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

- **Congress Makes Significant Progress on Physician Payment Reform**

On Feb. 6, 2014, the Senate Finance, House Energy and Commerce and House Ways and Means Committees released bipartisan legislation to repeal Medicare's sustainable growth rate (SGR) physician payment system. The "SGR Repeal and Medicare Payment Modernization Act" (S. 2000/H.R. 4015), establishes a new streamlined value-based incentive payment system called the Merit-Based Incentive Payment System, or MIPS. The new program consolidates the three existing Medicare incentive programs — Physician Quality Reporting System (PQRS), Electronic Health Records (EHR) and Value-Based Payment Modifier (VBPM) — and allows physicians to opt-out of the fee-for-service system in favor of participating in alternative payment models (APMs), such as accountable care organizations, patient-centered medical homes and other similar arrangements.

Because it meets many of organized neurosurgery's core principles, the AANS and CNS are supporting passage of the bill, provided, however, that Congress is able to identify acceptable budget offsets to cover the estimated $150 billion price tag. In a letter to Congress, the AANS and CNS noted that the legislation includes a number of elements that are essential for physician payment reform. The legislation:

- Repeals the SGR and provides physicians a five-year period of payment stability with positive updates;
- Consolidates the current PQRS, EHR and VBPM programs and eliminates the penalties associated with these programs;
- Provides physicians a choice of payment models, including fee-for-service;
- Includes positive incentives for quality improvement payment programs that allow all physicians the opportunity to earn bonus payments;
- Enhances the ability of physicians, rather than the government, to develop quality measures and clinical practice improvement activities; and
- Clarifies that quality improvement program requirements do not create new standards of care for purposes of medical malpractice lawsuits.

Although the legislation incorporates many of organized neurosurgery's recommendations, the AANS and CNS nevertheless continue to have ongoing concerns about several aspects of the bill, which may adversely affect Medicare beneficiaries' access to specialty care. In our letter, we pointed out our disappointment that the bill does not include positive base payment updates every year, noting that medical practice costs will rise in excess of 25 percent over the next decade and "physicians will continue to lose ground to inflation — and this is on top of the past decade of flat Medicare payments." Additionally, we objected to a section of the bill that instructs the Centers for

Medicare and Medicaid Services to make additional cuts to so-called "misvalued" codes, which will redistribute an additional $1 billion from specialty services across the entire Medicare physician fee schedule over the next three years. Finally, the AANS and CNS encouraged Congress to exercise ongoing oversight over the MIPS program "to ensure that the performance metrics employed are in fact reflective of the views of the medical profession and the scoring system is fair and accurate."

Organized medicine is pressing Congress to act swiftly and pass the "SGR Repeal and Medicare Payment Modernization Act" prior to the expiration of the current SGR "patch" at the end of March. There is widespread, bipartisan support for repeal, from the editorial pages of major news outlets, to health policy thought leaders, to Medicare beneficiary organizations and most physician organizations, including the American Medical Association and American College of Surgeons. According to a CBO score released on Feb. 17, 2014, this legislation would increase direct spending by about $138 billion over a decade. This is significantly lower than in previous years, so if Congress can find the money to pay for the bill, we may be able drive the final nail in the SGR's coffin once and for all.

Click here to download a copy of the section-by-section summary of the legislation. If you have any questions, please contact Katie O. Orrico, director of the AANS/CNS Washington Office, at korrico@neurosurgery.org.

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- **Trauma Legislation Passed by House Committee**

On Feb. 25, 2014, Reps. Michael Burgess, MD (R-Tex.); and Gene Green (D-Tex.) introduced H.R. 4080, the "Trauma Systems and Regionalization of Emergency Care Reauthorization Act." The bill was then immediately passed by the Energy and Commerce Health Subcommittee on Feb. 27, 2014. This legislation would reauthorize crucial programs that provide grants to states for planning, implementing and developing trauma-care systems, and establish pilot projects to design, implement and evaluate innovative models of emergency-care systems. These programs would again be authorized at $12 million each for fiscal years 2015-2019.

The AANS and CNS sent a letter to Reps. Burgess and Green supporting this legislation as it is based on recommendations issued by the Institute of Medicine (IOM) in its groundbreaking report in June 2006, "Future of Emergency Care in the United States Health System." These grant programs address the current tragic situation that faces injured and ill Americans across the country. To alleviate this situation, the IOM called for a complete overhaul of our nation's emergency and trauma care by creating a coordinated and regionalized system of care modeled after the Trauma Systems program. According to the report, the "objective of regionalization is to improve patient outcomes by directing patients to facilities with optimal capabilities of any given type of illness or injury." Furthermore, the report states, "trauma systems provide a valuable model for how such coordination could and should operate."

The subcommittee also passed H.R. 3548, the "Improving Trauma Care Act." Introduced by Rep. Bill Johnson (R-Ohio), this legislation would change the definition of "trauma" to include burn injuries. In addition to the current definition — "The term trauma means an injury resulting from exposure to a mechanical force" — the following language was added: "or, another extrinsic agent, including an extrinsic agent that is thermal, electrical, chemical, or radioactive."

Both bills are expected to be passed by the full committee in the next two weeks prior to proceeding to the House floor for a vote. AANS and CNS Washington Office staff continue to work on getting companion measures introduced in the U.S. 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

- **NeurosurgeryPAC Fundraising Efforts Continue**

As of Feb. 24, 2014, NeurosurgeryPAC has received $42,500 in contributions from our membership. Given that this is an election year, it is more important than ever to donate to the PAC so we have the resources necessary to play a significant role in backing candidates and current members of Congress who support neurosurgery's priority issues. As always, you can contribute using our online donation option by logging onto MyAANS.org.

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 or if you would like to display the Travel Pac Booth at an upcoming meeting, please contact Adrienne Roberts in the Washington Office at aroberts@neurosurgery.org.

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

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Coding and Reimbursement

- **New Standards for Insurer Electronic Transfers**

The Affordable Care Act (ACA) required the creation of a uniform procedure for electronically transferring funds under the Health Insurance Portability and Accountability Act (HIPAA). Beginning on Jan. 1, 2014, the law requires health plans — including Medicare, Medicaid and private insurers — to use a standard electronic format for electronic fund transfers and specifies the uniform data content to be included. The Centers for Medicare & Medicaid Services (CMS) hopes the new requirement will encourage more healthcare providers to adopt electronic funds transfers, which should allow healthcare providers to automatically match up a bill with its corresponding payment, rather than having an employee manually reconcile bills with payments. For more information, the American Medical Association (AMA) has developed resources to help physicians who have not yet done so begin incorporating electronic payments and remittances into their practice.

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- **CMS Delays Implementation of Two-Midnight Rule**

Organized neurosurgery continues to work with the American Medical Association (AMA) and other specialties to urge the Centers for Medicare & Medicaid Services (CMS) to scrap the so-called two-midnight rule, which was implemented in the 2014 Medicare Hospital Inpatient Prospective Payment

Final Rule. To this end, on Jan. 30, 2014, CMS announced that the agency would delay full implementation of the two-midnight policy until at least Sept. 30, 2014. The policy indicates that if a physician expects a Medicare beneficiary's treatment to cross two midnights and admits the beneficiary based on that belief, then CMS generally will consider the inpatient admission to be appropriate, with proper documentation in the medical record. Procedures on the Medicare "inpatient-only" list are exempt from the two-midnight requirement.

Despite the delay, Medicare Administrative Contractors (MACs) are conducting "probe and educate" audits of inpatient admissions spanning less than two midnights. MACs are allowed to review samples of 10 to 25 claims per hospital for compliance with the policy. Sampled claims that fail to meet the two-midnight requirements will be denied but may be billed again under Medicare Part B as if the patient were an outpatient. Therefore, although CMS will not fully enforce the two-midnight policy until at least Sept. 30, 2014, CMS will extend the "probe and educate" period to review for compliance small samples of claims with dates of admission between Oct. 1, 2013, and Sept. 30, 2014.

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- **Guidance on Inpatient Admission Order and Certification Posted**

On Jan. 30, 2014, the Centers for Medicare & Medicaid Services (CMS) published an updated guidance document entitled "Hospital Inpatient Admission Order and Certification." The document answers a number of questions that were unclear in the early notice published in Sept. 2013, including whether physician assistants and residents could admit Medicare patients. In the new guidance, CMS specifically says: "Certain non-physician practitioners and physician residents working within their residency program are authorized by the state in which the hospital is located to admit inpatients, and are allowed by hospital by-laws or policies to do the same. The ordering practitioner may allow these individuals to write inpatient admission orders on his or her behalf, if the ordering practitioner approves and accepts responsibility for the admission decision by counter-signing the order prior to discharge."

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- **Neurosurgery Joins Lawsuit Challenging Medicare's Inpatient Stay Ruling**

The AANS and CNS have joined the American Medical Association (AMA) in submitting an amicus brief in the appeal of Bagnall v. Sebelius. This case concerns Medicare beneficiaries who were hospitalized, but did not meet the three-day inpatient stay requirement for subsequent Skilled Nursing Facility (SNF) coverage because they were classified as under observation. Increasingly, hospital patients are finding that they have been considered "Observation Outpatients," although they have been cared for in the hospital for many days and nights. On Nov. 3, 2011, the Center for Medicare Advocacy and the National Senior Citizens Law Center filed a nationwide class-action lawsuit to challenge this illegal policy and practice. Bagnall v. Sebelius (No. 3:11-cv-01703, D. Conn) states that the use of observation status violates the Medicare Act, the Freedom of Information Act, the Administrative Procedure Act and the Due Process Clause of the Fifth Amendment to the Constitution.

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- **New Study Shows ICD-10 Implementation Costs to Be Significantly Higher**

New cost estimates for implementing the federally mandated ICD-10 code set by Oct. 1, 2014, are, in some cases, nearly three times more than previously

estimated, according to a new study released by the American Medical Association (AMA). Costs associated with ICD-10 implementation include training, vendor and software upgrades, testing, and payment disruption. Compared to a similar study completed in 2008, these costs could be as much as $8 million for a typical large physician practice. For a small practice, implementation costs could be more than $225,000. The move is expected to be "much more disruptive for physicians" than previous mandates. To access educational resources for practical insight into the preparation process, click here.

If you have any questions regarding this 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

- **Neurosurgery Sends Letter to HHS on Concerns with the Meaningful Use Program**

On Feb. 21, 2014, organized neurosurgery joined forces with the American Medical Association (AMA), 39 specialty societies and several other provider organizations in sending a letter to U.S. Department of Health and Human Services (HHS) Secretary Kathleen Sebelius detailing concerns with Medicare's Electronic Health Record Incentive Program's meaningful use requirements. The letter urged HHS to extend the timelines providers have to implement 2014 Edition Certified EHR software and meet the Stage 1 and 2 program requirements through 2015. Additionally, the AANS and CNS requested flexibility in the meaningful use requirements to permit as many providers as possible to achieve success in the program.

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- **SQA Releases Recommendations for Public Reporting**

On Feb. 4, 2014, the Surgical Quality Alliance (SQA) released a new report "Surgery & Public Reporting: Recommendations for Issuing Public Reports on Surgical Care." This first-of-its-kind document provides guidance to organizations that publicly report on surgical quality measures and addresses issues that help to define specialty-specific reporting metrics developed to assist the healthcare patient, provider, payor, and purchaser. The document stresses the importance of coordinated, team-based surgical care that is safe, effective, efficient, and that supports the tenet that surgical specialists and their patients are uniquely qualified to provide input on quality measurement and to define clinical excellence in surgery. The AANS and CNS are members of the SQA and this document is the culmination of nearly two years of hard work. Special thanks to our SQA Representative, Gary M. Bloomgarden, MD, FAANS; and AANS/CNS Quality Improvement Workgroup (QIW) leaders John Joseph Knightly, MD, FAANS, John K. Ratliff, MD, FAANS, and former AANS/CNS Washington Office staff member Koryn Y. Rubin for their input into this document.

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- **New EHR Attestation Deadline for Eligible Professionals: March 31**

The Centers for Medicare & Medicaid Services (CMS) extended the deadline for eligible professionals (EPs) to attest to meaningful use for the Medicare Electronic Health Record (EHR) Incentive Program 2013 reporting year from Feb. 28, 2014, to 11:59 p.m. ET March 31, 2014. This extension will allow more time for providers to submit their meaningful use data and receive an

incentive payment for the 2013 program year, as well as avoid the 2015 payment adjustment. This extension does not impact the deadlines for the Medicaid EHR Incentive Program or any other CMS program. Click here for more information.

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- **EHR Incentive Programs: New CMS and ONC Tool Enables Providers to Meet Transitions of Care Measure**

Are you a provider who is demonstrating Stage 2 of meaningful use? If so, a new CMS and Office of the National Coordinator for Health Information Technology (ONC) tool called the Randomizer will let you exchange data with a test electronic health record (EHR) in order to meet Measure #3 of the Stage 2 transitions of care requirement.

The transitions of care requirement for eligible professionals (EPs) includes three measures. Measure #3 is outlined below:

- Conduct one or more successful electronic exchanges of a summary of care document with a recipient who has EHR technology that was developed by a different EHR technology developer than yours, or;
- Conduct one or more successful tests with the CMS designated test EHR during the EHR reporting period.

To use the tool to meet this measure, you must register with EHR Randomizer. Once registered, it will pair your EHR technology with a different test EHR from the list of authorized systems. You must then send a Consolidated Clinical Document Architecture (CCDA) summary of care record to the Test EHR. CMS and ONC recommend that you send a test CCDA document that does not contain actual patient information. Test EHRs will be required to email you within one day of the test, with notification of success or failure. A notification of a successful test can be used as proof of meeting the transitions of care measure.

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, via email at groman@hhs.com.

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Drugs and Devices

- **Open Payment Website Reporting Instructions Issued**

On Feb. 7, 2014, the Centers for Medicare & Medicaid Services (CMS) published updated instructions on the CMS Open Payments website, announcing a delayed start of registration and explaining that registration and reporting will take place in two phases for the first Sunshine Act reporting period. First, starting on Feb. 18, 2014, manufacturers and applicable group purchasing organizations (GPOs) may begin to register for "Phase 1" of reporting. Phase 1 will run until March 31, 2014 (the date by which all reports were required under the Sunshine Act Final Rule). In Phase 1, applicable manufacturers will submit corporate profile information to CMS's Enterprise Portal and will submit "aggregate 2013 payment data." Second, beginning in May 2014 and running for at least 30 days, manufacturers will enter "Phase 2" of the registration and reporting cycle. During this period, they will register for the Open Payments system, submit "detailed 2013 payment data," and attest to the accuracy of the data. Finally, after both phases are complete (noted by CMS to occur by Aug. 1, 2014), manufacturers, physicians, and teaching hospitals will be able to review the reported data and correct any inaccuracies. Click here for more information.

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Academic Medical Issues

- **Letter Sent to OMB in Support of Pediatric Subspecialty Loan Repayment Program**

On Jan. 31, 2014, the AANS and CNS, along with 33 other aligned national organizations, sent a letter to the Director of the Office of Management and Budget (OMB), Sylvia Mathews Burwell, to ask that $5 million in funding for the Pediatric Subspecialty Loan Repayment Program be included in President Obama's fiscal year 2015 budget. Passed as a part of the Affordable Care Act (ACA), the law authorizes $30 million annually to provide financial incentives for medical students to choose careers in a pediatric medical subspecialty that is in short supply. If funded, eligible individuals would receive $35,000 in school loan repayments for each year of service in a health professional shortage area. Unfortunately, no funding has yet been appropriated for this program.

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Of Note

- **Neurosurgeon Resident Elected Secretary of ACS Resident Society**

Congratulations to Maya Babu, MD, a neurosurgical resident from the Mayo Clinic, who has been elected as the secretary of the Resident and Associate Society (RAS) of the American College of Surgeons (ACS). This is an important position, which provides neurosurgery with an additional voice at the ACS.

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- **2014 Edition of "Medical Liability Reform – Now!" Released**

Recently, the American Medical Association (AMA) released the 2014 edition of "Medical Liability Reform – Now!" which provides medical liability reform advocates with the information to advocate for and defend medical liability legislation. It includes background on the problems with the current system, proven solutions to improve the liability climate and a discussion of innovative reforms that could complement traditional medical liability provisions. This is a crucial period for medical liability reform as federal policymakers and their state colleagues implement health system reform.

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Communications

- **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 SGR, workforce shortage issues and healthcare reform in general.

- How Should Congress Pay for Repealing the Sustainable Growth Rate?
- Cross Post: The Future of Medical Specialists under the Affordable Care Act
- Congress Makes Significant Progress on Physician Payment Reform

- Neurosurgeons Making Headlines on Spine Care
- CNS Spotlight: 2014 Winter Congress Quarterly Released
- Death and the Doctor: Under-valued Skills

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.