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March 9, 2021

President Joseph R. Biden, Jr.
Vice President Kamala Harris
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden and Vice President Harris:

The Renal Physicians Association (RPA) is the professional organization of nephrologists whose goals are to ensure optimal care under the highest standards of medical practice for patients with kidney disease and related disorders. RPA acts as the national representative for physicians engaged in the study and management of patients with kidney disease. Part of RPA's mission is to promote excellence in the delivery of high-quality kidney care within an environment that supports patient access to care and safety.

Since our establishment in 1974, RPA has focused on facilitating the ability of nephrologists who are licensed to practice in the United States to provide care to people with kidney disease whom they treat in diverse communities across the country. RPA is uniquely positioned to address regulatory issues in kidney care as the only organization representing the nephrology specialty in the AMA House of Delegates, which provides RPA seats on the CPT Editorial Panel (where service codes are developed) and the Relative Value Update Committee (RUC) where services are valued for payment. Thus, RPA is at the nexus of coding, coverage, and payment issues in Medicare. Further, RPA worked with the Centers for Medicare and Medicaid Services' predecessor agency (HCFA) to develop the scope of services for the Monthly Capitated Payment (MCP) family of outpatient end-stage renal disease (ESRD) services in the early 1990s; as such RPA has been working with Medicare on nephrology services for over 30 years. All of this is meaningful in that nephrology has a distinct position in the Medicare care delivery environment, given that Medicare ESRD beneficiaries make up less than 1% of the Medicare population but over 7% of Medicare program spending.

RPA has been at the forefront of quality measurement and value-based payment in nephrology as well. We have historically been the lead nephrology organization responsible for developing and testing physician performance measures, and we served as the as lead kidney organization with the AMA Physicians Consortium for Performance Improvement (PCPI) to develop chronic kidney disease (CKD), ESRD, and palliative care quality measures. RPA created the first nephrology-specific Qualified Clinical Data Registry (QCDR) in 2015, and worked with American Society of Diagnostic and Interventional Nephrology (ASDIN) to develop interventional nephrology QCDR measures. In value-based payment, RPA's Incident ESRD Clinical Episode

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Payment Model was the only model recommended directly for implementation to HHS by the Physician-Focused Payment Model Technical Advisory Committee (PTAC).

We are writing to highlight issues requiring attention across the policy spectrum that affect kidney care. These include the federal government's emergency and disaster preparedness plans to facilitate kidney care, ensuring accountability in the value-based care and how quality measurement efforts are used to do so, changes to the Medicare Advantage program affecting persons with kidney disease, and legislative initiatives related to living organ donation and telehealth with the potential to advance the use of kidney transplantation and home dialysis.

Emergency and Disaster Preparedness and Kidney Care

RPA supports the mission and objectives of the Kidney Community Emergency Response (KCER) Program, which, according to its website, is "under contract with the Centers for Medicare & Medicaid Services, provides technical assistance to ESRD Networks, kidney organizations, and other groups to ensure timely and efficient disaster preparedness, response, and recovery for the kidney community." These are of course appropriate and laudable activities.

Unfortunately, our experience is that KCER career staff has not engaged with physician (nephrologist) leadership in recent years. Acknowledging that the KCER career staff are well-intentioned public servants that face difficult circumstances in the best of times, we also believe this is an opportunity lost and not in the best interest of kidney patient care.

RPA urges HHS and CMS leadership to review the processes and direction of KCER to ensure that the invaluable engagement and insight of nephrologists and other clinicians in addressing emergency and disaster preparedness is appropriately utilized.

Quality Measurement and Accountability in the Medicare Program

As noted above, RPA has been deeply invested in kidney disease quality measurement for decades. Nephrology providers are uniquely impacted by the use of quality measures in value-based payment programs compared to other specialties due to the large percentage of kidney patients covered by Medicare. This commitment informs our concerns regarding the direction of quality measurement by CMS. Most importantly, in recent years the use of QCDRs and specialty-specific quality measures has been deemphasized Quality Payment Program (QPP), and RPA believes this is to the detriment of quality patient care and accountability. Regarding specialty-specific quality measures, RPA continues to be deeply troubled by the decision made as part of the 2020 fee schedule to eliminate the kidney care measures from the Quality Payment Program (QPP), which we believe was short-sighted and misaligned with the effort to provide the highest possible level of care to patients with kidney disease.

RPA calls on the Administration to renew the meaningful role that QCDRs played in Medicare quality measurement and restore the use of the kidney quality measures in the QPP.

Medicare Advantage and Kidney Care

RPA believes that Medicare ESRD beneficiaries should have as many choices as possible for their coverage, and thus welcomed changes included in the 21st Century Cures Act that allowed Medicare-eligible ESRD patients to enroll in Medicare Advantage (MA) plans for their coverage regardless of previous insurance status. However, the implementation of this benefit for the 2021 plan year has been problematic and caused several concerns affecting nephrology. The first relates to the narrowing of provider networks, as RPA received reports from the field that the MA plans in some states were vastly reducing the number of in-network nephrologists for that state—in one, over 75% of the nephrologists did not have their contracts renewed for 2021. Secondly, the 2021 MA final rule eliminated the use of time and distance standards specifically with regard to coverage for ESRD (dialysis) patients in MA plans, finalizing a policy from the proposed rule that said the time and distance standards were not necessary for dialysis patients due to the availability of home dialysis modalities. RPA is a strong proponent of home dialysis whenever appropriate based on shared decision making between the patient and the interdisciplinary care team, but to all but eliminate required availability of in-center dialysis in MA is not in the best interest of kidney patient care.

RPA recommends the Administration exercise oversight to ensure sufficient nephrology network adequacy in MA plans and restore the time and distance standards for dialysis patients in MA plans as part of the 2022 MA rulemaking process.

Legislation on Living Organ Donation and Telehealth

RPA's legislative agenda for 2021 includes advocacy to promote living organ donation and telehealth. On living organ donation, the Living Donor Protection Act (S. 377/H.R. 1255) was introduced in the House of Representatives on February 23 by Reps. Jerrold Nadler (D-NY) and Jaime Herrera Beutler (R-WA) and in the Senate by Senators Kirsten Gillibrand (D-NY) and Tom Cotton (R-AR). Like previous versions of this bill, it would promote living organ donation (LOD) by: (1) prohibiting the denial of coverage or an increase in insurance premiums for living organ donors; (2) designating organ donation surgery as a serious health condition for the purposes of the FMLA; and (3) requiring the Department of Health and Human Services (HHS) to update educational materials on LOD to reflect these changes.

On telehealth, RPA believes that the originating site and geographic restrictions that impeded widespread use of telehealth in the Medicare program should be permanently removed after the COVID public health emergency has concluded. One bill that would achieve these objectives is the Protecting Access to Post-COVID-19 Telehealth Act of 2021 (H.R. 366).

RPA supports these bills, and we ask the Administration to lend its support to them as well.

As always, RPA welcomes the opportunity to work collaboratively with the Biden Administration in its efforts to improve the quality of care provided to the nation's kidney patients, and we stand ready as a resource to HHS on all issues pertaining to kidney care. Any questions or comments regarding this correspondence should be directed to RPA's Director of Public Policy, Rob Blaser, at 301-468-3515, or by email at rblaser@renalmd.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Perlmutter" with a stylized flourish at the end.

Jeffrey A. Perlmutter, MD
President

CC: Sean McCluskey, Chief of Staff, HHS
Lee Fleisher, M.D., CMS Chief Medical Officer and Director, CCSQ
Jean Moody-Williams, Deputy Director, CCSQ
Erica Sontag, Director, Division of Medicare Advantage Operations