



July 30, 2020

Leader Mitch McConnell

Majority Leader, US Senate
317 Russell Senate Office Building
Washington, DC 20510

Speaker Nancy Pelosi

Speaker of the US House of Representatives
1236 Longworth House Office Building
Washington, DC 20510

Minority Leader Chuck Schumer

House Minority Leader, US Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Minority Leader Kevin McCarthy

Minority Leader, US House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515

From: The Coalition to Transform Advanced Care (C-TAC)

RE: COVID-19 Legislation Proposal – Next Package

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

On behalf of the Coalition to Transform Advanced Care (C-TAC), we ask you to consider adding three simple provisions to the current COVID-19 package that will help ensure that the care choices of older adults with serious illness are understood and followed by the health care system. These are urgent changes that will make it easier for individuals with serious illness to participate in a conversation about their care preferences and have their treatment wishes followed.

As you know, those with serious illness are some of the most likely individuals to experience severe health-related impacts of COVID-19, and having a conversation about their care options with their providers is essential to ensuring they receive the care they want. The three changes described on the attached page remove obstacles to having these conversations and having the preferences they elicit honored by health care practitioners. Simply stated, they would temporarily remove the Medicare cost sharing for having an advance care planning discussion, allow clinical social workers to conduct these conversations to reduce the workload on physicians, and enable anyone with a valid advance care plan document to use it in whatever state they receive their care.

We urge you to include these temporary and easy changes in the next COVID-19 package to improve the quality of care for older adults and help ensure resources are used efficiently and effectively.

Thank you for the work you have already done to address the pandemic. C-TAC is a non-profit, non-partisan coalition of diverse organizations dedicated to improving the quality of life for individuals with advanced and serious illness and their families, and we look forward to working with you in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Broyles', is placed below the word 'Sincerely,'.

Jon Broyles
Executive Director

Ensuring Care Goals are Understood and Good Symptom Management

Coverage of Advance Care Planning Services must be made easy and accessible for everyone, particularly those on Medicare. All Americans, especially older Americans, should take the time to think about and record their care goals in the event they contract COVID-19, such as the desirability of being hospitalized or having ventilator support. Those at high risk because of age or illness should be setting goals and identifying those who they would designate to make decisions on their behalf should they be unable to do so. Therefore, we request that Congress immediately:

- *Waive patient cost-sharing and deductibility of Medicare Advance Care Planning services (CPT codes 99497 & 99498) (Originally drafted in the 115th Congress' Patient Choice and Quality Care Act):*
 - **Legislative language:** SEC. 5. ENHANCING COVERAGE OF ADVANCE CARE PLANNING SERVICES. (a) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection: “Advance Care Planning Services “(kkk)(1) The term ‘advance care planning services’ means services identified as of the date of enactment of 16 this subsection as Current Procedural Terminology (CPT) codes 99497 and 99498, and such codes as subsequently modified, that are furnished by a physician or other eligible practitioner (as determined by the Secretary).
 - Utilization rates for these services are already well below where they should be¹. When you consider the desperate need for these conversations to happen at this moment, combined with the unprecedented economic devastation the virus has wrought on individuals and families, it is clear that any and all cost-related barriers to these advance care planning services should be removed, especially for older Americans and other Medicare beneficiaries who are susceptible to COVID-19.
- *Include clinical social workers in the definition of eligible practitioners who can bill for Medicare Advance Care Planning services (Originally drafted in the 115th Congress' Patient Choice and Quality Care Act):*
 - **Legislative language:** (2) For purposes of paragraph (1), the term ‘eligible practitioner’ includes, in addition to a practitioner eligible to bill such CPT codes as of the date of enactment of this subsection, an individual who— “(A) is a clinical social worker (as defined in 1 subsection (hh)(1)) or a registered nurse; and “(B) possesses— “(i) a relevant care planning certification; “(ii) experience providing care planning conversations or similar services, as defined by the Secretary, in the course of their work.”
 - Currently, only physicians, nurse practitioners, and physician assistants can bill for Medicare’s advance care planning services directly. Again, during this unique challenge our country and healthcare system are going through, when knowing patient and family goals of care are crucial, there simply aren’t enough qualified providers out there eligible to bill for these codes. We need to tap into the skill and



capacity of our social workers and empower them to be able to facilitate these conversations on care goals.

- *Ensure that advance care planning documentation executed validly in one state are honored in other states (i.e. that there is “reciprocity” across states for eligible advance care planning documentation) (Originally drafted in the 115th Congress’ Patient Choice and Quality Care Act):*
 - **Legislative language:** (a) PORTABILITY.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended by adding at the end the following new paragraph:

“(5)(A) Advance care planning documentation validly executed outside the State in which such documentation is presented shall be given effect by a provider of services or organization to the same extent as advance care planning documentation validly executed under the law of the State in which it is presented.
 - Ensuring that someone’s advance care planning document follows them and remains valid wherever they go is important, especially during the COVID-19 emergency. Patients and families must be confident that their care goals and advance care directives will be honored by providers and health care institutions no matter in what state the directive was created.

cc:

Chairman & Ranking Member, Senate Committee on Finance
Senator Chuck Grassley, Chairman
Senator Ron Wyden, Ranking Member

Chairman & Ranking Member, Senate Committee on Health, Education, Labor, and Pensions
Senator Lamar Alexander, Chairman
Senator Patty Murray, Ranking Member

Chairman & Vice Chairman, Senate Committee on Appropriations
Senator Richard Shelby, Chairman
Senator Patrick Leahy, Vice Chairman

Chairman & Ranking Member, Senate Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies
Senator Roy Blount, Chairman
Senator Patty Murray, Ranking Member

Chairman & Ranking Member, Senate Special Committee on Aging
Senator Susan Collins, Chairman



Senator Bob Casey, Ranking Member

Chairman & Ranking Member, House Committee on Ways and Means
Representative Richard Neal, Chairman
Representative Kevin Brady, Ranking Member

Chairman & Ranking Member, House Committee on Energy and Commerce
Representative Frank Pallone, Chairman
Representative Greg Walden, Ranking Member

Chairman & Ranking Member, House Committee on Education and Labor
Representative Bobby Scott, Chairman
Representative Virginia Foxx, Ranking Member

Chairman & Ranking Member, House Committee on Appropriations
Representative Nita Lowey, Chairman
Representative Kay Granger, Ranking Member

ⁱ Belanger E, Loomer L, Teno JM, Mitchell SL, Adhikari D, Gozalo PL. [Early Utilization Patterns of the New Medicare Procedure Codes for Advance Care Planning](#). JAMA Intern Med. 2019;179(6):829–830. doi:10.1001/jamainternmed.2018.8615