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President and CEO

STATEMENT
of the
Federation of American Hospitals
to the
U.S. House of Representatives
Committee on Ways and Means
Re: Markup of H.R. 8261, H.R. 7931, H.R. 8245, H.R. 8244, H.R. 8235, and H.R. 8246
May 8, 2024

The Federation of American Hospitals (FAH) submits the following statement for the record in advance of the House Committee on Ways and Means markup of H.R. 8261, H.R. 7931, H.R. 8245, H.R. 8244, H.R. 8235, and H.R. 8246. We appreciate the Committee's efforts to advance legislation that improves the health of rural Americans, and we look forward to continuing to work with the Committee on these critical issues.

The FAH is the national representative of more than 1,000 leading tax-paying hospitals and health systems throughout the United States. FAH members provide patients and communities with access to high-quality, affordable care in both urban and rural areas across 46 states, plus Washington, DC, and Puerto Rico. Our members include teaching, acute, inpatient rehabilitation, behavioral health, and long-term care hospitals and provide a wide range of inpatient, ambulatory, post-acute, emergency, children's, and cancer services. Tax-paying hospitals account for approximately 20 percent of community hospitals nationally.

Every day across our nation, millions of Americans in small communities depend on rural hospitals for vital and lifesaving care. Rural hospitals operate 24/7 and are pillars of the communities they serve. Many operate on thin margins and struggle to keep their doors open, with low patient volumes and a patient mix that is generally older and from lower-income backgrounds, relying heavily on Medicare and Medicaid. Today's markup reflects the Committee's recognition of these challenges, and we look forward to continuing to work together to improve access to health care services in rural communities.

"Preserving Telehealth, Hospital, and Ambulance Access Act" (H.R. 8261)

Medicare Rural Extenders

We appreciate the Committee's efforts to provide payment stability to existing rural hospital facilities. The Medicare Dependent Hospital (MDH) and Low Volume Hospital (LVH) Adjustment payment programs were created to ensure that qualifying rural hospitals can continue to provide much needed services in their communities by better reflecting the actual costs of providing care in rural areas, where patients are more likely to be older, lower income and sicker

than those in urban areas. The *Preserving Telehealth, Hospital, and Ambulance Access Act* (H.R. 8261) would extend these programs, which are set to expire at the end of this year, until 2027. This measure is critical to preserving access to full-service hospital care in rural communities.

Telehealth

Since the COVID-19 pandemic, the increase in health care services provided via telehealth has promoted timely access to patient-centered care, enhanced patient choice and, most importantly, improved access to care in rural areas. Today, many patients travel over an hour for a routine doctor's appointment, and often much further to seek specialty care. Telehealth eliminates this geographic barrier and greatly lowers the hurdle for accessing quality care, enabling hospitals to meet patients literally where they are. In rural areas where it is difficult to recruit physicians and other highly trained staff, telehealth and other remote technologies can also help make up for staffing shortfalls or staff burnout.

The *Preserving Telehealth, Hospital, and Ambulance Access Act* would extend critical pandemic era Medicare telehealth provisions through December 31, 2026. This legislation is an opportunity for lawmakers to build on this progress and make permanent pandemic era Medicare telehealth provisions to improve the health of rural residents by giving them better access to the care they need.

The FAH urges support for the *Preserving Telehealth, Hospital, and Ambulance Access* Act.

"Second Chances for Rural Hospitals Act" (H.R. 8246)

Under current law, Rural Emergency Hospitals (REHs) receive additional Medicare funding for outpatient services in exchange for eliminating inpatient beds. This narrow designation is intended to preserve access to health care in rural communities by helping struggling rural facilities on the brink of closure keep their doors open for emergency care and outpatient services by enabling hospitals that closed after December 27, 2020 to reopen as REHs.

As drafted, we are concerned that H.R. 8246, the *Second Chances for Rural Hospitals Act*, opens up rural communities to the risks of increased physician ownership of hospital facilities. H.R. 8246 would expand REH eligibility to rural hospitals that closed after 2014, but it does not language to prevent physician ownership of those potential new REHs. As such, it would expose additional rural communities to the well-documented conflict of interest concerns with physician ownership that led Congress to ban new physician-owned hospitals.

These concerns, voiced by the Centers for Medicare and Medicaid Services (CMS), Congressional Budget Office (CBO), Government Accountability Office (GAO), Office of the Inspector General (OIG) and MedPAC, include, among others:

- Failure to meet patient needs by cherry-picking patients.
- Avoiding Medicaid and uninsured patients, while at the same time treating fewer medically complex patients compared to non-physician owned facilities.
- Increasing costs for patients and taxpayers through excess utilization.

The rural provider exception to Stark law currently available to REHs falls short of the broader conflict of interest, patient safety, and transparency protections that apply today to physician-owned hospitals under the whole hospital exception. In short, as currently drafted, this bill

threatens to undermine our shared goal of ensuring all residents of rural communities have access to full-service inpatient and outpatient care that they need and deserve.

We urge the Committee to work with stakeholders to amend H.R. 8246 and ensure these concerns are addressed before advancing this legislation.

We appreciate the opportunity to work with the Committee on issues impacting access to health care in rural communities and look forward to continuing the dialogue. If you have any questions or want to discuss these comments further, please contact Charlene MacDonald at (202) 615-0599.