HANYS®
Always There for Healthcare

Marie B. Grause, RN, JD • President

Headquarters
One Empire Drive, Rensselaer, NY 12144
518.431.7600

Washington, DC Office
499 South Capitol Street SW, Suite 410
Washington, D.C. 20003
202.488.1272

June 24, 2024

The Honorable Ron Wyden, Chairman
Committee on Finance
United States Senate
221 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable John Cornyn
Committee on Finance
United States Senate
517 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Robert Menendez
Committee on Finance
United States Senate
528 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Bill Cassidy
Committee on Finance
United States Senate
455 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Michael Bennet
Committee on Finance
United States Senate
261 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Thom Tillis
Committee on Finance
United States Senate
113 Dirksen Senate Office Building
Washington, D.C. 20510

The Hononable Catherine Cortez Masto
Committee on Finance
United States Senate
520 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Marsha Blackburn
Committee on Finance
United States Senate
357 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chair Wyden and Senators Cornyn, Menendez, Cassidy, Bennet, Tillis, Cortez Mastro and Blackburn:

The Healthcare Association of New York State, on behalf of our member nonprofit and public teaching hospitals, appreciates your engagement and commitment to the physician workforce and patient access via the Medicare Graduate Medical Education program. We also appreciate the opportunity to comment on the Bipartisan Senate Finance Committee Graduate Medical Education Working Group Draft Proposal to help inform future legislation.

Our comments are organized by section of the proposed outline.

Section 2: Additional and improved distribution of Medicare GME slots to rural areas and key specialties in shortage

Additional slots

HANYS appreciates your bipartisan commitment to increasing the number of Medicare-funded residency positions. Congress can begin to address the physician workforce shortage via the Resident Physician Shortage Reduction Act of 2023 (S. 1302/H.R. 2389), which would add 14,000 more Medicare-funded residency slots.

As noted in your proposed outline: *". . .there are not enough physicians to meet the health care needs of Americans. According to HRSA, there will be a shortage of 139,940 physicians across all specialties by 2036. . ."* HANYS agrees with this

assessment and while we appreciate that Congress passed legislation as part of the Consolidated Appropriations Acts of 2021 and 2023 that added 1,200 new full-time equivalent residency positions, more support is needed. In New York state, about half of teaching hospitals and academic medical centers train more physicians than their allotted Medicare-supported residency slots.

HANYS amplifies the Association of Academic Medical Colleges' comment that one slot does not "equal" one physician because residencies span multiple years. For example, to train one primary care doctor (typically a three-year residency) would require three slots, one for each year of the residency program. This is because programs need to "backfill" positions when a resident advances to the next post-graduate year.

Specialty-specific distributions

HANYS cautions the Senate Bipartisan Medicare GME Working Group against earmarking slots for certain distributions since specialty-specific shortages are not evenly distributed nationally. Instead, HANYS recommends that distributions be based on communities' needs.

Also, with the number of additional slots to be added to the system unknown, it would be impossible to assess the value/effectiveness of distributing slots to specified specialties. It would be better for the Working Group to consider how certain specialties are paid for service delivery.

In the same context, the Working Group should determine the number of new residency slots before limiting them to 10 per hospital.

Definition of rural hospitals

HANYS appreciates the importance of distributing residency slots to rural providers. However, **HANYS does not support the Working Group's proposal to change the rural definition to exclude hospitals treated as being located in a rural area.**

Many hospitals treated as being in a rural area are longstanding, experienced teaching hospitals with established programs and a history of retaining physicians where they are trained and distributing these physicians to other parts of the country. These hospitals treat patients well beyond their border or state, including patients from rural areas. In fact, many residents of rural communities rely on these hospitals for their care, given the lack of access to care or specialty services.

In addition, hospitals treated as rural often train residents over their Medicare cap and need more Medicare-funded residency positions.

To improve the slot distribution to rural areas, **HANYS urges the Working Group to change the flawed prioritization process that focuses on high Health Professional Shortage Area scores (see "GME Allocation Formula" section below) and identify other opportunities to encourage rural teaching hospitals to apply for the residency slots rather than changing the rural definition.** Without changes, many rural teaching hospitals may still be disadvantaged in being awarded slots.

GME slot allocation formula

HANYS opposes further prioritization based on the residency programs that provide services to medically underserved populations with the highest Health Professional Shortage Area. HPSA scores were developed to determine priorities for assigning clinicians in a state, not to determine state hospitals' ability to train more residents or provide care for patients who live in HPSAs. HANYS believes the distribution methodology set forth in the CAA of 2023, if implemented properly, would allow for a fair distribution of slots for hospitals nationwide.

HANYS urges the Working Group to direct CMS to use the distribution methodology set forth in the statute, based on the four categories for qualifying hospitals, and not further prioritize based on high HPSA scores.

Section 3: Encouraging hospitals to train physicians in rural areas

Telehealth flexibilities

HANYS supports the Working Group's proposal to extend the ability of teaching physicians to use telehealth to supervise resident physicians beyond Dec. 31, 2024. In addition, we urge the Working Group to make all telehealth provisions adopted during the COVID-19 pandemic permanent beyond Dec. 31, 2024, including:

- allowing all Medicare patients to access telehealth services regardless of geographic area;
- allowing homes and other sites to be originating sites for telehealth services for all Medicare patients;
- expanding which practitioners are eligible to furnish telehealth services to include physical therapists, occupational therapists, speech-language pathologists, audiologists, marriage and family therapists and mental health counselors;
- removing the in-person visit requirement within six months of an initial behavioral or mental health service and annually thereafter, and instead allow mental health professionals and prescribers flexibility in determining the type of visit and frequency at which patients need an in-person visit; and
- allowing hospital outpatient departments to continue to bill for outpatient therapy, diabetes self-management training and medical nutrition therapy services when provided remotely to beneficiaries in both urban and rural areas, and to beneficiaries in their homes.

The telehealth flexibilities implemented by Congress showed how essential it is to allow physicians to provide efficient and quality patient care remotely as an alternative to in-person visits. Without permanent flexibilities, starting Jan. 1, 2025, Medicare telehealth will return to a rural-only benefit and won't be provided in urban areas, which can lead to care access issues.

Section 4: Establishment of Medicare GME policy council

HANYS opposes the Working Group's proposal to establish a time-limited GME policy council to make recommendations to the HHS Secretary regarding the distribution of slots that would be added under the proposal. As noted by the Working Group, the Council on Graduate Medical Education is the federal advisory panel that recommends to the HHS Secretary and Congress several directives related to teaching programs. **HANYS urges the Working Group to look at options to bolster COGME as opposed to establishing a new council.**

Section 5: Improvements to Medicare GME treatment of hospitals establishing new residency programs

HANYS supports the Working Group's proposal to allow hospitals to reset their low per-resident amount or full-time equivalent caps and the proposal for a longer window to establish a new cap. Because developing new programs takes a significant amount of time and resources, some hospitals were not ready to take full advantage of Section 131 of the CAA (the provision that allows the reset of low GME caps of certain hospitals by allowing hospitals ten rather than five years to establish a new PRA or residency FTE cap). Therefore, we recommend that Congress either extend the program to allow hospitals time to properly develop new residency programs (possibly for 10 years beyond 2025) or remove the time limit altogether and allow hospitals that meet the Section 131 criteria to start training residents and build a new cap or PRA when they are ready.

Section 6: Improvements to the distribution of resident slots after a hospital closes

HANYS does not support the Working Group's proposal to amend Section 5506 of the Affordable Care Act, which preserves resident cap positions from closed hospitals by removing the third prioritization requirement for hospitals in the same region of the country as the closed hospital. Residents like to stay

in the area in which they train; it would be counterproductive to remove the regional category, particularly since one of the intents of the legislation is to help support rural teaching hospitals.

In addition, **HANYS does not support the Working Group's exploration of ways to improve the distribution of unused residency slots as required under Section 5503 of the ACA**. According to AAMC data, of the approximately 1,150 teaching hospitals nationally, only 110 have had "unfilled" slots for three years, and 68 of those hospitals had fewer than five unfilled slots over the course of the three-year average. Most of the hospitals are small or medium-sized, and 13 of them are geographically rural.

We do not know why these hospitals are below their caps, and these slots could easily be temporarily unfilled due to program needs and funding constraints. Distributing unused slots from one hospital to another does not solve the issue as there are simply not enough GME slots to go around.

Section 7: Improving GME data collection and transparency

HANYS urges caution related to the Working Group's proposal to collect GME data and information across a half dozen-plus areas. While we appreciate the importance of data-driven decision-making, the Working Group's proposal around data collection is wide-ranging and, in some cases, asks for information already available in the hospital Medicare cost report (e.g., GME payment and costs). Other information, such as tracking information at the resident level, may be impossible to produce. **HANYS urges the Working Group to clarify the questions it is trying to answer and work with stakeholders to define what data would be the most accessible and helpful to answer the questions**.

Again, HANYS appreciates the Working Group's interest in advancing additional Medicare GME proposals to help address the physician workforce shortage. As this work continues, we reiterate our strong opposition to using site-neutral payment cuts to offset the cost of new Medicare-funded residency slots.

Appropriate outpatient reimbursement for hospital-level care is critical. Policies like site-neutral payment cuts undermine a teaching hospital's ability to maintain these services and threaten access to care for all patients. HANYS strongly opposes site-neutral payment policies, which disregard the real differences between teaching hospitals' outpatient departments and other sites of care.

Thank you for the opportunity to provide feedback on this draft proposal. If you have questions, please contact me at cbatt@hanys.org or 202.488.1272.

Sincerely,

Cristina Batt

Cristina Batt
Senior Vice President, Federal Policy