



American  
Association of  
Neurological  
Surgeons

AMERICAN ASSOCIATION OF NEUROLOGICAL SURGEONS  
CONGRESS OF NEUROLOGICAL SURGEONS



Congress of  
Neurological  
Surgeons

## 2019 LEGISLATIVE & REGULATORY AGENDA

### ☑ PROTECT PATIENTS' TIMELY ACCESS TO CARE

Prior authorization is a cumbersome process that requires physicians to obtain pre-approval for medical treatments or tests before rendering care to their patients. The process for obtaining this approval is lengthy and typically requires physicians or their staff to spend the equivalent of two or more days each week negotiating with insurance companies — time that would better be spent taking care of patients. Patients are now experiencing significant barriers to medically necessary care due to prior authorization requirements for items and services that are eventually routinely approved. The AANS and the CNS are calling on Congress to pass legislation to regulate the use of prior authorization by Medicare Advantage plans. Such legislation should, among other things, increase transparency, streamline the prior authorization process and minimize the use of prior authorization for services that are routinely approved.

The Protecting Access to Medicare Act (PAMA) established a program requiring physicians to consult appropriate use criteria (AUC) before ordering advanced imaging services. The number of clinicians affected by the program is vast, crossing almost every medical specialty from primary care to neurosurgery. Like prior authorization, when implemented in 2020, the AUC program will be a costly and administratively burdensome program that may delay patient access to vital diagnostic tests. The AANS and the CNS urge Congress to pass legislation to repeal PAMA and incorporate the use of AUC for diagnostic imaging into Medicare's Quality Payment Program.

### ☑ FIX THE BROKEN MEDICAL LIABILITY SYSTEM

The AANS and the CNS support legislation to provide common sense, proven, comprehensive medical liability reform. Federal legislation modeled after the laws in California or Texas, which includes reasonable limits on non-economic damages, represents the "gold standard." The Congressional Budget Office has determined that comprehensive medical liability reform would save the federal government approximately \$28 billion over 10 years. Other solutions should be adopted including: (1) applying the Federal Tort Claims Act to services mandated by the Emergency Medical Treatment and Labor Act (EMTALA); (2) liability protections for physicians who volunteer their services; and (3) liability protections for practitioners who follow practice guidelines established by their specialties.

### ☑ IMPROVE THE HEALTH CARE DELIVERY SYSTEM

America's neurosurgeons strongly support improving our nation's health care system, including reforms to redress a number of inexcusable insurance practices. The Affordable Care Act's (ACA) insurance market reforms — such as coverage for pre-existing conditions and guaranteed issue — provide critical consumer protections. However, rather than lowering costs and expanding choice, premiums have skyrocketed, high deductibles leave patients financially on the hook for their medical bills, and narrow networks restrict patient access to the physician of their choice and leave patients vulnerable to unanticipated medical bills.

To address these ongoing shortcomings, policymakers must take additional steps to establish network adequacy standards that require plans to offer a sufficient number and type of specialists and subspecialists in their provider networks; maintain patient choice through out-of-network options; improve access to trauma and emergency care; and address unanticipated — or surprise — medical bills. In this regard, the AANS and the CNS recommend that Congress pass legislation modeled after proven state approaches that protect patients from unanticipated medical bills for out-of-network care, while at the same time facilitating a process to quickly, efficiently and fairly resolve physician and health plan billing disputes using a "baseball-style" arbitration process that bases payment on the usual and customary cost of the service referenced from an independent medical claims database.

### ☑ ALLEVIATE THE BURDENS OF ELECTRONIC HEALTH RECORDS

Policymakers and professional organizations have become increasingly concerned about physician professional satisfaction and wellbeing. The rates of burnout among physicians are at all-time high levels, and this problem impacts not just physicians, but more importantly, the patients for whom they care. Burnout is characterized by, among other things, a loss of meaning in work, loss of self-efficacy and depersonalization. A leading cause of this alarming trend is the electronic health record (EHR). By some estimates, the estimated *one billion* clicks per day in medicine is contributing to toxic stress in physicians. The economic impacts of burnout are also significant, costing the U.S. some \$4.6 billion every year. Lack of interoperability, poor EHR usability that does not match clinical workflows, time-consuming data entry, interference with face-to-face patient care, and pages and pages of useless template-based patient notes, are but a few of the frustrations physicians have with electronic health records. The AANS and the CNS call on Congress and the Administration to take immediate action to correct the current state of EHR technology by achieving interoperability, preventing data blocking, improving functionality and holding the EHR vendors accountable to deliver more user-friendly systems that serve physicians and their patients.

## ☑ **SUPPORT QUALITY RESIDENT TRAINING & EDUCATION**

An appropriate supply of well-educated and trained physicians — both in specialty and primary care — is essential to ensure access to quality health care services for all Americans. Unfortunately, the nation is facing an acute shortage of physicians. And while medical schools in the U.S. have increased their enrollments, and additional medical and osteopathic schools have been established, the number of Medicare-funded resident positions has been capped by law at 1996 levels. To ensure an adequate supply of physicians and allow the graduate medical education system to operate optimally, policymakers should:

- eliminate the current graduate medical education (GME) funding caps and increase the number of funded residency positions; expand funding to fully cover the entire length of training required for initial board certification; maintain current financial support for children's hospital GME; and encourage all payers to contribute to GME programs;
- investigate innovative approaches to modernize GME including channeling a larger percentage of GME funds directly to the academic departments responsible for resident education and allowing residents to bill for the services they render after achieving verified competence in particular skills;
- supply the profession with the tools, including antitrust relief, to ensure a well-trained physician workforce;
- preserve the ability of surgeons to maximize education and training opportunities by performing overlapping surgical procedures and allowing for flexible resident duty hours; and
- reject additional unnecessary layers of regulations and ensure that the Accreditation Council for Graduate Medical Education (ACGME), American Board of Medical Specialties (ABMS) and Association of American Medical Colleges (AAMC) retain their preeminent roles in overseeing resident training and education.

## ☑ **END THE OPIOID EPIDEMIC**

While the opioid epidemic continues to grip our communities and remains a major challenge, progress has been made, and America's neurosurgeons are committed to helping solve this devastating public health problem. Backed by the AANS and the CNS, the SUPPORT for Patients and Communities Act (H.R. 6) provides needed tools and resources to better care for patients with substance use disorders and reduce the risk of opioid abuse. Neurosurgeons have been at the forefront of the treatment of pain for many decades and going forward, the AANS and the CNS urge policymakers to ensure that they have the necessary mechanisms to treat pain. Such measures include covering and paying for appropriate surgical and interventional procedures — such as neuromodulation and peripheral nerve stimulation — and refraining from establishing one-size-fits-all opioid prescribing limits, particularly for patients who have undergone complex surgery.

## ☑ **CONTINUE PROGRESS WITH MEDICAL INNOVATIONS**

America has a long tradition of excellence and innovation in patient care, and neurosurgeons have been on the cutting edge of these advancements. However, American medical innovation may be at risk. While temporarily suspended for two years from 2018-19, the ACA's medical device excise tax could adversely affect medical innovation and patient care. The AANS and the CNS support repealing this tax. Also, we support prioritizing funding for the National Institutes of Health (NIH) whose research investments are responsible for incalculable medical breakthroughs. Additionally, while the passage of the 21<sup>st</sup> Century Cures Act made critical improvements in the Food and Drug Administration's (FDA) drug and device approval processes, officials should carefully monitor implementation to ensure progress and patient access to pioneering medical technology and lifesaving therapies. Finally, Medicare payment and coverage policies can stifle innovation if they are overly limiting. Accountable care organizations, bundling and not paying for procedures in which new technology is used may seem cost effective in the short run, but if they prohibit the development of safer and better procedures that get patients back to health, work and activity faster, they may be much more costly in the long run. Thus, the AANS and the CNS urge policymakers to prevent inappropriate reimbursement policies that may delay or deny appropriate care for patients.

## ☑ **CHAMPION FAIR REIMBURSEMENT**

To ensure access to vital surgical services, Medicare must maintain the 10- and 90-day global surgery payment package and prevent CMS from using flawed or incomplete data gathered from the global surgery code data collection initiative to revalue global surgery codes. Furthermore, our nation's seniors deserve the freedom to select the physician of their choice, but in certain circumstances, Medicare limits this option. To empower patients and preserve timely access to care, policymakers should allow patients and physicians to privately contract — without penalty to either patient or physician — and maintain a viable fee-for-service option in Medicare. Preserving this option for Medicare beneficiaries is especially critical for those patients seeking specialty care.

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