

September 24, 2021

The Honorable Katherine Tai
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Re: Docket Number USTR-2021-0010: Request For Comments On Certain Product Exclusions Related To COVID-19: China's Acts, Policies, And Practices Related To Technology Transfer, Intellectual Property, And Innovation

Dear Ambassador Tai:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) appreciates the federal government's continued efforts to increase flexibility for providers as they operate on the front lines of yet another COVID-19 surge. The actions taken by your office, in particular, have been instrumental to these efforts. However, as the current Section 301 tariff exemptions for certain medical devices are set to expire on Sept. 30, 2021, **we urge you to extend the exemptions to ensure hospitals and health systems have the supplies they need so they can continue to provide safe and effective care to all patients.**

Throughout the course of the COVID-19 pandemic, America's hospitals and health systems have experienced an unprecedented strain on already limited resources and health care personnel. As our members remain steadfast in their work to manage COVID-19 surges across the country while also taking every step to care for non-COVID-19 patients, they cannot meet the health needs of their communities without adequate access to personal protective equipment for their staff, medications, and tubing and machines needed to support patient breathing and other vital resources. As you are aware, certain health care products currently are exempt from Section 301 tariffs. These exempted products include basic supplies like gloves, gowns and facemasks; hand soaps and sanitizers; sterile drapes and covers; as well as more complex components required for vital X-ray and MRI services. **Reliable access to an adequate supply of necessary medical products is essential for our front-line workers to meet the health care needs of their patients and communities.** These exemptions have been critical to these efforts. The most recent renewal was on March



31, 2021. We believe the reasons underlying the need for that renewal are still very much present today.

During the past several months, there have been indications that domestic and near-shore manufacturing and supply of certain medical devices are beginning to reach higher levels of production with the ultimate goal of meeting current demand. However, we fear the premature termination of the current tariff exemptions could hamper provider access to necessary supplies now and in the immediate future. **In making your determination, we encourage you to take into account several recent developments that have or likely will increase strain on the current medical device supply chain.**

1. The nation remains in the midst of a fourth wave of COVID-19, which has and continues to overwhelm hospitals and health systems across the country. Coupled with the increase in COVID-19-related hospitalizations is the fact that hospitals and health systems are continuing to care for non-COVID-19 patients. While hospital capacity is a primary driver of how many patients a hospital can care for, another factor is adequate supply of personal protective equipment and other necessary supplies to ensure care can be delivered safely and effectively. The additional challenges in acquiring that equipment likely would lead to delays in non-emergent surgeries, as well as critical procedures such as chemotherapy infusions.
2. Demand for certain medical supplies, such as facemasks and respirators, increased dramatically in light of the Occupational Safety and Health Administration's (OSHA) recently released COVID-19 emergency temporary standard (ETS), which places new stress on a recovering, but still fragile, supply chain. Should the tariffs expire, the current increased strain due to the ETS has the potential to overwhelm domestic and near-shore manufacturers and supplies.
3. As more businesses and schools reopen this fall, the Centers for Disease Control and Prevention (CDC) and OSHA guidance, state masking mandates, and other factors are likely to increase the number of individuals wearing respirators and procedural masks in non-health-care-related work. This spike in demand will test the new domestic and near-shore-production-capacity. Further, some PPE supplies coming from China, Southeast Asia and other locations are caught up in the logjam affecting ports in the western U.S. This seems likely to continue and perhaps grow worse as holiday merchandise, microchips and other vital goods also need to be brought in through those same ports.
4. While the AHA continues to support efforts to increase the near and on-shoring of medical supply manufacturing, we must recognize that those efforts are relatively new and are still ramping up to meet existing demand. A failure to

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renew the current section 301 tariff exemptions has the potential to create an over-reliance on those new manufacturing streams, which could unintentionally cripple the progress they have made.

As hospitals and health systems continue to navigate the difficult terrain of the COVID-19 pandemic, we ask that you consider the immediate benefit and reassurance that an extension of these tariff exemptions will provide. In addition, taking these steps now likely will help bolster and support the long-term sustainability of and investment in a more diversified, localized and reliable medical device supply chain.

The AHA appreciates the continued support and assistance that the federal agencies are providing to our members so that they are best positioned to care for their patients and communities. We ask that the agency remain flexible as hospitals and health systems continue to care for patients during and after this national emergency. We look forward to continuing to work with you to protect the health of our nation.

Sincerely,

/s/

Ashley B. Thompson
Senior Vice President
Public Policy Analysis and Development