C-TAC Policy Update—COVID-19

Last Edited: May 21, 2020

C-TAC National (Virtual) Policy Forum

**Date:** June 24, 2020  
**Time:** 1 – 4 PM ET  
**Location:** Virtual  
**Cost:** Free

For the latest policy updates and insights affecting those on the frontlines of the COVID-19 pandemic, we urge you to attend our Policy Forum on June 24. This free, virtual event will feature several leaders and innovators in our field who will assess the current policy landscape for serious illness care as a result of COVID-19 and determine where we go from here.

Featured topics of discussion include:

- Advance care planning
- Supporting the health care workforce
- Long-term effects of the COVID-19 pandemic on our health care system

Learn more and register today by clicking [here](#).

**Introduction**

- C-TAC and many of its members and partner coalitions have been immersed in responding to the COVID-19 pandemic during the last several weeks.
- The need for our involvement has been clear from the outset as individuals with advanced and serious illness, older persons, those with weakened immune systems and certain other diseases are particularly susceptible to the virus, which is a formidable threat to anyone.
- **C-TAC’s approach and strategy has been:**
  - *First* to review current legislative and regulatory proposals for issues that could be addressed as part of the coronavirus emergency response
  - *Second* to be supportive of other coalitions’ and organizations’ proposals that are consistent with C-TAC positions
  - *Third* to communicate our views to key committees and leaders in the House and Senate, and to our closest allies, some of whom have authored the proposals that we support in this new context
- Our outreach and advocacy have been targeted toward the third and future COVID-19 pandemic legislative proposals. But by way of background:
  - The first bill, the “**Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020**” (Public Law 116-123), provides emergency supplemental funding for combatting the spread of the coronavirus including money for developing, manufacturing, and procuring vaccines, grants for state, local, and tribal public health
agencies, loans for affected small businesses, evacuations and emergency preparedness activities.

- The second bill that became law, the “Families First Coronavirus Response Act, (PL 116-127)” provides for supplemental appropriations related to the COVID-19 public health emergency, as well as waivers and modifications of Federal nutrition programs (including $250 million for home delivered and congregate meals), employment-related protections and benefits, health programs and insurance coverage requirements, and related tax credits during the COVID-19 public health emergency.

- The third bill, (passed and signed by the President on Friday, March 27th) was designed to support families and stimulate the economy, including loans for industries, and extensive help in the health care sector. This is where our advocacy push began and will continue.

**Actions to date – So here is what we have done:**

- **Hill Letter** – sent to the following committees and Members of Congress (see attached)
  - Key legislative recommendations list
    - Access to personal protective equipment (PPE) for healthcare workers; Promoting access to palliative care and hospice services; Access to needed medications; Increase workforce; Promotion of telehealth flexibilities; Durable Medical Equipment (DME) and Oxygen; and promotion of Advance care planning
  - The third bill includes the following pieces that C-TAC supported, and we believe will support people living with serious illness:
    - New flexibilities for Hospice Recertification; Direct aid; Funding to produce and distribute essential supplies; Support for nursing homes; and more.

- **Follow Up Hill Letter** – C-TAC sent a letter to Congressional leadership on April 3 as they craft new legislation in response to the COVID-19 pandemic
  - Key legislative recommendations include:
    - Waive patient cost-sharing and deductibility of Medicare Advance Care Planning services; Include clinical social workers and registered nurses in the definition of eligible practitioners who can bill for Medicare Advance Care Planning services; Ensure that advance care planning documentation executed validly in one state are honored in other states; Include palliative care as an eligible primary care service under the National Health Service Corps program, which would officially recognize palliative care as a subspecialty of public health services

- **CMS/HHS letter** sent to the following individuals in the Administration (see attached)
  - Key regulatory recommendations list
    - Expanding Telehealth; Reducing Administrative Burdens on Hospice; Enhancing Coverage of Advance Care Planning Services; Increasing Public Awareness of Serious Illness Care and Advance Care Planning; Supporting a Robust and Well-Trained Serious Illness Care Workforce; Expand Access to Home-Based Primary Care; Expand Access to Medicare Home Health Services; Support for Family Caregivers; and Increase Funding for Critical Personal Protective Equipment (PPE) for Front-Line Health Care Providers
Further, we will be analyzing the third coronavirus bill just passed to see if there are areas where we believe that the Administration needs our support or guidance in implementing the programs.

- **CMS/HHS Letter #2** - We have sent a follow-up letter to CMS/HHS leadership, recommending that Medicare cover audio-only advance care planning conversations, rather than video conference visits. We have also asked CMS and HHS to reconsider the *Flexibility in Patient Self Determination Act Requirements (Advance Directives)* waiver which allows hospitals to disregard advance care planning (ACP) with patients and families.

  - **Note:** CMS released a new set of waivers on April 30, designed to create more flexibility for the health care system to respond to the COVID-19 pandemic. Many of these waivers had direct implications for the serious illness population and aligned with our recommendations above. Specifically, CMS broadened the list of telehealth services that can be delivered using audio-only technology. Advance care planning is now one of the services which can be delivered by audio-only means, which has been a key priority for C-TAC and was one of the main regulatory recommendations cited in our recent letter. Take a look at our full recap to learn more about the waivers.

- **Other Actions and Communications:**
  - Weekly alerts; member outreach
  - This first round of legislative and regulatory had the intention of including these asks in the first three COVID legislative packages, along with the ongoing administrative action
  - C-TAC hosted a webinar on April 14 on care planning resources developed to address the unique challenges of the COVID-19 pandemic. The webinar featured Stephanie Anderson, DNP, RN, Executive Director of Respecting Choices® and Amy Vandenbroucke, JD, Executive Director of National POLST Paradigm, with a discussion moderated by C-TAC Board Member and American Hospital Association President and CEO Emeritus Rich Umbdenstock. To watch a recording of the webinar, please click here.
  - C-TAC is also continuing our commitment to support alternative payment models which deliver high-quality, person-centered care for those with serious illness during this crisis and beyond.
    - Currently, we are focusing our efforts to identify new policy windows to advocate for serious illness model improvements.

**Priorities Moving Forward for the Fourth Coronavirus Pandemic Response Bill or Other Vehicles:**

- We believe that seriously ill individuals with Coronavirus and their families should have the opportunity to voice their preference for care. Advance care planning allows individuals to receive care that is consistent with their wishes and preferences, and ultimately ensure a higher quality of life.
- In light of the impact that COVID-19 has on our most vulnerable patients, clarifying goals of care is essential to providing the highest quality care and avoiding medical errors of overtreatment. Advance care planning helps identify which individuals prefer less aggressive treatment which can be vital at a time when resources and hospital beds are stretched thin.
• **Enhancing Coverage of Advance Care Planning Services**
  - We call on Congress to waive patient cost-sharing and deductibility of Medicare Advance Care Planning services (CPT codes 99497 & 99498) (PCQCA Section 5)
  - We call on Congress to include clinical social workers and registered nurses to the definition of eligible practitioners who can bill for Advance Care Planning (PCQCA Section 5)

• **Improvement of Policies Related to the Use and Portability of Advance Care Planning Documentation and Portable Medical Orders**
  - We call on Congress to ensure that advance care planning documents and portable treatment orders executed validly in one state are honored in other states (i.e. that there is “reciprocity” across states for eligible advance care planning documentation and portable treatment orders) (PCQCA Section 7)

• Though the majority of US hospitals (with over 50 beds) have a palliative care team ([CAPC Report](#)), there simply aren't enough specialists to meet patient needs. And now that more and more patients are becoming seriously ill with coronavirus, teams are in higher demand than ever, providing symptom management and more.

• Palliative care focuses on improving quality of life for people living with a serious illness, including COVID-19. Palliative care specialists’ expertise in symptom management and skilled communication is essential to the care of people with COVID-19, including the majority of patients who will survive the disease. Therefore, ensuring palliative care is both an eligible primary care service and that we are prioritizing workforce in this specialty will be vital to the well-being of seriously ill patients and their families.

• **Promote the Expansion of Palliative Care Workforce**
  - We call on Congress to include palliative care medicine as an eligible primary care service through the National Health Services Corp (PCHETA)