

January 13, 2022

The Honorable Ted Cruz
United States Senate
127A Russell Senate Office Building
Washington, DC 20510

Dear Senator Cruz:

As you may know, the Texas Hospital Association is the largest voice for Texas hospitals, representing more than 650 members – from comprehensive hospital systems to small, rural facilities, both private and public – from all corners of the state. I understand that you recently sent letters to a number of hospitals seeking information about the financial impact of provisions in the *Build Back Better Act* (H.R. 5376) that would reduce funding in the Medicaid Disproportionate Share Hospital program and restrict funding for uncompensated care. Thank you for your ongoing engagement on this important issue.

THA has a long history of working alongside federal and state officials in earnest to address the state's high number of uninsured. Under the *Build Back Better Act*, approximately 771,000 working-age adult Texans who earn too much to qualify for Medicaid but too little to afford commercial health insurance would be able to enroll in free or low-cost coverage in the marketplace through 2025. This would be the first meaningful expansion of comprehensive health coverage for uninsured Texans in roughly a decade and would reduce the number of difficult choices people make about whether to seek medical care due to cost.

While we support the coverage provisions in the *Build Back Better Act*, Texas hospitals have expressed repeated concerns with the proposed payment cuts in the bill that would purportedly offset gains in coverage. As you are aware, these provisions would (1) prohibit the use of funding from 1115 waiver uncompensated care pools to reimburse care for patients who qualify for Affordable Care Act Medicaid expansion and (2) reduce a non-expansion state's Disproportionate Share Hospital allocation by 12.5% until that state expands its Medicaid program pursuant to the ACA. These provisions use reductions in DSH and uncompensated care funding, critical funding streams for hospitals that treat the most vulnerable patients, including those currently enrolled in Medicaid – children, disabled individuals, and pregnant women – to incentivize states to expand their Medicaid population.

The Medicaid DSH cuts alone would result in an estimated \$250 million total payment reduction to Texas hospitals annually, of which \$150 million is federal funding. The Texas Health and Human Services Commission further estimates the uncompensated care prohibitions in *Build Back Better* would reduce Texas' uncompensated care pool from a current size of \$3.9

billion to between \$1.5 and \$2.6 billion annually. These cuts, combined with uncertainty related to the state's Medicaid 1115 waiver and stalled supplemental payments, would be devastating for the state's safety net. In December alone, THA staff had at least three meetings with Dawn-Marie Sullivan in your office to share these concerns.

As our hospitals focus intensely on the recent hospitalization surge in the COVID-19 pandemic and ensuring patients receive the best possible care amid ongoing staffing issues, many asked THA to respond to your request for financial data on behalf of the industry. Our THA estimates are consistent with estimates produced by bipartisan think tanks. We believe these paint an accurate picture of the financial impact of the above noted provisions in *Build Back Better* and the strain it would cause on the health care system in Texas.

Thank you, again, for working to elevate our concerns with the proposed cuts and for your service on behalf of Texas hospitals and the patients we serve. Should you have any additional questions, please contact Jennifer Banda, JD, Senior Vice President of Advocacy & Public Policy, at jbanda@tha.org or 512/465.1000.

Sincerely,



John Hawkins
President/CEO
Texas Hospital Association