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

- **AANS and CNS Oppose Current Version of SGR Legislation**

As reported last month, on Oct. 31, 2013, the Senate Finance and House Ways and Means Committees released a bipartisan, bicameral draft proposal to repeal and replace Medicare's sustainable growth rate (SGR) physician payment formula. The proposal would permanently repeal the SGR update mechanism, reform the fee-for-service payment system through greater focus on value over volume, and encourage participation in alternative payment models. The AANS and CNS have significant concerns with the proposal, as outlined in the comment letter we sent to the committees.

On Dec. 4, 2013, the committees released a document highlighting a number of changes to the initial proposal. Unfortunately, these revisions did not address neurosurgery's major concerns, and in light of these outstanding issues, the AANS and CNS leadership therefore decided to oppose the current version of this proposal because it:

- Freezes physician payments for ten years and fails to maintain a viable fee-for-service system;
- Neglects to include at least a five-year transition period to the new Value-Based Purchasing payment system;
- Creates a new budget-neutral, tiered quality payment program, which will pick winners and losers by pitting physicians against one another — resulting in cumulative cuts of up to 50 percent by 2022 for some physicians;
- Fails to ensure that quality measures are determined by the medical profession, rather than the government or others; and
- Requires the Centers for Medicare & Medicaid Services (CMS) to cut an additional $2 billion from the Medicare Physician Fee Schedule to adjust so-called misvalued services.

On Dec. 10, 2013, the AANS and CNS joined 14 other surgical societies, including the American College of Surgeons, in sending letters to the committees opposing the "SGR Repeal and Medicare Beneficiary Access Improvement Act of 2013" in its current form. Despite these objections, on Dec. 12, 2013, the Senate Finance and House Ways and Means committees passed this legislation, clearing the bills for consideration by the full House and Senate in 2014.

In the interim, the AANS and CNS support passage of a short term "bridge" to prevent the looming 24 percent Medicare pay cut and allow for the additional time needed to continue work on a permanent SGR replacement policy that meets our principles.

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- **Congressional Budget Office Lowers Costs to Repeal SGR**

On Dec. 6, 2013, the Congressional Budget Office (CBO) reduced the cost of repealing the sustainable growth rate (SGR) physician payment formula by more than $20 billion. According to the new analysis, the cost of repealing the SGR is now $116.5 billion, down from an earlier estimate of $139.1 billion. Similarly, the CBO reduced the estimated cost of the House Energy and Commerce Committee's SGR bill — H.R. 2810, the Medicare patient Access and Quality Improvement Act — from $175 billion to $153.2 billion. The AANS and CNS are hopeful that the lower costs will enable Congress to pass SGR replacement legislation that will provide physicians with a Medicare payment formula that reflects the actual cost of practice.

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- **Members of Congress Press House Leaders to Repeal SGR**

On Nov. 20, 2013, Reps. Bill Flores (R-Tex.) and Dan Maffei (D-N.Y.) sent a letter — signed by a bipartisan group of 259 members of Congress — to House Speaker John Boehner (R-Ohio) and Minority Leader Nancy Pelosi (D-Calif.) calling for the permanent repeal of the sustainable growth rate (SGR) physician payment formula. The AANS and CNS joined this letter-writing campaign, which was spearheaded by the American College of Surgeons. Absent Congressional action, physicians face a 24 percent pay cut on Jan. 1, 2014, and this letter is a significant step toward keeping Congress focused on passing legislation that will repeal this flawed payment system and prevent this cut.

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- **Medical Liability Reform Bill Introduced in the Senate**

On Nov. 21, 2013, Sens. Pat Toomey (R-Pa.) and Tom Carper (D-Del.) introduced S. 1769, the Standard of Care Protection Act. As previously reported, the Affordable Care Act (ACA) 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.

In April, Reps. Phil Gingrey, MD (R-Ga.), and Henry Cuellar (D-Tex.) introduced H.R. 1473, the companion legislation in the House of Representatives. This legislation has been incorporated into H.R. 2810, the Medicare patient Access and Quality Improvement Act — a bill to repeal and replace Medicare's sustainable growth rate (SGR) system. The AANS and CNS were early supporters of this legislation and continue to advocate for its passage.

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- **Senate Goes "Nuclear" and Makes it Easier to Approve IPAB Members**

On Nov. 21, 2013, the Senate approved a significant rule change which

eliminates the use of the filibuster on all presidential nominees except for the U.S. Supreme Court. The Senate's passage of the so-called "nuclear option" now allows executive branch and judicial nominations to be approved with a simple majority — 51 votes — rather than the 60 votes that was previously required.

This now means that the bar is much lower for approving nominees to the Independent Payment Advisory Board (IPAB). The IPAB was created by the Affordable Care Act (ACA), and is a board of 15 unelected and largely unaccountable government bureaucrats whose primary purpose is to cut Medicare spending. In order to serve on the IPAB, nominees must be confirmed by the Senate, and with the newly invoked "nuclear option," the confirmation process is theoretically much easier.

Repealing the IPAB is one of organized neurosurgery's top legislative priorities, and the AANS and CNS are leading a physician coalition representing more than 350,000 physicians across 26 specialty physician groups who are dedicated to this mission.

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- **Neurosurgery Supports Traumatic Brain Injury (TBI) Reauthorization**

On Nov. 5, 2013, joining with several other national organizations involved in injury and violence prevention, the AANS and CNS signed onto a letter of support for H.R. 1098, the Traumatic Brain Injury Reauthorization Act of 2013. Introduced by Reps. Bill Pascrell (D-N.J.) and Tom Rooney (R-Fla.) in March, H.R. 1098 currently has 16 co-sponsors and would reauthorize funding for the Centers for Disease Control and Prevention (CDC) to conduct brain injury surveillance, prevention, public education and awareness; funding for research conducted by the National Institutes of Health (NIH); and to improve service delivery and access through state and protection and advocacy grant programs.

Last month, the House Energy & Commerce Committee held a hearing on the legislation, and the AANS and CNS signed onto a similar letter to Sens. Bob Casey (D-Pa.) and Orrin Hatch (R-Utah) asking them to introduce a companion bill in the Senate.

If you have questions about these or other legislative issues, please contact Katie Orrico, director of the AANS/CNS Washington Office at korrico@neurosurgery.org.

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NeurosurgeryPAC

- **Please Consider a Holiday "Gift" to NeurosurgeryPAC**

NeurosurgeryPAC's fundraising continues with donations from 283 neurosurgeons so far this year! As of Dec. 5, 2013, NeurosurgeryPAC has raised a total of $221,328. Thanks to all our contributors! We still have a long way to go to reach our $250,000 fundraising goal for 2013. Please consider helping us reach this goal by giving NeurosurgeryPAC a holiday "gift." As always, you can always contribute using our online donation option by logging onto MyAANS.org.

NeurosurgeryPAC would again like to thank those neurosurgeons who pledged donations in its annual telemarketing campaign, which was conducted in August. Please remember to fill out the donation forms that were sent to you in the mail.

Click here for more information on the NeurosurgeryPAC, including the current complete 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

- **CMS Releases 2014 Medicare Physician Fee Schedule Final Rule**

On Nov. 27, 2013, the Centers for Medicare & Medicaid Services (CMS) posted the 2014 Medicare Physician Fee Schedule (MPFS) Final Rule. Assuming Congress prevents the 24 percent SGR-related cut, the net overall impact on neurosurgery's Medicare reimbursement is zero. Fortunately, CMS accepted neurosurgery's recommendation to maintain the current value for two laminectomy codes — CPT codes 63047 and 63048 — which were flagged for review by CMS as potentially misvalued. The agency nevertheless believes that two other laminectomy codes — CPT 63045 and 63046 — may be overvalued, and the Specialty Society Relative Value Scale Update Committee (RUC) has been asked to re-review CPT Codes 63047 and 63048 together with 63045 and 63046.

The AANS/CNS Washington Office is preparing a summary of this, and the 2014 Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems final rule, which was also released on Nov. 27, 2013.

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- **NCCI Implements Edit on Reporting of CPT Codes**

On Nov. 8, 2013, the AANS and CNS received a letter informing us that, despite our objections, the National Correct Coding Initiative (NCCI) will implement a proposed edit prohibiting the reporting of CPT codes 22630 and 22633 with CPT code 63042 when the procedures are performed at the same interspace.

On Sep. 25, 2013, the AANS and CNS sent a detailed letter opposing the edit based on the assertion that CPT Code 63042 is separate work and not an inclusive component of CPT codes 22630 or 22633. Organized neurosurgery reached out to other groups, including the North American Spine Society (NASS) regarding opposition to the proposed edit. NASS supported the edit, however, and the NCCI cited this fact in its rationale for implementation.

The Centers for Medicare & Medicaid Services (CMS) established the NCCI in 1996 to screen for codes billed on the same day by the same provider for the same patient that CMS deems inappropriate. CMS develops coding edits based on coding conventions defined in the American Medical Association's CPT Manual, national and local policies and edits, coding guidelines developed by national societies, analysis of standard medical and surgical practices, and a review of current coding practices. The AANS/CNS Coding and Reimbursement Committee reviews and responds to proposed edits which affect neurosurgery.

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- **Neurosurgery Supports CMS' Proposal to Reject Medicare Coverage for PILD**

On Nov. 11, 2013, the AANS, CNS and the AANS/CNS Joint Section on Disorders of the Spine and Peripheral Nerves sent a letter to the Centers for Medicare and Medicaid Services (CMS) supporting the agency's proposed decision not to cover percutaneous image-guided lumbar decompression (PILD) for lumbar spinal stenosis (LSS). In the letter, we stated that "overall our field of neurosurgery has not embraced the use of this procedure due to concerns regarding its effectiveness as compared to our current surgical options." We further noted that the "present literature...is of low quality and demonstrates that this technique is not indicated in patients with a significant element of bony stenosis, lateral recess stenosis, or foraminal stenosis."

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- **Free Webinar on Transition to ICD-10-CM Available for Neurosurgeons**

While the AANS and CNS continue to oppose the implementation of ICD-10-CM, we recognize the need to help educate neurosurgeons to prepare them for its implementation on Oct.1, 2014. To this end, a recorded online presentation, "Transitioning to ICD-10 Smoothly," is available to neurosurgeons through Dec. 31, 2013. This one-hour webinar, presented by Karen Zupko & Associates, Inc., focuses on the steps a practice should be taking right now to make the ICD-10-CM transition.

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

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Quality Improvement

- **CMS Delays Implementation of Stage 2 and 3 Meaningful Use**

On Dec. 7, 2013, the Centers for Medicare & Medicaid Services (CMS) announced a revised timeline for implementing Stage 2 and 3 of Medicare's Electronic Health Record (EHR) Incentive Program. The meaningful use program has three stages of requirements: the first to begin reporting data to improve the efficiency and quality of care; the second to promote the exchange of that data with other providers and with consumers; and the third to beef up the amount of stage two data that is generated.

The AANS and CNS have been lobbying for an extension, arguing that the original timeline was too tight. Under the revised timetable, Stage 2 now starts in 2015 and will continue through 2016, and Stage 3 will begin in 2017.

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- **2013 Meaningful Use Deadline Approaching**

Dec. 31, 2013, is the last day for physicians to participate in the 2013 Medicare Electronic Health Record (EHR) Incentive Program. Physicians have

until midnight ET, Feb. 28, 2014, to attest to demonstrating meaningful use with the data collected during the 2013 reporting period. Physicians must attest to meeting the program requirements each year to a payment adjustment. Penalties will be applied beginning Jan. 1, 2015, for physicians who have not successfully demonstrated meaningful use.

Neurosurgeons must demonstrate meaningful use according to the following reporting periods in order to avoid penalties in 2015:

- Those who first demonstrated meaningful use in 2011 or 2012 must demonstrate meaningful use for a full year in 2013.
- Those who first demonstrate meaningful use in 2013 must do so for a 90-day reporting period in 2013.
- Those who first demonstrate meaningful use in 2014 must do so for a 90-day reporting period within the first nine calendar months. Physicians must attest to meaningful use no later than Oct. 1, 2014, in order to avoid the payment adjustments.

More information regarding penalties and hardship exceptions is available by clicking here.

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Sequestration and the Physician Quality Reporting System (PQRS)

The Centers for Medicare & Medicaid Services (CMS) recently announced that Physician Quality Reporting System (PQRS) incentive payments are subject to the budget sequestration cuts imposed by the Budget Control Act. As such, PQRS incentive payments made to physicians and group practices will be reduced by two percent. The two percent reduction will apply to PQRS reporting periods that end on or after April 1, 2013. Since the 2013 reporting period ends after this date, all incentive payments for the 2013 reporting year are subject to sequestration. Incentive payments for prior reporting periods are not subject to the reduction.

CMS announced earlier in the year that incentive payments under the Electronic Health Record (EHR) Incentive Program also are subject to the two percent sequestration reduction.

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Nearly 1,500 Hospitals Penalized Under Medicare Quality Rating Program

More hospitals are receiving penalties than bonuses in the second year of Medicare's Hospital Value-Based Purchasing Program, and the average penalty is steeper than it was last year, according to a Kaiser Health News analysis. Medicare has raised payment rates to 1,231 hospitals based on two-dozen quality measurements, including surveys of patient satisfaction and death rates. Another 1,451 hospitals are being paid less for each Medicare patient they treat. These quality adjustments come on top of Medicare's penalties on 2,205 hospitals with higher than expected readmission rates, which carry a maximum penalty this year of two percent, as well as reductions in special payments for hospitals that treat large numbers of low-income people. An interactive chart detailing bonuses and penalties by state is available by clicking here.

If you have any questions regarding these or other quality-related issues, please contact Rachel Groman, Vice President for Clinical Affairs and Quality Improvement at Hart Health Strategies at rgroman@hhs.com.

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Drugs and Devices

- **President Signs Bill to Increase FDA Oversight for Compounding Pharmacies**

On Nov. 27, 2013, the President signed into law H.R. 3204, the Drug Quality and Security Act. This law allows, but does not require, manufacturers of compounded drugs to register and report to the Food and Drug Administration (FDA) on outsourcing facilities and will create a national supply chain drug-tracking program. It also distinguishes compounders engaged in traditional pharmacy practice producing one product for an individual, from those manufacturing large volumes of compounded drugs without individual prescriptions. Compounders who wish to practice outside the scope of traditional pharmacy practice can register with the FDA as "outsourcing facilities," and will be subject to FDA oversight, similar to the process for traditional pharmaceutical manufacturers. Those who do not choose to register with the FDA will continue to be primarily regulated by state boards of pharmacy. In addition, the law requires the FDA to provide a list of FDA-regulated outsourcing facilities on the agency's website.

This law comes in the wake of the meningitis outbreak that stemmed from contaminated steroid pain injections produced in a Framingham, Mass. pharmacy that killed 64 people and caused illness in more than 750 individuals. More information is available on the FDA website by clicking here.

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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Academic Medical Issues

- **Neurosurgery Urges Congress to Preserve Funding for GME**

On Nov. 20, 2013, the AANS and CNS joined 41 other professional medical and public health advocacy groups in sending a letter to Congress urging them to preserve funding for graduate medical education (GME) as they consider the federal budget. The letter highlights our concerns that reductions in Medicare support for GME would worsen the already critical national physician workforce shortage and limit teaching hospitals' ability to maintain vital, life-saving services.

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Of Note

- **IOM Report Releases on Sports-Related Concussions in Youth**

In October, the Institute of Medicine (IOM) and National Research Council, with support from several other government agencies and private groups, issued a 306-page report entitled: "Sports-Related Concussions in Youth: Improving the Science, Changing the Culture." This document reviews the known science of concussion in sports and military personnel, from elementary school through young adulthood. The report finds that while some existing studies provide useful information, much remains unknown about the extent of concussions in youth; how to diagnose, manage, and prevent concussions; and the short- and long-term consequences of concussions as well as repetitive

head impacts that do not result in concussion symptoms.

Julian E. Bailes, MD, FAANS, opined about this report in a guest Neurosurgery Blog post, encouraging neurosurgeons to become familiar with the report "so we can help to further scientific investigation and ensure the safety of the public."

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Communications

- **Recent Neurosurgery Blog Posts**

If you are not already reading Neurosurgery Blog, you should be, because every week we report on hot topics and investigate how healthcare policy affects patients, physicians, and medical practice. Listed below are some recent blog posts on the Independent Payment Advisory Board (IPAB), SGR repeal, the newly release AANS Neurosurgeon, and the Institute of Medicine's report on sports-related concussions.

- "Nuclear Option& Only Adds a Can of Worms to the IPAB Debate
- AANS Spotlight: Neurosurgeons and the Media
- Draft Framework for Repealing the SGR: The Cure May be Worse than the Disease
- IOM Releases New Report on Sports Concussion in Youth

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.