



March 18, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

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

The Honorable Chuck Schumer
Minority Leader
U.S. Senate
Washington, D.C. 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader McConnell, and Minority Leader Schumer:

The American Clinical Laboratory Association (ACLA) is the voice for clinical laboratories on the front lines of the COVID-19 response, including Quest Diagnostics, LabCorp, BioReference Laboratories, Sonic Healthcare USA, ARUP, and Mayo Clinic Laboratories. Despite representing a very small share of health care spending, laboratory services are an essential tool for identifying and responding to infectious disease outbreaks and protecting the public.

In the face of this national emergency, ACLA is coordinating closely with the administration, CDC and FDA, as well as state and local public health labs, hospitals and academic medical centers to rapidly expand testing capacity for COVID-19 in unprecedented ways.

While the *Families First Coronavirus Response Act* provides important patient protection from out-of-pocket costs, actual payment to laboratories for COVID-19 testing has not yet been set across all public and private payers and does not address inadequate rates, prior authorization requirements, out-of-network issues, or instances where patient insurance information may not be collected. Since the FDA's February 29 guidance provided an accelerated path for commercial laboratories to perform COVID-19 testing, labs within ACLA's membership have performed approximately 43,000 tests for COVID-19. Notably, these tests have been performed absent assurances about the payment for these necessary services.

We are growing increasingly concerned that the federal government is not recognizing the strain on the laboratory industry to meet the demand for testing for COVID-19. Free testing for COVID-19 has now been promised to the American people. Laboratories should not bear the cost of "free" testing. Clinical laboratories need additional support from Congress to ensure we have the necessary staffing, supplies and equipment to fulfill that vital promise.

The Trump Administration and Congress have said repeatedly that testing is one of the highest national priorities. We urge policymakers to ensure that the industry has the equipment, supplies, labor and resources it needs to sustain robust testing capacity for millions of Americans. As Congress considers measures to support the public health response to COVID-19, ACLA requests critical resources in the following areas:

1. Emergency Laboratory Surge Capacity Fund of \$5 billion

- a. A direct financial fund to be administered by the Department of Treasury, based on the agency's prior experience administering emergency programs in 2008 and 2009
- b. Funds would be made available for laboratories performing COVID-19 for:
 - i. Costs related to uncompensated COVID-19 testing services, not only for uninsured individuals, but also for under-insured individuals and where insurance information is not properly collected.
 - ii. Support for laboratory personnel, including: child and dependent care, paid sick leave, COVID-19 training, temporary staff and overtime pay.
 - iii. Capital and supplies acquisition and government buy-back post-emergency including, but not limited to: testing platforms, reagents, components, and specimen collection swabs; personal protective equipment; laboratory equipment; cybersecurity; IT software and hardware (particularly for remote worksite expansion).
 - iv. Support for research and development in laboratory testing related to COVID-19 to efficiently expand our nation's capacity and ability to address this pandemic, including funding for development and validation of serological testing and alternative specimen collection.
 - v. Any other costs associated with testing for COVID-19
- c. The fund would be available for up to six months post-emergency to allow for completion of claims and equipment buyback programs.

2. Protective measures for the U.S. economy

To the extent the Federal government implements policies to protect the U.S. economy at-large, laboratories should also qualify for any such programs so that COVID-19 testing capacity does not falter, including:

- a. Guaranteed lines of credits and government loans to ensure liquidity for continued operations.
- b. Payroll tax suspension or reduction
- c. Tax credits to defray bad debt

3. Additional measure through the Defense Production Act

As an additional measure to ensure surge capacity, Congress could provide direction that the authorities in Title III of the Defense Production Act (50 U.S.C. § 4531 *et seq.*) must or should be used to support laboratories performing COVID-19 testing.

ACLA and our members are committed to working with Congress, the Trump Administration and public health partners across the country to ensure that Americans receive the testing they need. In the coming weeks and months, maintaining the full force of a robust lab industry will be necessary to enable other industries (e.g. airlines, cruise lines, hospitality) to recover from this crisis. As our industry extends considerable resources to meet demand, we seek support from the federal government that we can continue our vital work for many months to come.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Khani', with a stylized flourish at the end.

Julie Khani
President