists and infection preventionists in acute facilities to identify overuse of antibiotics and drug-bug mismatches, reduce time-to-appropriate therapy, enhance therapy for difficult-to-treat pathogens and reduce infections.

Premier urges Congress to designate funds specifically to ensure nursing homes can implement electronic clinical surveillance technology (ECST) that will provide meaningful assistance with infection control and clinical pharmacy.

- For the purposes of the public health emergency and for 180 days after, Congress should incentivize facilities that already have EHRs to adopt and integrate ECST.
- For those facilities that do not have existing EHRs, Congress should designate additional resources to implement that foundational technology and to also adopt and integrate ECST.

Ensuring long-term care patients' access to essential medications. Long-term care (LTC) pharmacies provide specialized and distinct services for elder, vulnerable beneficiaries residing in LTC facilities across the country, yet no statutory definition of LTC pharmacies exists under current federal law or regulations. The lack of a statutory LTC pharmacy definition has led to conflicting and inappropriately applied policy directives across federal agencies, presenting hurdles for vulnerable seniors. The bipartisan ***Long-Term Care Pharmacy Definition Act (S. 1574)*** provides a uniform LTCP definition that explicitly identifies important LTCP service offerings, which is necessary to deliver timely, essential care to patients.

Preserving patient access to home infusion. CMS' narrow interpretation of the Medicare Part B home infusion services benefit has resulted in unintended consequences for providers across the continuum and threatened vulnerable patients' access to home infusion therapy. The bipartisan ***Preserving Patient Access to Home Infusion Act (S. 2652 / H.R. 5067)*** will clarify Congressional intent by making the following changes for the permanent home infusion services that went into effect in 2021:

- Clarify that payment should be made every day a drug is administered, regardless of whether a skilled professional is physically present in the patient's home
- Add "pharmacy services" to the items and services that should be reimbursed under the home infusion therapy benefit

Making America a Safer Place for Women to Give Birth

Premier applauds Congress' focus on policy solutions to address the factors that are contributing to the disparities in maternal mortality and morbidity. The lack of standardized outcome measurement and collection of complete, actionable data on maternal mortality and morbidity has been a persistent obstacle to reversing poor maternal-infant health trends in the US. Premier strongly believes that we must invest in

[2] https://www.cdc.gov/longtermcare/index.html#:~:text=1%20to%203%20million%20serious,infections%20in%20LTCFs%20every%20year.
[3] https://www.gao.gov/products/gao-20-576r
[4] https://www.healthit.gov/sites/default/files/page/2018-11/Electronic-Health-Record-Adoption-and-Interoperability-among-.S.-Skilled-Nursing-Facilities-and-Home-Health-Agencies-in-2017.pdf

gathering extensive and actionable data and undertake additional quality and alternative payment model endeavors to deliver equitable and effective healthcare for new mothers and their babies. Premier is proud to support the ***Black Maternal Health Momnibus Act of 2021 (S. 346 / H.R. 959)*** and the bipartisan ***Maternal Health Quality Improvement Act of 2021 (H.R. 4387 / S. 1675)*** and urges Congress to pass this legislation. Taken together, these bills would take critical steps to enhance these efforts, including:

- ***The Data to Save Moms Act***, which builds on previous bipartisan legislation by promoting greater levels of representative community engagement in Maternal Mortality Review Committees (MMRCs). The bill also promotes improvements in data collection processes and quality measures for maternity care that would significantly advance the effort to mainstream and resource equitable healthcare.

- ***The IMPACT to Save Moms Act*** establishes a new CMS Innovation Center demonstration project to promote equity and quality in maternal health outcomes for moms covered by Medicaid. The bill also promotes continuity of health insurance coverage for moms from the start of their pregnancies through the entire yearlong postpartum period and beyond.

- **The Maternal Health Quality Improvement Act of 2021**, which:
    - Establishes grants to develop and disseminate best practices to improve maternal health quality and outcomes;
    - Creates perinatal quality collaboratives to improve perinatal care and outcomes for pregnant and postpartum women and their infants; and
    - Contains provisions to improve rural maternal and obstetric care data collection and care networks.

Providing Permanent Flexibility for Telehealth

Recognizing more time is needed to determine the best approaches and guardrails needed for permanent telehealth expansion in fee-for-service**, Premier urges Congress to permanently extend to all alternative payment models (APMs) the telehealth coverage and payment policies that were operationalized under the public health emergency.** Providers in APMs are incented to use telehealth only when it is most appropriate as they are responsible for the cost of care and improving quality.

We believe Congress should immediately start with allowing greater flexibility around the types of technology that can be used, adopting additional services, and exploring additional telehealth flexibilities through Center for Medicare & Medicaid Innovation (CMMI) models and other Medicare APMs. The greatest flexibility should be awarded in models in which providers bear downside risk, such as in global budgets and capitated payments.

With appropriate guardrails, Congress should also take action to:

- Grant CMS greater authority to set regulation on allowable health services and payment for telehealth services.

- Provide temporary state licensing reciprocity for telehealth during the pandemic by passing the Temporary Reciprocity to Ensure Access to Treatment (TREAT) Act (S. 168 / H.R. 708).

- Ensure audio-only telehealth continues to be an effective source of healthcare for all seniors during the course of the COVID-19 public health emergency by passing the Ensuring Parity in MA for Audio

Only-Telehealth Act (S. 150). This bill would count diagnoses obtained from audio-only telehealth services for risk adjustment purposes under the Medicare Advantage program to ensure that health costs are adequately covered while providing the information care teams need to manage patient care.

Provide Relief through the 340B Drug Pricing Program

We urge Congress to allow hospitals that were participating in or applied for the 340B drug discount program before the public health emergency (PHE), but that had that had to leave the program due to changes in their patient mix, to temporarily maintain eligibility.

We look forward to working with Congress to advance these bipartisan measures that have broad backing and that will help ensure our nation's healthcare providers and systems can continue to provide quality care to patients and meet the demands of the ongoing pandemic. Please do not hesitate to reach out if you would like to discuss these proposals in greater detail.

Sincerely,

Blair Childs
Senior Vice President, Public Affairs
Premier healthcare alliance