CALIFORNIA HOSPITAL ASSOCIATION
Providing Leadership in Health Policy and Advocacy

December 6, 2017

The Honorable Devin Nunes
U.S. House of Representatives
1013 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Nunes:

The California Hospital Association (CHA) — on behalf of its member hospitals representing more than 97 percent of all hospital beds in the state, including 220 not-for-profit hospitals and health systems — urges you, as a conferee on the Tax Cuts and Jobs Act, to carefully consider the impact several provisions will have on the hospitals and patients they care for across California. The issues hospitals are concerned with include private activity bonds, access to health insurance and an excise tax on compensation in not-for-profit entities.

Private Activity Bonds: Recede to the Senate Provision
The House bill includes a provision to limit the use of tax-exempt private activity bonds, including by Internal Revenue Code §501(c)(3) organizations such as charitable hospitals and health systems. These bonds would be subject to higher borrowing rates, and interest income from newly issued bonds would be included in federal taxable income. **The annual increased cost to charitable hospitals and health systems in California would be more than $120 million a year, or $3.5 billion over the life of hospitals' 30-year bonds.**

Private activity bonds provide a critical source of funding that results in job creation and economic development beyond the hospitals' walls. **The sponsors of the Tax Cuts and Jobs Act claim that the bill is meant to strengthen the economy and provide jobs; however, it does the opposite. Hospitals are significant employers — often the largest — in communities across California.** These provisions threaten the financial stability of hospitals that provide more than 500,000 jobs in the communities they serve. In addition, the significant change in tax exemption of these bonds will directly impact hospitals' ability to access capital for mandated infrastructure projects, putting more than 25,000 construction jobs at risk. Excluding private activity bonds from tax exemption will shift the burden of added financing costs to taxpayers and will put communities' health at risk if securing funding to maintain and improve hospital facilities becomes prohibitively expensive.

Not only do these bonds play a critical role in helping not-for-profit hospitals access lower-cost capital so they can fulfill their mission to provide health care to the communities they serve, but they also are necessary to meet one of the state's most costly mandates. Until 1973, California hospitals — like most U.S. hospitals — were built to the national Uniform Building Code. However, after the San Fernando Valley's 1971 earthquake, the state enacted the Alfred E. Alquist Hospital Facilities Seismic Safety Act in 1973, which required that all new general acute care hospital inpatient buildings in California be able to remain standing after a major earthquake.

Subsequent earthquakes raised additional concerns, and additional legislation now requires that by 2030 all hospital inpatient buildings meet standards requiring that they remain both standing and operational following major seismic activity. A study completed by RAND estimated that the construction process to meet these standards would take more than three decades to complete and cost more than $110 billion, excluding the cost of financing, which could double estimated costs. This estimate is many years old, and the cost incurred by hospitals is only increasing as the expense of design and construction increases each year.

The House provision would disproportionately harm California's not-for-profit hospitals that must meet the seismic mandate or risk revocation of their licenses. The loss of tax exemption for private activity bond interest would represent a major setback for health care at a time when most are struggling to secure funding for rebuilding, improving patient care areas, modernizing facilities and equipment to improve quality, and ensuring access to care and vital services in their communities.

We urge you to oppose the elimination of the tax exemption for private activity bonds and protect access to quality health care services for all Californians.

Individual Mandate: Oppose the Senate Provision
The Senate bill includes the elimination of the tax penalty for individuals who do not maintain health insurance coverage. Universal coverage has long been a priority of California's hospitals, and we are making progress toward this critical goal. Despite having the highest poverty rate in the United States, California leads the nation in expanding health coverage, with 91 percent of all Californians now covered. One in three Californians depends on the Medi-Cal program for health coverage, and nearly 4 million Californians have received coverage through Medicaid expansion. In addition, 1.4 million California residents have purchased coverage through the state's insurance marketplace, Covered California. This progress has helped working Californians, seniors and children access care they would not otherwise have had.

We are proud of the fact that health care coverage makes a significant difference in the lives of low-income, working families who now have access to important preventative care, routine examinations and medications. This care keeps children healthy and in school, gaining the knowledge they need to become the future of our state and our country. **Many adults who once had trouble finding health coverage because of conditions like high blood pressure, asthma or diabetes are receiving the care and access to treatment they need and contributing to a more productive workforce — key to California's growing economy.**

Excise Tax on Executive Compensation: Support a Transition Rule
Both the House and Senate bills include an excise tax on the compensation paid to certain tax-exempt organization executives, including those leading California's hospitals and health systems. Hospitals are among the most complex organizations to manage, including extensive physical plant operations; highly educated and skilled staff; sophisticated, technologically advanced equipment and services; and, of course, delivering quality care. Leading these organizations is one of the most demanding jobs in any community, and compensation reflects the size and complexity of the job. Recruiting, retaining and rewarding the most able executive leader available is part of the hospital board's obligation to its community, and they often link compensation to specific performance measures including patient safety, efficiency and patient satisfaction.

It is appropriate that hospital leaders are paid commensurate with their responsibilities.

The Senate has taken steps to protect private corporations by adding a transition rule so that proposed changes to section 162(m) do not apply to any remuneration under a written contract which was in effect on November 2, 2017. **We simply seek the same protections for tax-exempt organizations that already have entered into binding contracts or nonqualified deferred compensation plans with executives prior to Congress taking up tax reform.**

We look forward to continuing our work with you as Congress moves forward on these issues and other important programs critical to hospitals. If you have questions, please contact Anne O'Rourke, CHA senior vice president, federal relations, in CHA's Washington, D.C. office at aorourke@calhospital.org or (202) 488-4494.

Sincerely,

/s/
Carmela Coyle
President & CEO

cc: Members of the California Congressional Delegation