



Neurosurgeons Taking Action



Neurosurgeons Taking Action is an E-newsletter from the American Association of Neurological Surgeons (AANS). The purpose of this E-publication is to provide you with timely updates on socio-economic and political issues facing neurosurgeons. **Neurosurgeons Taking Action** is sent out as news and events warrant your attention so that our members can stay on top of the issues that affect them.

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Legislative Affairs

- **Working for You in Washington: A Snapshot of Neurosurgery's Advocacy Successes**

In an effort to highlight and quantify, when possible, the successes and value of the Washington Committee's advocacy activities, we have put together a [document](#) providing neurosurgeons with a snapshot of our top priority issues. While this is not an exhaustive list, it is meant to show how organized neurosurgery is making progress on important topics of interest to the specialty. This document garnered trade-media attention in a Becker's ASC Review article titled, "[10 Big Healthcare Policy Trends for Spine Surgeons to Know](#)."

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- **Medical Liability Legislation Introduced in the House**

On April 10, 2013, Reps. Phil Gingrey, MD (R-GA), and Henry Cuellar (D-TX), introduced H.R. 1473, the [Standard of Care Protection Act](#). The [Affordable Care Act](#) and other federal healthcare programs create quality measures and payment methodologies that may have the potential for expanding the risk of lawsuits against physicians — despite the fact that these guidelines were never intended to measure medical negligence. The Standard of Care Protection Act would ensure federal healthcare programs are not misused to create new standards of care for medical liability lawsuits. The bill clarifies that lawsuits could not be based simply on whether physicians followed the national guidelines and quality standards in federal healthcare laws. Through our leadership in the [Health Coalition on Liability and Access](#) (HCLA), the AANS and CNS have [endorsed](#) this legislation. Neurosurgeons are encouraged to use [HCLA's Protect Patients Now! legislative action center](#) to contact your representative and urge him/her to cosponsor the bill.

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- **President Obama Releases Budget**

On April 10, 2013, President Obama revealed his Fiscal Year 2014 proposed budget, which includes a number of issues of interest to neurosurgeons. While the president's budget proposal will not likely go very far, as Congress is

working on its own budget plans, elements of the Obama blueprint are under consideration by Congress. Some topics of interest include:

- Strengthening the Independent Payment Advisory Board (IPAB);
- Cuts to indirect graduate medical education (\$11 billion over 10 years);
- Modest increases for National Institutes of Health (NIH);
- Repeal of Medicare's sustainable growth rate (SGR) physician payment formula, replacing it with one focused on quality and efficiency of care;
- Prior authorization for imaging services and additional requirements for in-office ancillary imaging services.

[Click here](#) for more information about the budget.

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■ **Efforts to Fix the SGR Continue**

Year after year, because of Medicare's flawed sustainable growth rate (SGR) formula, physicians face significant cuts in Medicare reimbursement — 25 percent on Jan. 1, 2014. And time and time again, Congress intervenes with a short term "fix" to prevent these steep cuts. Given the current favorable cost estimate from the [Congressional Budget Office](#), organized medicine is hopeful that Congress will finally enact a permanent physician pay fix this year. Congress is currently working on a proposed replacement plan, and the AANS and CNS recently joined the Alliance of Specialty Medicine in commenting on the House Energy and Commerce and House Ways and Means Committees' [draft proposal](#). In the [letter](#), we called for the repeal of the SGR, physician-driven quality measurement, flexibility, gradual implementation, positive incentives, minimal reporting burden, timely feedback and greater emphasis on quality over cost.

To gain additional insights from physicians, on May 7, 2013, the House Ways and Means Committee's Health Subcommittee held a hearing focused on how best to reform the Medicare physician payment system. [Click here](#) for details about the hearing, including statements of the invited witnesses, and [click here](#) to watch a replay of the hearing.

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■ **Good Samaritan Health Professionals Act Re-Introduced**

On April 25, 2013, Reps. Marsha Blackburn (R-TN) and Jim Matheson (D-UT) introduced the [Good Samaritan Health Professionals Act](#) (H.R. 1733). This legislation, previously passed by Congress in March 2012, would ensure that health professionals who provide voluntary care in response to a federally declared disaster have appropriate medical liability protections. The legislation aims to address the current inconsistencies in federal and state laws, which may leave physicians vulnerable to lawsuits. The medical profession has a long history of stepping forward to assist disaster victims, and this bill will help pave the way for these volunteer efforts by healthcare providers who cross state lines to aid disaster victims. The AANS and CNS fully support H.R. 1733, and encourage neurosurgeons to contact your representative and urge him/her to cosponsor the bill.

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Grassroots Action Alert

- **Contact Congress to Support the Medicare Patient Empowerment Act**

Neurosurgeons are encouraged to contact Congress and urge your elected officials to cosponsor H.R. 1310 and S. 236, the [Medicare Patient Empowerment Act](#), introduced by Rep. Tom Price (R-GA) and Sen. Lisa Murkowski (R-AK), respectively. This legislation will create a new Medicare option to allow patients and physicians to enter into private contract arrangements without penalties to either party. Beneficiaries would be allowed to use their Medicare benefits to see physicians who do not accept Medicare, as opposed to paying for the entire cost of their care out-of-pocket as required under current law, and physicians would not be required to opt-out of Medicare altogether, as is the case now. Passing the MPEA is a top priority of organized neurosurgery, and the AANS and CNS are leading a [coalition effort](#) to gain support for this bill.

Please visit the [AANS/CNS Legislative Action Center](#) to send your letter today!

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NeurosurgeryPAC

■ NeurosurgeryPAC – Your Money at Work

As of May 1, 2013, NeurosurgeryPAC has raised \$150,746 in personal funds and \$18,600 in corporate donations for a total of \$169,346 from 189 neurosurgeons. At the 2013 AANS Annual Scientific Meeting in New Orleans, NeurosurgeryPAC raised \$14,025 of the aforementioned total. Additionally, during the PAC Board meeting, William L. Caton III, MD, FAANS; and Frederick D. Todd III, MD, FAANS, were reappointed to the PAC Board, and Robert F. Heary, MD, FAANS, was appointed as a new at-large member.

To date, the NeurosurgeryPAC has donated a total of \$146,000 to 35 candidates and national political committees. We still have a long way to go to reach our \$500,000 fundraising goal, and we need your help! As always, you can always contribute using our online donation option by logging onto [MyANNS.org](#).

In other PAC news, on June 8-10, 2013, NeurosurgeryPAC will participate in the 6th Annual PAC Board Forum in Louisville, Ky. Represented by NeurosurgeryPAC chair, Moustapha Abou-Samra, MD, FAANS, FACS; and PAC board members Shelly D. Timmons, MD, PhD, FAANS; and Carrie R. Muh, MD, the forum will bring together PAC board members and professional staff from the medical community to share ideas, discuss best practices, and provide PAC board members with the tools and knowledge to become more effective fundraisers and foster relationships between our most politically active physicians.

[Click here](#) for more information on the NeurosurgeryPAC, including the current list of donors, candidates receiving NeurosurgeryPAC support and to read more about your PAC in action. If you have questions about how you can get more involved, please contact Adrienne Roberts in the Washington Office at aroberts@neurosurgery.org.

Editor's Note: All contributions to NeurosurgeryPAC must be drawn on personal accounts. Contributions are not tax-deductible. AANS members who are citizens of the United States and pay dues or have voting privileges may contribute to NeurosurgeryPAC. All corporate contributions to NeurosurgeryPAC will be used for administrative expenses and other activities permissible under federal law. Federal law requires NeurosurgeryPAC to use its best efforts to collect and report the name, mailing address, occupation, and employer name of every individual whose contributions exceed \$200 in a calendar year.

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Coding and Reimbursement

■ Organized Neurosurgery Prevails in Effort to Establish Value of Cervical Fusion

Earlier this year, the [Washington State Health Care Authority](#) (HCA) issued a draft Health Technology Assessment, titled "[Cervical Spinal Fusion for Degenerative Disc Disease](#)." The report was prepared by the Institute for Clinical and Economic Review, or ICER, and the Rapid Response Team (RRT) of the [AANS/CNS Joint Section on Disorders of the Spine and Peripheral Nerves](#) galvanized to prepare a comprehensive and cogent response. The original report concluded that cervical fusion is, at best, equivalent to conservative therapy for nearly all patients with cervical degenerative disc disease. The initial ICER report was completed without any spine specialist input.

Fearing that this could easily be used to deny insurance coverage for medically necessary cervical decompression and stabilization procedures, organized neurosurgery led a multi-society effort to reverse many of the erroneous conclusions contained in this initial report. The multi-society [written response](#) to the report was developed by John K. Ratliff, MD, FAANS, FACS, director of the Rapid Response Team's Northwest Quadrant. Other individuals who made significant contributions included: Daniel J. Hohz, MD; Matthew J. McGirt, MD; Charles A. Sansur, MD, MHSc; Karin R. Swartz, MD, FAANS; and Joseph S. Cheng, MD, MS, FAANS, the RRT chair. On March 22, 2013, the Washington State HCA held a public meeting to review the ICER report and assess the clinical effectiveness of cervical fusion. Both Dr. Cheng, on behalf of the multi-society effort, and David A. Yam, MD, a neurosurgeon from Walla Walla, Wash., attended the session and presented strong arguments for the clinical value of cervical fusion procedures. The Washington State HCA agreed with our assessment and recommendations, choosing to continue coverage of cervical fusion under certain conditions:

- Patients must have signs and symptoms of radiculopathy; and
- Advanced imaging must demonstrate evidence of corresponding nerve root compression; and
- Patients must have failed conservative (non-operative) care

Cervical spinal fusion is not a covered benefit for neck pain without evidence of radiculopathy or myelopathy.

That the final coverage decision essentially ignored the recommendations of the ICER review is a testament to the quality of organized neurosurgery's response to this poorly crafted document. This effort is a tremendous success for the Rapid Response Team, and is another example of neurosurgery leading the way in response to inappropriate coverage and reimbursement policies. This outcome is extremely important for neurosurgeons in other states, because as Washington state goes, so too goes the rest of the country. Dr. Cheng and his team are to be congratulated for this successful effort in protecting patient access to spine surgery care!

[Click here](#) for the materials related to the cervical spinal fusion for degenerative disc disease review, including the ICER report, all comments submitted by outside parties and the final draft findings and decision.

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■ AANS/CNS Supports Appropriate Use of Mechanical Thrombectomy

On March 6, 2013, Alexander A. Khalessi, MD, [presented comments](#) on behalf of the AANS and CNS before the [California Technology Assessment Forum](#) (CTAF) on the use of thrombectomy devices for emergent treatment of acute ischemic stroke. Dr. Khalessi expressed concerns about a technical assessment commissioned by the CTAF that concluded that Mechanical Thrombectomy failed to improve health outcomes. Dr. Khalessi's presentation addressed the

following issues:

- Poor natural history data of untreated, confirmed large vessel occlusion (LVO);
- Data demonstrating the clinical benefit of endovascular therapy in the relevant target LVO population;
- Improved technical performance of stent retriever technology acknowledged by the CTAF brief but distinct from recent endovascular stroke studies; and
- Value of mechanical thrombectomy for the large proportion of iv tPA ineligible patients who present with an LVO and lack a competing treatment option.

Unfortunately, despite our best efforts, the panel voted to affirm the draft assessment. More information on the topic is available [here](#).

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■ **HHS Releases Fraud Alert for POD Arrangements**

On March 26, 2013, the Department of Health and Human Services' (HHS) Office of Inspector General (OIG) [released a fraud alert](#) regarding physician-owned entities that derive revenue from selling, or arranging for the sale of, implantable medical devices ordered by their physician-owners for use in procedures the physician-owners perform on their own patients. Referred to as physician-owned distributorships, or PODs, the OIG believes that these arrangements may violate federal anti-kickback law. The document focuses on the specific attributes and practices of PODs that would be considered a substantial fraud and abuse risk and pose danger to patient safety. [Click here](#) to read an article entitled "Are Physician-Owned Distributorships (PODs) Ethical?" This article was published in the May 2012 issue of the AANS Neurosurgeon.

If you have any questions regarding these or other coding and reimbursement issues, please contact Cathy Hill, AANS/CNS Senior Manager for Regulatory Affairs, at chill@neurosurgery.org.

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Quality Improvement

■ **AANS/CNS Respond to CMS' Request for Information on Quality Programs**

The recently passed [American Taxpayer Relief Act](#) includes language to allow physicians to satisfy the [Physician Quality Reporting System](#) (PQRS) by participating in a qualified clinical data registry. To meet the mandate, in February, the Centers for Medicare and Medicaid Services (CMS) released a Request for Information (RFI) to solicit information on ways in which physicians might use clinical quality data reported to specialty boards, specialty societies, regional healthcare quality organizations or other non-federal reporting programs to also report under PQRS, as well as the [Electronic Health Record \(EHR\) Incentive Program](#). Organized neurosurgery responded by [submitting comments](#), which highlighted the need for CMS to revisit and scrap the current quality improvement programs and replace them with a new system for recognizing specialty-based programs through a "deeming" approach. Such a system should allow for the recognition of quality data reporting activities across all of the Medicare physician performance programs, thereby reducing the regulatory burdens on physicians and moving the program to one that will be more meaningful for patients and physicians alike. The proposed requirements for registry reporting will be released within the 2014 Medicare Physician Fee Schedule proposed rule.

■ **Neurosurgery Comments on Health Information Technology Interoperability**

The AANS and CNS recently signed onto a [letter](#) with the American College of Surgeons (ACS) and several other surgical societies responding to the [Center for Medicare and Medicaid Services'](#) (CMS) and [Office of the National Coordinator's](#) (ONC) [Request for Information](#) on advancing health information technology interoperability. The letter highlights neurosurgery's ongoing concerns with the [electronic health record](#) (EHR) incentive program and asks CMS and ONC to remedy the current problems, rather than adopting new criteria that may hinder progress and adoption of EHR systems by providers. The letter also emphasized the need for CMS to align the various quality programs and pointed out how specialty registries may be useful in helping to streamline the exchange of health information, quality improvement and patient safety.

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■ **Neurosurgeon Appointed to Medicare Workgroup**

John K. Ratliff, MD, FAANS, FACS, has been selected to participate on the Medicare episode of care Clinical Working Group (CWG) focusing on musculoskeletal conditions and orthopaedic procedures — including spine. The [Affordable Care Act](#) requires the [Centers for Medicare and Medicaid Services](#) (CMS) to develop a so-called episode grouper to be used to provide feedback to physicians on their resource use. To this end, in 2012 CMS awarded a contract to Brandeis University to develop this episode grouper over a four-year period. To be successful, a grouper must process health insurance claims into a clinically valid and meaningful representation of a patient's medical history, identifying each condition and the services used. Starting in 2014, the CWG will develop episodes of care for spinal procedures. Serving as the sole neurosurgeon on the panel, the AANS and CNS congratulate Dr. Ratliff on this appointment!

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■ **2015 Medicare PQRS Pay Cuts are Coming - Are You Prepared?**

The [Affordable Care Act](#) mandates the [Center for Medicare and Medicaid Services](#) (CMS) move towards a system of rewarding quality. Beginning in 2015, physicians who do not successfully report Physician Quality Reporting System (PQRS) measures will receive a one percent decrease in their reimbursement. These cuts will be based on physician 2013 performance. To avoid the penalty, physicians must report on one measure successfully for 50 percent of applicable patients, or report a measures group once. For more information on how to avoid the penalty or earn an incentive payment, the Washington Office staff has prepared a summary entitled "[PQRS in Nutshell](#)" to help you navigate the program.

For more information about these or other quality information topics, please contact Koryn Rubin, AANS/CNS Senior Manager of Quality Improvement, at krubin@neurosurgery.org.

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Academic Medical Issues

■ **Neurosurgery Urges Congress to Fund Pediatric Subspecialty Loan Repayment Program**

On April 10, 2013, organized neurosurgery joined the American Academy of Pediatrics and 49 other professional medical and public health advocacy groups in [sending a letter](#) to Congress regarding the [Affordable Care Act's](#) Pediatric Subspecialty Loan Repayment Program. The program provides loan repayment in exchange for service in areas of medical need. Specifically, in exchange for participants agreeing to work full-time for at least two years in a pediatric medical specialty, including pediatric surgical specialties, in a medically underserved area, the program pays up to \$35,000 in loan repayment for each year of service, for a maximum of three years. The letter stressed the need to fund the Pediatric Subspecialty Loan Repayment Program, as it will help to ameliorate workforce shortages. To that end, the groups urged Congress to appropriate funds within the [Health Resources and Services Administration](#) to provide initial funding for the program.

The authorization for this program ends this year and the AANS and CNS are working with a coalition of organizations interested in the pediatric subspecialty loan repayment program. To ensure its funding into the future, Rep. Joe Courtney (D-CT) introduced H.R. 1827, the Pediatric Subspecialty and Mental Health Workforce Reauthorization Act of 2013. The bill would extend the program through 2018.

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Drugs and Devices

■ **CMS Launches Sunshine Act Website**

In April, the Center for Medicare and Medicaid Services (CMS) launched its new [Sunshine Act website](#), which will publish payments made to physicians and teaching hospitals by drug and device manufacturers. Applicable manufacturers and group purchasing organizations will report the data for August through December of 2013 to CMS by March 31, 2014, and CMS will publicly release the data by Sept. 30, 2014.

On Feb. 1, 2013, CMS issued the [final regulations](#) implementing the Physician Sunshine Act, which requires drug and medical device companies to publicly disclose their financial relationships with physicians. The new law requires CMS to publish information about payments or other transfers of value — including gifts, consulting fees, research activities, speaking fees, meals and travel — from manufacturers of drug, device, biologic and medical supplies covered by Medicare, Medicaid and certain other federal health programs. In addition, CMS will also make information publicly available about physicians' or immediate family members' ownership or investment interests in applicable manufacturers and group purchasing organizations. For more details, CMS has created a [fact sheet](#) for physicians to help them better understand the Sunshine Act. In addition, the [American Medical Association](#) has an informative webpage with detailed information on this topic.

If you have any questions regarding these developments, please contact Cathy Hill, AANS/CNS Senior Manager for Regulatory Affairs, at chill@neurosurgery.org.

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■ IPAB Triggers Won't Happen This Year

In a [letter](#) to acting CMS administrator Marilyn Tavenner, Medicare's acting chief actuary, Paul Spitalnic, wrote that the spending triggers for the Independent Payment Advisory Board (IPAB) will not be hit this year, nor are they expected to be activated for several more years. Over the past several years, Medicare per capita spending has slowed significantly, and projected expenditures for 2015 will not exceed the spending target that would trigger recommendations to reduce Medicare spending. Despite this finding, neurosurgery continues to press Congress to repeal the IPAB, which, in future years, may lead to steep reductions in Medicare reimbursement to physicians. As part of our ongoing advocacy efforts, the AANS and CNS recently joined more than 500 other organizations in writing a [letter](#) to Congress urging repeal.

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■ White House Announces BRAIN Initiative

On April 2, 2013, President Obama officially launched the Brain Research through Advancing Innovative Neurotechnologies, or [BRAIN initiative](#). The president included \$100 million in his FY 2014 budget earmarked to the [National Institutes of Health](#), Defense [Advanced Research Projects Agency](#) and the [National Science Foundation](#) to launch this project.

Calling this the "next great American project" akin to the Human Genome Project, this initiative is one of the administration's so-called Grand Challenges. The BRAIN project will require the development of new technologies that allow researchers to map the interaction of brain circuits. Those involved hope it helps treat complicated diseases, like Alzheimer's, or tackle debilitating injuries, such as post-traumatic brain syndrome.

The National Institutes of Health (NIH) will take the lead in establishing a more specific timeline and cost estimate. The agency has tapped Rockefeller University's Cornelia Bargmann and Stanford University's William Newsome to co-chair a working group dedicated to these tasks. Private sector partners already include several biomedical research institutes.

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Communications

■ Neurosurgery Advocates in the News

Organized neurosurgery continues to work closely with several healthcare coalitions — including the [National Dialogue for Healthcare Innovation](#) — to promote our collective health policy positions to the media. To that end, on March 25, 2013, the American Medical News published an article featuring AANS President-Elect Robert E. Harbaugh, MD, FAANS, FACS. The article, "[Doctor-pharma ties defended on eve of pay reporting mandate](#)," addressed the topic of physician-industry collaborations. Dr. Harbaugh stressed that there is great value in the interactions between physicians and biopharmaceutical companies as it leads to better patient care and the advancement of medical innovation. He also offered this advice for doctors in this new era of transparency: "You shouldn't be doing something that you wouldn't be proud to see on the front page of the newspaper."

Additionally, on April 15, 2013, the Bureau of National Affairs (BNA) reached out to the AANS and CNS for our insight on the potential of getting a permanent physician pay fix this year. In the BNA Health Care Daily Report article, "White House 'Doc Fix' Language Mirrors House Proposal, Raising Hopes for Action," Katie O. Orrico, director of the AANS/CNS Washington

Office, told BNA that the White House language "appears to describe the House proposal in a nutshell. The devil is always in the details, but it is definitely positive that all parties to this discussion are uniform in calling for the elimination of the SGR, they recognize that the medical profession will need a period of stability to ramp up and transition into a new payment system, and that it is imperative that physicians, not the government, should be designing the new quality payment system."

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■ Recent Neurosurgery Blog Posts

Every week, Neurosurgery Blog reports on hot topics and investigates how healthcare policy affects patients, physicians and medical practice. Listed below are some of the latest posts on the AANS Annual Scientific Meeting, medical liability, workforce shortage issues and healthcare reform in general.

- [Changing Our Culture to Advance Patient Safety Marks Theme of 81st AANS Annual Meeting](#)
- [AANS Neurosurgeon Highlights Personal Stories of Humanitarian Neurosurgery](#)
- [Medicare Must Preserve Patient Access to the Physician of their Choice](#)
- [Unresolved Medical Liability Claims Equal Reduced Access to Care](#)
- [Arbitrary Cuts for Lifesaving Brain Cancer Treatment Jeopardize Patient Access to Critical Therapy](#)
- [Tomorrow's Healthcare Challenges: Will the Neurosurgical Workforce Measure up?](#)
- [Robbing Peter to Pay Paul is Not the Solution](#)

We invite you to visit the blog and subscribe to it, as well as connect with us on our various social media platforms, so that you can keep your pulse on the many health-policy activities happening in the nation's capital.

- [Neurosurgery Blog: More Than Just Brain Surgery](#)
- [Neurosurgery's Twitter Feed: @Neurosurgery](#)
- [Neurosurgery's Facebook Page](#)
- [Neurosurgery's LinkedIn Group](#)

If you are interested in these communications activities, please contact Alison Dye, AANS/CNS Senior Manager of Communications, at adye@neurosurgery.org.

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**Questions or comments? Please contact Katie Orrico
at 202-446-2024 or korrico@neurosurgery.org.**

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