AMA Council On Legislation

Council members appointed by AMA Board

11 practicing physicians, 1 resident, 1 medical student

AMA Alliance, AMPAC, Board representatives

Functions:

Review federal legislation

Recommend appropriate action based on AMA policy

Recommend draft state and federal legislation based on policy adopted by AMA House of Delegates

Recommend legislative/regulatory principles to advance policy goals on emerging issues
SGR / Physician Payment Reform

AMA advocacy to enact permanent SGR repeal and reform Medicare payment for physicians

17 SGR patches since 2003 prevented steep cuts and preserved seniors’ access to care

Unprecedented consensus of three key Congressional committees and supported by our champions within Congress

Provides positive payment updates through 2018

Replaces MU, PQRS, and VBM with streamlined quality program that has greater flexibility, lower maximum penalties, and better chances for physicians to achieve bonuses

Includes incentives for physician participation in alternative payment models

AMA working with Federation on Congressional, grass roots activities, etc.

H.R. 4015 / S. 2000 “SGR Repeal and Medicare Provider Payment Modernization Act of 2014”

Congress passed the “Protecting Access to Medicare Act of 2014” (PAMA) with SGR patch expiring March 31, 2015

Congress has another chance with lame duck session that begins NEXT WEEK

Urge your U.S. senators and representatives to tell leadership that repeal of SGR is priority for lame duck

See AMA’s fixmedicarenow.org
# Regulatory Relief
## Align Reporting Requirements

### Value-Based Payment Modifier (VBM)
- 2015 Medicare Physician Fee Schedule Final Rule
- 4 percent penalties in 2017 only to groups of 10 or more; 2 percent for others
- Unassigned claims still exempt
- VBM applies to ACOs & CMMI models, unless CMMI waives

### Physician Quality Reporting System (PQRS)
- 2015 Medicare Physician Fee Schedule Final Rule
- Physicians must report on 9 measures in 2015 to avoid 2017 penalties
- CMS responded to many of the AMA suggestions & concerns
- Physicians still have 60 days to examine PQRS feedback reports & request review

### Meaningful Use/Electronic Health Record Program
- Remove the program’s all-or-nothing approach
- Require physicians to meet one set of quality reporting requirements
- Shorten the 2015 reporting period to 90 days
### Two-Midnight Rule / Observation Care

<table>
<thead>
<tr>
<th>Reverse Medicare policy regarding “observation” status and the “Two-Midnight” rule</th>
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</table>
| • Patients staying over two midnights presumed properly admitted as *inpatients*  
• Others presumed *outpatients* (with “observation” status) unless exception applies or physician documentation supports *inpatient* status  
• Observation status can increase co-pays and does not count toward the three-day *inpatient* hospital stay needed for transfer to SNF |

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<tr>
<th>Secured delay in enforcing the Two-Midnight rule</th>
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| • PAMA, 2014 SGR patch statute, suspends RAC post-payment audits through March 31, 2015 unless evidence of fraud/abuse/delayed care  
• 2015 Medicare Hospital OPPS/ASC Final Rule makes no changes |

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<tr>
<th>Support legislation to count <em>outpatient</em> stays in three-day hospital stay needed for SNF benefits</th>
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| • Supports H.R. 1179 / S. 569, "Improving Access to Medicare Coverage Act of 2013"  
• H.R. 1179, introduced by Rep. Joe Courtney (D-CT), 159 co-sponsors  
• S. 569, introduced by Sen. Sherrod Brown (D-OH), 27 co-sponsors |
Physician Payment Sunshine Act

Public Release: September 30, 2014

• marred by Controversy

Industry Communication

• Industry directly to notify and allow physicians to correct data before it is transmitted to the federal government

CMS Advocacy

• adequate agency notice of relevant deadlines and timelines
• improved web-based interface for physicians to the corrections portal
• engagement with stakeholders to improve the current context provided to the public

• PFS Rule win - continuing medical education will no longer be subject to Sunshine Act reporting requirements unless a manufacturer selects/suggests or pays the CME speaker directly

Congressional Advocacy

• H.R. 5539, a bill which would clarify that certain applicable manufacturer transfers of value to support independent medical educational programs and materials are exempt from reporting under Sunshine Act introduced by Representative Michael C. Burgess, MD, (R-TX)
Medical Liability Reform

**Standard of Care Protection Act, S.1769/H.R.1473**
- Ensure quality reporting and other performance measures are not used as the standard of care for liability purposes

**The Good Samaritan Health Professional Act, S.2196/H.R.1733**
- Limit the liability of health care professionals who volunteer during a federally declared disaster
- State laws enacted in Idaho and Oklahoma based on AMA model bill

**Protecting Sports Medicine Professionals, S.2220/H.R.3722**
- Ensure that team physicians / athletic trainers are covered by their liability insurance when they provide care services to their team while traveling to another state
AMA supported legislation to expand GME positions and funding

- Resident Physician Shortage Reduction Act, S.577/H.R. 1180 would create an additional 15,000 GME positions by 2019
- California legislature approved state budget with $7 million in new funding for primary care residency positions

Grassroots advocacy at www.savegme.org
Medicaid Primary Care Increase

ACA increased payments to primary care physicians to 100% of Medicare rates in 2013 & 2014)

S. 2694 extends payments to 2015, 2016 & adds OB-GYNs

15 states (at least)

- Payment increase expires 12/31/2014 unless Congress acts
- Unclear if Congress will take action during lame duck session
- Continue enhanced payments from state funds
VA Health Reform
Veterans Access, Choice and Accountability Act

- Allows private physicians to see VA patients in their practices
- Patients eligible for non-VA care if wait times too long or if they live too far away from a VA facility
- VA has developed implementing regulations and procedures for provider agreements
- Negotiated payments with Medicare rates as ceiling
- VA to work with AMA / state medical societies that develop registries of willing physicians
Diabetes Prevention Act

IHO Goal: Delay and prevent pre-diabetes from becoming diabetes through lifestyle changes
- Improved diet
- Physical activity
- Weight loss

As part of IHO initiative, AMA is working with CDC to prevent diabetes

AMA supports CDC’s National Diabetes Prevention Program (NDPP)

AMA supports the Medicare Diabetes Prevention Act, H.R. 962 (Davis) & S. 452 (Franken)
- Expand Medicare coverage to NDPP
The ACA extended CHIP funding through September 30, 2015

AMA continues to support CHIP funding

Congress

S. 2461 (Rockefeller, D-WV)
• Extend funding through Sept. 2019 & changes designed to improve access and enrollment

H.R. 5364 (Pallone, D-NJ/ Waxman, D-CA)
• Similar provisions

Prospects for action during lame duck are unclear
Other Issues

- Medicare Patient Empowerment Act/Private Contracting
- Independent Payment Advisory Board - IPAB
- Provider Non-Discrimination
- Medicare Misvalued Code
- Preventive Care Services - Colonoscopy Screening
- Cash vs. Accrual Method of Accounting
- State Tax Credits for Physicians Who Volunteer to Teach Medical Students
- Chronic Care Coordination & Management Services
- Program Integrity: RACS
- Mental Health Reform
Trend towards Transparency

Payers, Congress, states, journalists, and others seek greater health care data transparency
- CMS released physician claims data in April 2014
- SGR legislation (H.R. 4015) expands Qualified Entities

2014 Annual Meeting

AMA adopted new policy to advocate and engage in healthcare data transparency efforts

Preparing for the Future

Data Transparency Workgroup
- Develop proactive principles
- Engage physicians
- Improve transparency efforts

Principles
- Transparency goals
- Needed Resources
- Barriers
Telemedicine

State Advocacy
- FSMB
  - State Licensure Compact
- State Legislation

Federal Advocacy
- Congress
  - Remove Medicare coverage geographic restrictions
  - Permit APM telemedicine use
- Centers for Medicare & Medicaid Services
  - Support expanded covered services

Engagement of Major Stakeholders
- National Medical Specialties & State Medical Associations
- Telecommunication Companies
- Leading Edge Providers
Access to Testing Services & Personalized Medicine

Physician Testing Services v. Manufacturer Commercial Kits

Physician Services are patient-centered, high quality, and lead to next generation of improved testing

CMS Coverage Policies

Restrictive Policies providing preferential coverage to manufacturers over physician testing services

FDA Regulation

Proposed new and extremely burdensome regulations on physicians offering testing services

Congress

21st Century Cures E & C Hearings
Narrow Networks

Congress: Legislation pending to add protections for MA plan beneficiaries

CMS: will review MA plans and Exchange plans’ networks for adequacy in 2015

AMA:
- Model state bills on network adequacy, provider directories, and physician appeal rights
- Advocating for meaningful revisions to NAIC model bill on network adequacy
- Coordinating multi-state communications and advocacy strategy

Problem with Exchange plans and Medicare Advantage

MA plans across the country dropped physicians from networks, creating confusion, concern, and anger

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ICD-10 code set delayed until **October 1, 2015**

AMA continues to advocate that the new code set **not be implemented**

AMA working to mitigate impact of ICD-10 in the event that implementation cannot be stopped

CMS agreed to conduct more robust testing including end-to-end testing, to identify problems with claims processing and practice cash flow

The AMA has also advocated for advance payments in situations where claims payments may be delayed
Combatting Prescription Drug Abuse, Overdose and Death

Congress
• Funding for Treatment / PDMPs / Overdose Prevention
• Mandatory CME, PDMP Checks, Medicare Lock-In

Federal Agencies
• ONDCP
• DEA
• FDA
• CMS
• CDC

State Advocacy
• NGA
• State Legislation
• NABP
• NCOIL
• FSMB

AMA-Convened Taskforce
AMA, States, Specialties—Working together
AMA Advocacy Resource Center: State Advocacy

- Uniquely positioned to assist states/specialties
  - Advocacy resources
  - Model state legislation recommended by the Council

- Coordination and consensus building

**Result:** Powerful advocacy

[www.ama-assn.org/go/arc](http://www.ama-assn.org/go/arc)
State Advocacy Campaigns

- Implementation of state health system reform
- ACA Implementation
- Medicaid
- Medical liability reform
- Prescription drug abuse; treatment and prevention
- Private payer reform
- Public health
2014 AMA state achievements

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<tr>
<th>Compendium of +40 issue briefs</th>
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<tr>
<td>Directory of 200+ model state bills</td>
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<tr>
<td>Sent dozens of letters</td>
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<td>Influenced external policy-making orgs, for example:</td>
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<td>- National Association of Insurance Commissioners</td>
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<td>- National Conference of Insurance Legislators</td>
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<td>- National Governors Association</td>
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<td>- Federation of State Medical Boards</td>
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<td>Influenced state regulatory processes</td>
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Over 67 state victories!
## Advancing AMA Strategic Focus Areas

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<td>ACA State Implementation</td>
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<tr>
<td>Health care cost and transparency</td>
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<td>Private payer reform</td>
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<td>Medical liability reform</td>
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<td>Team-based care</td>
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<td>Medicaid</td>
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<td>Electronic Health Records</td>
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<td>Ensuring a strong physician workforce</td>
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<td>Advancing Other High Priority Areas</td>
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AMA State Legislative Strategy Conference

- January 8-10, 2015
- The Roosevelt Hotel
- New Orleans, Louisiana
- Register on the AMA’s ARC web site [www.ama-assn.org/go/arc](http://www.ama-assn.org/go/arc)
H.B. 499 – “Physician Provider Shield”

- Preserves the status quo by preventing the federal expansion of health care from leading to new legal standards of care in state medical liability lawsuits
- Helps ensure that Georgians have access to the highly trained physicians they need by creating a sustainable, more favorable practice environment
Experts Determine Standard of Care

- It ensures that these federal guidelines will...
  - not be admissible in court
  - could not be used as the standard of care
  - could not be used as a presumption of negligence in any medical malpractice lawsuit in the state
Benefits of Collaboration

- **Resources**
  - Identification of trends (AMA)
  - Subject matter experts (AMA)
  - Politics are local (MAG)
  - State legislative strategy (MAG)
  - Awareness (e.g. Twitter @DPalmisanoMAG)

- **Budget**
  - Judicial branch (AMA)
  - Local attorneys (MAG)
Cost/Benefit Analysis

- Issue
  - Expanding a state prompt pay statute to third party administrators (ERISA/State Jurisdiction)
  - Legislative Costs (2 lobbyists, five years, multiple attorneys)
  - Judicial Costs (over $400,000)
  - Result (Eleventh Circuit Court of Appeals found ERISA preempted state law)
  - Total Costs – Over 1 million dollars
  - Indirect benefits outweigh above costs
AAD Telemedicine Activities and AMA Collaboration

Barbara Greenan
Senior Director, Advocacy and Policy
November 10, 2014
AAC Telemedicine Platforms

- AccessDerm: over 40 sites, 1,200 consultations to date
- Inpatient TeleDerm: being used or set-up for use in 20 sites with more being recruited, 50 consultations to date.
- Directories created of clinics and hospitals without dermatology access in all 50 states.
Telemedicine Activities

• The AMA and AAD have commented on the same telemedicine legislation.
• The AMA hosted and facilitated specialty society meetings where the AAD was able to contribute our perspective and experience.
• The AMA encouraged our revamped Position Statement and similarly encourages specialty societies to identify policy for telemedicine in their area.
• The AMA and AAD have been collaborative on the hill at congressional hearings.
Telemedicine Activities

• The AMA and AAD both advocate for preserving state medical board work through the FSMB Interstate Compact.

• The AMA has helped highlight Academy telemedicine efforts such as our platforms AccessDerm and Inpatient TeleDerm.

• The AMA and AAD have worked to align messaging at large forums to help further advocacy for patient safety and quality care in telemedicine.
Please share with the Council and colleagues your comments on legislative/regulatory issues impacting patients and the practice of medicine

State Level Issues
• Legislation you expect to see at state level in 2015?

Federal Level Issues
• State/specialty issues requiring federal action?

Open Discussion: Critical & Emerging Issues

Have you contacted your Senators and Representative?
• What are they telling you?