April 7, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Chuck Schumer
Democratic Leader
U.S. Senate
Washington, DC 20510

Dear Majority Leader McConnell and Democratic Leader Schumer:

The ambulatory surgery center (ASC) community is thankful for your hard work to ensure that the programs created in the Coronavirus Aid, Relief, and Economic Security (CARES) Act fulfill their legislative purposes and minimize the coronavirus’ effects on our nation. To that end, the Ambulatory Surgery Center Association (ASCA), representing 5,800 ASCs nationwide, asks that, as you enact legislation to provide additional funding for the Paycheck Protection Program (PPP), you address affiliation barriers that currently prevent many ASCs and other health care providers from applying for loans they desperately require to serve the needs of communities both during and after the pandemic.

Many ASCs partner with other health care providers, like hospitals, or entities that specialize in performing administrative duties necessary to run a small business. Unfortunately, the guidance on affiliation rules the Administration provided on April 3 made clear that some ASCs who meet the small employer threshold with their own employees, but whose minority equity partners (e.g. hospital systems or service provider) who exercise effective control of the board, are ineligible for PPP loans.

These arrangements in the health care sector are unique, and hospitals are also under their own enormous financial pressures dealing with the pandemic, all but assuring that surgery centers will be left to their own devices to remain viable during this crisis and beyond.

We suggest two possible pathways to ensure that the outpatient sector of health care infrastructure remains intact:

1. Designate that a 500-employee threshold for ASCs (Code 621493) applies to only employees servicing a single ASC location, in which the ASC location is defined by the Medicare National Provider Number; or
2. Exempt health care facilities that are not wholly owned and are currently enrolled in Medicare from affiliation rules during the covered period of the COVID crisis.

The economic harm your constituents continue to suffer must be mitigated so that communities can access the health care services they need. ASCs are in desperate need of capital in no small part due to following guidance from federal and state governments to delay non-lifesaving surgeries and donating personal protective equipment and medical equipment to aid hospitals in this fight.
PPP loan funding is critical towards maintaining physician, nurse and staff readiness and retention. Communities across the country rely on ASCs for safe surgical and preventative care and will need them more than ever as we assist hospitals in managing the coming surge of patients as a result of the pandemic. I urge you to provide the flexibilities described above so that ASCs can continue to serve patients and their families. If you require any additional information, please contact Steve Selde at sselde@ascassociation.org.

Sincerely,

[Signature]

William Prentice
CEO
Ambulatory Surgery Center Association