Georgia enacts state physician shield legislation based on AMA model legislation

On May 6, Georgia Gov. Nathan Deal signed House Bill (H.B.) 499, a state physician shield act. The new law is based on model legislation developed by the AMA that makes it clear that federal standards or guidelines designed to enhance access to high-quality health care cannot be used to invent new legal actions against physicians. Physicians should not have to worry about potential new causes of action or liability exposure in an age of developing and implementing new ways to improve the quality and efficiencies of care.

Georgia H.B. 499 provides that the development, recognition, or implementation of any guideline by any public or private payer or the establishment of any standard or reimbursement criteria under any federal laws or regulations related to health care shall not be construed to establish a legal basis for negligence or the standard of care or duty of care owed by a health care provider to a patient in any medical malpractice or product liability case. The AMA worked closely with the Medical Association of Georgia to turn AMA model legislation into vital legal protections for physicians, which help preserve access to care for patients.

Read the AMA’s statement and an article in AMA Wire to learn more, and visit www.ama-assn.org/go/liability for more information on the AMA model state physician shield legislation.

Senate Finance Committee seeks input on physician payment reforms

Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT) issued a letter on May 10 to the physician and provider community stating that, “this year, physician payment reform and SGR repeal remain a top priority for the Committee.” The letter seeks input on specific ways to improve the current Medicare physician fee schedule and fee-for-service (FFS) system “to ensure that it makes appropriate payments for physician services, reduces unnecessary utilization, and improves quality while also easing the transition to new payment models.” The letter acknowledges that the committee’s focus differs from the policy development process in the House of Representatives in order to avoid duplication. The deadline for submitting comments is May 31.

The Finance Committee also held a hearing on May 14 entitled, “Advancing Reform: Medicare Physicians Payments,” which focused on short-term improvements to the Medicare payment system to help ease the program’s transition toward alternative, performance-based payment models.

Listening session held on EHR impacts on documentation, billing and coding

On May 3, the Centers for Medicare & Medicaid Services (CMS) and Office of the National Coordinator for Health IT hosted a listening session on the use of electronic health records (EHRs). The event was hosted in response to increasing pressure from the AMA and others about the importance of records systems being workable for physicians, and the need to address many concerns about the impact of EHRs on documentation, billing and coding.
AMA Board Chair Dr. Steven Stack delivered remarks that emphasized, in detailed and practical terms, the many challenges physicians are facing with the use of EHRs. View his testimony.

**Deadline for avoiding 2014 E-Prescribing penalty is June 30**

In 2014, a Medicare payment penalty of 2 percent will be applied to individual eligible professionals or group practices participating in the Electronic Prescribing Group Practice Reporting Option (GPRO) if they are not successful electronic prescribers. CMS will automatically exclude from the penalty those professionals and group practices who meet the criteria listed in the [Electronic Prescribing (eRx) Incentive Program: 2014 Payment Adjustment Fact Sheet](#). Individual eligible professionals and groups participating in eRx GPRO who were not successful electronic prescribers in 2012 can avoid the 2014 payment adjustment by meeting the specified reporting requirements between January 1 and June 30, 2013.

Clinicians also can apply for hardship exemptions, which include: (1) practicing in a rural area without sufficient high-speed Internet access; and (2) being barred by local, state, or federal law from e-prescribing. The deadline for hardship exemption applications, accomplished by including a G-code on a Medicare claim, is also June 30. Significant hardships associated with a G-code may be submitted via the [Communication Support Page](#) or on at least one claim during the 6-month 2014 eRx reporting period (January 1 – June 30, 2013). If submitting a significant hardship G-code via claims, it is not necessary to request the same hardship through the Communication Support Page. Please note that the hardship exemptions for achieving Meaningful Use or demonstrating intent to participate by registering in the Medicare or Medicaid Electronic Health Record (EHR) Program by June 30, 2013, will be automatically processed by CMS. Therefore, entering a hardship exemption request through the Communication Support Page will not be necessary. More information about avoiding the Medicare e-prescribing penalty is available on the CMS [Web site](#).

**Sequester guidelines issued for Medicare Advantage Plans**

Recently, CMS sent a memorandum to Medicare Advantage and standalone Part D prescription drug plans to advise them that their per member per month payments are being reduced by 2 percent due to the budget sequester. The memo states that, to offset the sequester cuts, plans “are not permitted to modify the currently-approved benefit or cost sharing structure in any way. This includes increases in premiums or cost sharing, or reductions in benefits in an attempt to offset the lower payments due to sequestration.” It also states that whether and how the sequestration affects Medicare Advantage plan payments made to contracted providers is governed by the terms of the specific contract between the plan and the provider; further, plans must continue to follow the prompt pay provisions established in their contracts. Go to [www.ama-assn.org/go/regrelief](http://www.ama-assn.org/go/regrelief) and click on Medicare Advantage to view the memo.

**Rx-360 campaign targets rogue drug sellers**

A nonprofit consortium, Rx-360, has launched a new campaign to alert physicians to drug sales offers and promotions by sellers of counterfeit, unapproved, substandard, contaminated, and otherwise bad medicines. The campaign uses fax and email messages like those used by rogue sellers, such as “Great Discounts on Medicines! 100% Guaranteed. Quality Medicines from FDA Approved Manufacturers.” The fact sheet then notes that, although such offers may seem attractive, physicians may be targets for purchasing fake products that pose a threat to patient safety. The fact sheet also provides advice
on how to determine if a product is legitimate, how to verify internet pharmacies, and how to report counterfeiting and adverse drug events.

**FDA issues new regulations for tanning beds**

The U.S. Food and Drug Administration (FDA) cites longstanding AMA policy that minors need to be protected from the dangers of tanning beds in its new proposed regulations for sunlamps. The proposals are intended to enhance government oversight of these devices and require warnings aimed at discouraging young people under the age of 18 from using them. The FDA also is proposing that sunlamp product labeling include a recommendation that people who are repeatedly exposed to sunlamp products see their physician regularly for a skin cancer examination. A 90-day comment period on the proposal closes in August.

**Integrated Healthcare Association supports AMA’s Guidelines for Reporting Physician Data**

Another key stakeholder in the health care industry, the Integrated Healthcare Association (IHA), has pledged support of the AMA’s Guidelines for Reporting Physician Data. IHA is a statewide multi-stakeholder leadership group that promotes quality improvement, accountability and affordability of health care in California. IHA joins a growing list of more than 60 organizations that have joined AMA to pledge support for “using the Guidelines to create data reports that physicians can easily understand and use to enhance data-driven decision-making.” The Guidelines and a full list of the organizations that support its use, including organizations such as UnitedHealth Group, Midwest Business Group on Health and National Committee on Quality Assurance (NCQA), can be found on the AMA website. We urge you to support the Reporting Guidelines to help physicians receive the data they need from health plans and other reporting bodies. Visit www.ama-assn.org/go/physiciandata to pledge support. For additional information on these Guidelines and other associated resources, please contact Tammy Banks at tammy.banks@ama-assn.org or (312) 464-4792.

**Prescription for a healthier practice series continues with resources to help physicians get paid what they deserve for out-of-network services**

Physician practices can access the AMA’s out-of-network toolkit at www.ama-assn.org/go/out-of-network, which includes resources to help physicians receive fair payments for out-of-network services they provide. One of the resources, “Out-of-network payment challenges for the physician practice,” can help physicians better understand a third-party payer’s obligation for payment to out-of-network providers.