PEPC
PARTNERSHIP TO EMPOWER PHYSICIAN-LED CARE

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Submitted via OASHcomments@hhs.gov

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Re: Request for Information – Long-Term Monitoring of Health Care System Resilience

Dear Assistant Secretary Giroir and Deputy Assistant Secretary Reed:

Thank you for the opportunity to comment on the Request for Information (RFI) on long-term monitoring of health care system resilience. We appreciate your leadership in exploring issues, data sources and initiatives that can be leveraged to strengthen our health care system in light of the challenges laid bare by the COVID-19 pandemic.

The Partnership to Empower Physician-Led Care (PEPC) is a membership organization dedicated to supporting value-based care to reduce costs, improve quality, empower patients and physicians, and increase access to care for millions of Americans through a competitive health care provider market. We believe that it is impossible to achieve truly value-based care without a robust independent practice community. Our members include Aledade, American Academy of Family Physicians (AAFP), California Medical Association, Florida Medical Association, Medical Group Management Association (MGMA), and Texas Medical Association's Practice Edge. We also have individual and small medical group supporters across the country, many of whom are independent physicians or practices and wish to remain so.

Central to our mission is the belief that physicians – especially independent physician practices– are the lynch pin of our nation's health care system. They have repeatedly demonstrated their superior ability to generate positive results in value-based care arrangements, both in improved health outcomes and reduced costs. In our vision of the future, this important piece of the health care system not only survives, but is thriving as a result of policies that place them on a level playing field with other providers and opportunities to test new models with components that reflect their unique circumstances.

With this background in mind, we offer comments on two of the questions posed in the RFI as outlined in more detail below.

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1. What are the most significant barriers to strengthening health system resilience in the U.S.?

One of the most significant barriers to strengthening health system resilience prior to and during the COVID pandemic is provider consolidation. This is an issue that was discussed extensively in a December 2018 report entitled "Reforming America's Health Care System Through Choice and Competition," jointly issued by the Department of Health and Human Services, the Department of Treasury and the Department of Labor in response to Executive Order 18313.

While provider consolidation was rampant long before COVID-19, we are concerned that the pandemic will lead to even more consolidation without appropriate investment in and protection for medical practices. As outlined in more detail below, the data shows that this would have a negative impact on patients, as quality generally goes down and costs generally go up when there is less competition in a geographic area.

It has been widely reported that medical practices are facing financial challenges as a result of the COVID pandemic. Patient visit volumes dropped dramatically at the height of stay-at-home and shelter-in-place orders, with the Commonwealth Fund finding that ambulatory visits were down across specialties by nearly 60% in early April. Despite the fact that many medical practices worked to quickly implement telehealth, to apply for federal loans and relief programs, and to make cuts to their overhead costs where possible, the loss of revenue during this time was devastating for many practices. This is compounded by the sustained reduction of more than 10% in in-person visits, even as patients return to office-based care in many states and communities.

Without additional relief and investment, medical practices may be a target for acquisition by a larger provider. From 2006 to 2016, the number of primary care physicians who were employed by a hospital rose from 28 to 44 percent. By 2016, less than half of all physicians owned their own practices. These numbers are expected to increase even further with the significant infusion of relief dollars into the provider market through the COVID-19 Provider Relief Fund. In an FAQ issued on June 2, HHS explicitly clarified that providers could include the costs of practice acquisition as an "eligible expense" for which relief funds could be used. This, combined with reports that hospitals continue to have significant cash assets even despite the pandemic, seems to indicate that larger providers are financially secure enough to make acquisitions if they choose.

This outcome would be detrimental to patients and the overall long-term health of our health care system. Hospital acquisitions of physician practices generally result in significantly higher prices and more spending. For example, Capps et al found that hospital acquisitions of physician practices led to prices increasing by an average of 14 percent and patient spending increasing by 4.9 percent. Acquisitions also generally have a negative or neutral impact on quality with studies like that by McWilliams et al finding that larger hospital owned physician practices have higher readmission rates and perform no better than smaller practices on process-based measures of quality.

As noted in recent testimony before the House Energy & Commerce Committee, studies find hospital-physician consolidation is followed by price increases for physician services, and in settings where price is fixed (i.e., Medicare), to increases in total spending. This is the result of "facility-based billing," whereby sites of service designated as hospital outpatient departments are able to charge more for the exact same

service offered at a lower cost in an independent medical practice, and an increase in prices for physician services by an acquired practice as a result of reduced competition in a specific area.

2. ***What policies and programs can be improved to mitigate the risk of COVID-19 and avoid negative impacts on patient outcomes?***

First, we applaud the Administration for the action they have taken to address information blocking. In the past, information blocking has been a tactic used to maintain or increase competitive advantage. Congress and the Administration have taken significant steps to penalize and discourage information blocking through policies scheduled to go into effect in the near-term. The Administration has also demonstrated its commitment to information sharing through other final regulations that revise the Medicare and Medicaid Conditions of Participation to require hospitals to share event notifications with community providers. These notification are key to addressing information asymmetry, and mitigating the negative effects of provider consolidation.

Second, we encourage the Administration to take the following additional actions:

- Set aside a specific allocation from the Provider Relief Fund for independent physicians and medical practices to ensure they are financially sustainable even in the face of the pandemic.
- Ensure that medical practices are able to access Provider Relief Funds quickly and without undue administration burden.
- Prohibit Provider Relief Fund dollars from being used to acquire medical practices.
- Ensure value-based payment models are appropriate for a range of different providers and that models are tailored to reflect unique financial and clinical circumstances of independent physicians and practices.
- Ensure that there are more value-based care models for independent physicians and practices to choose from, giving more providers the option to move off the fee-for-service chassis.
- Implement site neutral payments to level the playing field between different sites of service offering the same services to patients.

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Thank you again for the opportunity to share our perspective. Please do not hesitate if we can be a resource to you.

Best,

Kristen McGovern
Executive Director