

November 14, 2022

The Honorable Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

The Honorable Xavier Becerra
Secretary of the Department of Health and Human Services
U.S. Department of Health and Human Services
Washington, DC 20201

Dear President Biden and Secretary Becerra:

On behalf of America's pediatricians and children's hospitals, we ask you to declare an emergency to support the national response to the alarming surge of pediatric hospitalizations due to pediatric respiratory syncytial virus (RSV) and influenza along with the continuing children's mental health emergency. The confluence of these capacity issues in pediatric hospitals and communities requires nimbleness and flexibilities that can only be provided through a Presidential declaration of an emergency under the Stafford Act or National Emergencies Act and a Public Health Emergency declaration. These flexibilities have been provided under COVID-19 and were critical during the height of the surge and ongoing fluctuations of the virus. Children and children's providers require the same capacity support as they strive to keep up with increasing needs of our youngest Americans.

The Centers for Disease Control and Prevention (CDC) reports alarmingly high rates of RSV and other respiratory illnesses across the country. These unprecedented levels of RSV happening with growing flu rates, ongoing high numbers of children in mental health crisis and serious workforce shortages are combining to stretch pediatric care capacity at the hospital and community level to the breaking point. Due to these challenges, pediatric hospitals and pediatricians are being asked to support more care and higher levels of care than ever before.

Across the country, more than three-quarters of pediatric hospital beds are full, and many states are reporting more than 90 percent of their pediatric beds are occupied. This is mirrored in community settings, where ambulatory pediatric practices are facing tremendous demand and workforce shortages. Capacity constraints at children's hospitals and pediatric offices are resulting in more children being cared for in community and adult hospitals which may have limited or no capacity to care for children. Telehealth is playing an even more significant role in children's care given the growing need for tele-monitoring, tele-consultations, and support from pediatric specialists to community and adult hospitals; importantly, those telehealth services often cross state lines. We are particularly concerned that historically under-resourced communities will be disproportionately impacted. The pediatric health care system is doing all it can to meet these overwhelming needs across the continuum of care and taking regional approaches to meet the growing demands. We need emergency funding support and flexibilities along the same lines of what was provided to respond to COVID surges.

The emergency declarations requested would allow waiver of certain Medicare, Medicaid or Children's Health Insurance Program (CHIP) requirements so that hospitals, physicians, and other health care

providers may share resources in a coordinated effort to care for their community. Specifically, blanket and individual Section 1135 waivers are needed to allow temporary reprieve from:

- Conditions of participation that may impede moving patients, use of new spaces for care and adapting to workforce challenges.
- Emergency Medical Treatment and Labor Act requirements that may impede transferring patients and creating off-site triage to manage capacity challenges.
- Licensure reciprocity to support cross state care and telehealth.
- Stark self-referral sanctions.

In addition to the federal regulatory relief above, federal encouragement to state Medicaid agencies to support telehealth, out-of-state care and needed flexibilities to manage capacity in hospitals and across the care continuum would be very helpful.

Pediatric practices and hospitals need to be allowed flexibility to focus on the best care for children during this challenging time. We also hope that an emergency declaration will galvanize federal response as noted above and free up resources, including through the Federal Emergency Management Agency, to support the increased costs associated with the growing needs and capacities, in particular escalating workforce costs, required to meet care demands.

We ask you to mitigate the supply, equipment and drug shortages that also threaten the ability to provide consistent and reliable care for pediatric patients. We request prioritization of rental and excess equipment to pediatric providers. We request visibility into the pediatric supplies and equipment in the national stockpile to focus on release and replenishment of needed pediatric specific supplies, equipment and pharmaceuticals to those expanding pediatric care. The availability of these supplies, equipment and pharmaceuticals are only useful if there are trained pediatric professionals available to ensure safe and proper care of children, which the flexibilities above would support.

Thank you for what you have already done to meet pediatric capacity issues to date by sharing best practices through various convenings and regional townhalls. Nonetheless, this crisis requires more action and support. Your ongoing response to COVID-19 has successfully supported strategies to mitigate the impact of health care capacity issues for adult patients. Please take this action to allow these same strategies to be employed in service of our nation's children.

Best regards,



Mark Wietecha
Chief Executive Officer
Children's Hospital Association



Mark Del Monte, JD
Chief Executive Officer/Executive Vice President
American Academy of Pediatrics