



FMVantage Point™

HealthCare Appraisers' Industry Insight

COMBATING CORONAVIRUS (COVID-19): NOVEL SOLUTIONS TO THE GROWING PHYSICIAN SHORTAGE CRISIS

ALYSE BENTZ, JD, MPH, ERICA JACOBVITS, JD AND KEVIN OBLETZ, JD

The battle to combat the global spread of the respiratory disease designated as the coronavirus disease 2019 (COVID-19) is currently being fought on multiple fronts, with pharmaceutical companies and research teams around the world racing to develop a treatment and vaccine, while healthcare providers fight on the front lines in an attempt to quell the spread of the virus. However, with no viable treatment options on the immediate horizon, and vaccines still many months from development, the burden will fall on our already strained frontline healthcare professionals, who, not only face a shortage of beds and supplies within their healthcare systems¹, but also a shortage of colleagues.

Even before the outbreak of COVID-19, the physician shortage in the United States was predicted to reach a shortfall of nearly 122,000 physicians by 2032.² Now, with the virus sickening a growing number of Americans, the shortage is expected to become even more pronounced, particularly in those medical fields vital to the treatment and prevention of COVID-19 in the most vulnerable patient populations – namely, those dealing with primary care medicine, including family medicine, internal medicine, and pediatrics.³

Faced with the exacerbation of both supplies and personnel shortages amid the growing outbreak⁴, the United Kingdom (UK) Medical Schools Council (MSC) leadership recently proposed a novel solution in asking UK medical schools to “fast track” eligible final-year students to become “provisionally registered by the General Medical Council (GMC)” in order to begin the professional practice of medicine.⁵ Additionally, in Italy, one of the hardest hit regions in Europe, recent medical school students are now eligible to begin working as licensed physicians to help alleviate pressure in general practitioner offices, thereby allowing the more-seasoned physicians to transition to more intensive care settings, including hospitals.⁶

¹ In a harrowing account, Italy, facing a shortage of ventilators, describes physicians having to make decisions regarding which patients to treat based on the likelihood and longevity of survival, similar to wartime medical decision-making practiced in the field of “catastrophic medicine.” The Extraordinary Decisions Facing Italian Doctors, THE ATLANTIC (Mar. 11, 2020), available at <https://www.theatlantic.com/ideas/archive/2020/03/who-gets-hospital-bed/607807/>.

² New Findings Confirm Predictions on Physician Shortage, AAMC (Apr. 23, 2019), available at <https://www.aamc.org/news-insights/press-releases/new-findings-confirm-predictions-physician-shortage>.

³ Furthermore, we note that many of these primary care-oriented specialties were also among the specialties with the greatest shortage of physicians. According to a study conducted by Kaiser Health News, the percentage of United States (U.S.) medical school graduates applying to primary care residency spots has steadily declined since 2011. American Medical Students Less Likely to Choose to Become Primary Care Doctors, KAISER HEALTH NEWS (Jul. 3, 2019), available at <https://khn.org/news/american-medical-students-less-likely-to-choose-to-become-primary-care-doctors/>.

⁴ Mirroring the situation in Italy, the UK, facing a limited supply of beds, medical workers, and ventilators, is anticipating their physicians to be put “in the position of deciding which [patients] to treat and which [patients] to let die.” “We are Frightened”: U.K. Doctors Brace for a Coronavirus Explosion, NYTIMES (Mar. 18, 2020), at <https://www.nytimes.com/2020/03/18/world/europe/uk-doctors-nhs-coronavirus.html?action=click&module=Top%20Stories&pgtype=Homepage>.

⁵ UK Medical Schools Urged to Fast-Track Final-Year Students to Help Fight Coronavirus, THE GUARDIAN (Mar. 15, 2020), available at <https://www.theguardian.com/world/2020/mar/15/uk-medical-schools-urged-to-fast-track-final-year-students-to-help-fight-coronavirus>.

⁶ Italy Taps Graduating Medical Students During Coronavirus Outbreak – Will the U.S. Do the Same?, FORBES (Mar. 17, 2020), available at <https://www.forbes.com/sites/robertglatter/2020/03/17/italy-taps-graduating-medical-students-during-coronavirus-outbreak-will-the-us-do-the-same/#56bfad373971>.



AUTOMATED FMV SOLUTIONS™ | BUSINESS VALUATION | COMPENSATION VALUATION
REAL ESTATE VALUATION | CAPITAL ASSETS VALUATION | EXECUTIVE COMPENSATION & GOVERNANCE

As cases of the virus have surged in the United States, American medical schools have followed the UK's and Italy's lead by allowing their students to graduate early to join in the fight against the growing pandemic.⁷ In New York, which has been particularly hard hit by the virus, New York University (NYU) Grossman School of Medicine announced that students who wish to graduate early to fight the COVID-19 pandemic may do so.⁸ The decision was reportedly made in response to Governor Cuomo's directive to enlist more healthcare providers into the health system through the establishment of a "Surge Healthcare Force." Although the Executive Order "allow[ing] any physician who will graduate in 2020 from an academic medical program accredited by a medical education accrediting agency for medical education by the Liaison Committee on Medical Education or the American Osteopathic Association, and has been accepted by an Accreditation Council for Graduate Medical Education accredited residency program within or outside of New York State to practice at any institution under the supervision of a licensed physician" was signed on April 7, 2020, by March 25, 2020⁹, 69 students had already volunteered.¹⁰ Additionally, certain Massachusetts medical schools, including the University of Massachusetts Medical School, Boston University School of Medicine, and Tufts University School of Medicine, have formally announced the acceleration of their medical schools' graduation dates in conjunction with the state of Massachusetts offering of expedited short-term licenses for fourth-year medical students¹¹ in order to allow the graduating students to aid in the efforts to combat the COVID-19 pandemic in the time preceding the start of their internships.

As the virus continues to wreak havoc on the American healthcare system, it appears likely that other medical schools could follow NYU's lead. Should they do so, special consideration should be given to the level of supervision that must be provided to these newly graduated medical students. In particular, hospitals should be mindful of certain regulations concerning proper physician direct supervision of those recent medical student graduates (now acting as first-year residents), which is required in order to allow those teaching physicians to bill certain professional services under Medicare Part B.¹² Additionally, in general, compensation amounts paid to the teaching physicians for direct supervision services provided to the recent graduates should be consistent with fair market value. However, the recently issued blanket Stark waivers¹³ may further complicate this issue. While the waivers, which are intended to expand the availability and capacity of healthcare workers, may be applicable to these scenarios, it is prudent for hospitals and health systems to review the specific facts and circumstances of their supervision arrangements to determine whether the blanket Stark waivers would apply, or whether other federal or state regulatory issues may still be present.

FMV PITFALL: As our healthcare system faces a shortage of providers, new and novel solutions, such as those referenced herein, may be necessary in the fight against the growing COVID-19 pandemic. Our experts have significant experience valuing graduate medical education (GME) supervision arrangements and are uniquely positioned to help hospitals and health systems navigate these unique compensation arrangements.

⁷ It should also be noted that enabling medical school students to graduate early in the face of a pandemic is not unprecedented in the United States. For example, during the 1918 flu pandemic, U.S. medical students were used to staff "makeshift" hospitals in the City of Chicago. See, *The 1918 Flu Pandemic: Why It Matters 100 Years Later*, CDC (May 14, 2018), available at <https://blogs.cdc.gov/publichealthmatters/2018/05/1918-flu/>, medical students helped to staff "makeshift hospitals" in the city of Chicago during the 1918 Flu Pandemic.

⁸ The option is only available to students who have met certain criteria. Namely, the option is limited to students in the class of 2020 who have met all graduation requirements and who agree to volunteer in the NYU hospital system's internal medicine departments beginning in April of 2020. Jamie Ducharme, *NYU Med School Will Graduate Students Early to Help New York Fight Coronavirus*, Time (Mar. 25, 2020), available at <https://time.com/5809630/nyu-medical-school-early-graduation/>.

⁹ N.Y. Exec. Order No. 202.14 (Apr. 7, 2020), <https://www.governor.ny.gov/news/no-20214-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>.

¹⁰ Nicole Chavez and Marina Carver, *NYU Wants its Senior Medical Students to Graduate Early and Join the Battle Against Coronavirus*, CNN (Mar. 25, 2020), available at <https://www.cnn.com/2020/03/25/health/nyu-medical-students-graduation-coronavirus/index.html>.

¹¹ These decisions were spurred by Governor Charlie Baker's and Human Services Secretary Marylou Sudders' plea during a coronavirus briefing taking place on March 26, 2020. Lisa Kashinsky, *Massachusetts Medical Schools to Graduate Students Early to Fight Coronavirus Pandemic*, Boston Herald (Mar. 26, 2020), available at <https://www.bostonherald.com/2020/03/26/massachusetts-medical-schools-to-graduate-students-early-to-fight-coronavirus-pandemic/>.

¹² Such as those delineated fully in 423 C.F.R. § 415.172. However, the hospital should also be aware of certain exceptions to these supervision requirements, such as the "primary care exception" set forth by CMS, which enables certain consultative services furnished in connection with a resident's provision of patient care outside the teaching physician's physical presence.

¹³ Blanket Waivers of Section 1877(g) of the Social Security Act Due to Declaration of COVID-19 Outbreak in the United States as a National Emergency, CMS (issued Mar. 30, 2020, effective as of March 1, 2020), available at <https://www.cms.gov/files/document/covid-19-blanket-waivers-section-1877g.pdf>.

