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November 10, 2020

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

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

The Honorable Nancy Pelosi
Speaker of the House of Representatives
The U.S. Capitol
Washington, DC 20515

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

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

The American Academy of Dermatology Association (Academy), which represents more than 13,800 dermatologists nationwide, would like to express its appreciation for the actions taken by Congress and the Administration earlier this year to help physicians on the frontlines of care meeting public health demands during the current COVID-19 Public Health Emergency (PHE). The Academy urges you to close-out the 116th Congress by passing legislation that would halt scheduled Medicare physician payment cuts, provide liability protections to health care providers, expand financial relief and ease burdens on patients seeking care.

As a result of state directives and recommendations from the Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) to halt what were deemed to be non-essential procedures and treatments, many dermatology practices were forced to shift to telehealth to maintain patient access. Because they had to drastically reduce live patient appointments or shut down completely, the inevitable consequence was employee lay-offs. The temporary economic relief provided through the CARES Act (H.R. 748, P.L. 116-136) and subsequent legislation provided a bridge for dermatology practices, their employees, and the patients they serve. However, according to a recent study by the American Medical Association, 70% of physicians are still providing less patient care (in-person and telehealth) than they were prior to the PHE. More support and relief are needed to ensure that dermatologists will be able to continue to provide the high-quality care that their patients deserve and expect.

For example, one small dermatology practice reduced its quarterly expenses by 25%, obtained a loan under the Paycheck Protection Program (PPP) and received relief from the Public Health and Social Services Emergency Fund, but still experienced a 20% reduction in revenues between Q1 and Q2.

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For the foreseeable future, dermatologists and their employees will be struggling to do more with less, while they implement new telehealth protocols, purchase personal protective equipment (PPE) and provide for social distancing. Practices are limited in the cost-cutting measures they can utilize as they are bound to their contracts with vendors and employees and limited in their ability to pass along expenses to patients. Furthermore, reimbursement rates are largely pre-determined and were set prior to the PHE. Unfortunately, the continued uncertainty surrounding the PHE and the added financial burdens on practices are likely to lead to further layoffs, reductions in revenue for dermatology practices and their employees, and burnout for healthcare providers. To not only address these challenges but also to further the ability of our members and their practices to serve their patients in this unprecedented time, the Academy requests your support for the following measures.

Medicare Reimbursement and Relief

The Academy requests additional relief through the Medicare program. CMS' final Medicare Physician Fee Schedule (MPFS) rule for Calendar Year (CY) 2020 included broad changes to reimbursement for evaluation and management (E/M) services. While the AADA supports a purposeful approach to revaluing the office-based E/M codes, adhering to existing budget neutrality requirements for implementing the new policy will trigger a 10.6% cut in the conversion factor on which Medicare physician reimbursement is based. Significant reductions in Medicare payments to dermatologists and other healthcare providers, which are scheduled for January 1, 2021, would only add to the unprecedented financial challenges for practices. To help prevent further financial hardships for our members and their practices, the Academy asks that Congress do the following:

- Pass the ***Holding Providers Harmless from Medicare Cuts During COVID-19 Act of 2020 (H.R. 8702)***, which would hold physicians harmless from scheduled Medicare payment cuts in 2021 and 2022.
- Continue the sequester relief provided under the *CARES Act*, and further delay sequester cuts to the Medicare program through the end of 2021.

Liability Coverage

Given the sweeping impact of the COVID-19 crisis, the Academy continues to strongly urge Congress to provide broader liability protections for physicians and other clinicians and the facilities in which they practice as they continue their non-stop efforts to see patients under extremely challenging and unprecedented conditions. The shifting of patient care to telehealth to maintain patient access limits the ability to make certain diagnoses. Limitations on elective care, necessary social distancing practices, and challenges with staff needing to work from home have led to delays in treatment. As dermatology practices continue to re-open, dermatologists, their employees and their patients face the potential of COVID-19 exposure. These concerns create a unique situation that raises serious potential for liability claims against physicians and other health care providers and facilities; therefore, the Academy asks that any future COVID relief package include the following measures:

- The ***Coronavirus Provider Protection Act (H.R. 7059)*** and similar provisions in the *SAFE TO WORK Act (S. 4317)*.
- Additional liability workplace safeguards to protect physicians, other health care providers, facilities, and their employees.

Reform Utilization Management Systems

Providing patients with necessary treatment and care has always been a top priority for dermatologists, but the COVID-19 crisis has emphasized the need for legislation to help reduce barriers to care and treatment created by arbitrary utilization management systems. To alleviate these burdens on our patients, the Academy asks Congress to pass the following legislation, each of which has broad bipartisan support:

- **Safe Step Act (H.R. 2279/S. 2546)**, which would ensure that physicians remain the clinical authority over a patient's care and lessen the burden on patients required to go through step therapy protocols instituted by insurance companies.
- **Improving Seniors' Timely Access to Care Act (H.R. 3107)**, which would reduce the burden of prior authorization and allow physicians to spend more time treating patients.

Sustained Relief to Maintain Practices Through the PHE

Furthermore, the Academy requests that federal relief programs not only be maintained but also strengthened with proper oversight through the end of the PHE, so that healthcare providers are able to fully return to practice and are able to provide care with ample PPE and social distancing standards. As previously noted, dermatology practices have been adversely affected by stay-at-home orders and prohibitions on what have been determined to be non-essential procedures. For example, a small practice in the Northeast had to lay off one of their physicians, and to make up for the loss the owner and remaining dermatologists and allied health providers are working extended hours. The practice experienced a positive COVID-19 test and now must shutdown again for two weeks. The dermatologist owner estimates that their substantial losses compared to 2019 will only be lessened by 50% with the PPP and grants from the Public Health and Social Services Emergency Fund. We request that the next COVID package include:

- A provision to allow for future repeat and first time draws, with corresponding funding for the PPP so that dermatologists in small practices will have sustained or new access to those funds as states re-mandate closures.
- Codification that expenditures related to forgiven amounts under the PPP should be tax deductible to maximize the benefit of the PPP program for small businesses.
- Consistent with the Academy's support of the ***Eliminating the Provider Relief Fund Tax Penalties Act (H.R. 7819, S. 4525)***, provisions to ensure that the Public Health and Social Services Emergency Fund and similar funding provided in response to COVID-19 is not taxable and that entities receiving these funds maintain tax deductions attributable to these funds.

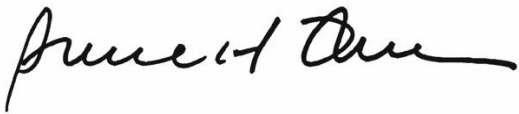
Support Efforts to Allow Access to Sunscreens in Schools

Lastly, in the House, the Academy continues to advocate for H. Res. 323, which would express support for federal, state, and local efforts to exempt sunscreen from over-the-counter medication bans in schools and would encourage all schools to allow students to possess and use sunscreen at school. The goal is for H. Res. 323 to be a tool for state advocates in their efforts to pass legislation to open access to sunscreens in schools. To this end, we request the House take action to do the following:

- Pass **H. Res. 323** which would promote skin cancer prevention efforts and improve children's access to sunscreen in schools.

The Academy's goal is to ensure that all dermatologists can continue to provide high-quality dermatological care during and after the COVID-19 PHE. Our dermatologists are facing unprecedented uncertainty, which undermines their ability to effectively plan for future patient care and to remain financially viable. Your support for the measures outlined in this letter would take an important step forward in the effort. We thank you for your work for the American people during this unprecedented time and urge you to support passage of further relief before the end of the 116th Congress. If you have any questions or comments, please contact Shawn Friesen, Director, Legislative, Political & Grassroots Advocacy, at sfriesen@aad.org or 202-712-2601.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce H. Thiers", with a long horizontal flourish extending to the right.

Bruce H. Thiers, MD, FAAD
President, American Academy of Dermatology Association