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

- **House Votes to Repeal Medical Device Excise Tax**

On Sept. 18, 2014, as part of the bipartisan "Jobs for America Act" (H.R. 4), the House of Representatives repealed the 2.3 percent medical device excise tax. Efforts to repeal this tax enjoy wide bipartisan support. Lawmakers voted 253-163 to forward the measure to the Senate. The bill is not anticipated to move in the Senate. Repealing this tax is a top legislative priority for organized neurosurgery, as we believe it will adversely affect medical innovation.

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- **House Members Send Letter to CMS Regarding Global Surgery Policy**

Included in the recently released proposed 2015 Medicare Physician Fee Schedule rule, is a recommendation to eliminate the global surgery policy for both 10- and 90-day global fees. The AANS and CNS, along with our colleagues in the surgical community, strongly object to changing the global surgical policy. In our comment letter to CMS, we noted that this "subject deserves far more review and discussion before implementation is contemplated" and the unintended consequences are far-reaching and could "lead to disaggregation and fragmentation of patient care and is completely contrary to current trends toward bundling."

In an effort to boost our arguments, on Sept. 18, 2014, a bipartisan group of 27 members of the U.S. House of Representatives sent a letter to CMS administrator, Marilyn Tavenner, expressing concerns about the recommendation contained in the proposed rule. Spearheaded by Reps. Larry

Bucshon, MD (R-Ind.) and Ami Bera, MD (D-Calif.), the lawmakers stated, "We believe that disrupting global surgical payments will be detrimental to beneficiary care, increase administrative burdens, and hinder the ongoing, systematic efforts to improve and coordinate the delivery of quality health care."

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- **House and Senate Pass Traumatic Brain Injury Bills**

On Sept. 16, 2014, the Senate passed S. 2539, the "Traumatic Brain Injury (TBI) Reauthorization Bill." Introduced by Sen. Orrin Hatch (R-Utah), this legislation would authorize appropriations through FY 2019 at $6.5 million a year for TBI prevention and surveillance or registry programs. In related news, the House passed H.R. 4276, the "Veterans TBI Care Improvement Act." Introduced by Rep. Bill Cassidy (R-La.), this legislation would extend and modify the veterans TBI pilot program to assess the effectiveness of providing assistance to eligible veterans with traumatic brain injury to enhance their rehabilitation, quality of life and community integration.

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- **President Signs EMSC Program Reauthorization Bill**

In September, President Obama signed into law, the "Emergency Medical Services for Children Reauthorization Act of 2014." This legislation reauthorizes grant programs that support the expansion, improvement and evaluation of emergency medical services for children. The program supports the training and education of EMS providers and identifies innovative models that can increase pediatric care in rural and tribal communities.

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- **Roundtable on Critical Care Policy Discusses Critical Care Legislation**

On July 23, 2014, the Roundtable for Critical Care Policy held its sixth annual summit meeting in Washington, D.C. This organization provides a forum for leaders in critical care and public health to advance a common federal policy agenda designed to improve the quality, delivery and efficiency of critical care in the United States. Among other things, the Roundtable is seeking passage of H.R. 2651, the "Critical Care Assessment and Improvement Act," which was introduced by Reps. Erik Paulsen (R-Minn.) and Jim Matheson (D-Utah). This legislation would:

- Authorize an Institute of Medicine (IOM) study to assess the state of the critical care delivery system, including its current capacity, capabilities and economic impact;
- Require the Health Resources and Services Administration to update a 2006 study on the critical care workforce;
- Establish a Critical Care Coordinating Council within the National Institutes of Health (NIH) to coordinate the collection and analysis of information on critical care research; and
- Authorize a demonstration program within Centers for Medicare & Medicaid Services (CMS) to improve the quality and efficiency of care provided to critically ill patients.

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 Continues Election-Year Fundraising Drive**

As of Sept.12, 2014, NeurosurgeryPAC has raised a total of $156,575 from 202 neurosurgeons. This amount is still a long way from the annual fundraising goal of $250,000. To this end, NeurosurgeryPAC recently launched its Election-Year Fundraising Drive to raise money to support pro-neurosurgery candidates running for the U.S. House and Senate. With the mid-term elections less than two months away, it's critical that we have the necessary funds to make a difference in November. NeurosurgeryPAC is in a unique position to play a significant role, but we still need your help!

To help us meet our fundraising goal, please make your online contribution today by logging onto MyAANS.

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. To see how the candidates stand on the issues, go to the AANS/CNS Legislative Action Center.

If you have questions about NeurosurgeryPAC, please contact Adrienne Roberts, senior manager for legislative affairs in the AANS/CNS 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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Academic Medical Issues

- **IOM Study on Governance and Financing of Graduate Medical Education**

Pursuant to a Congressional request in December 2011, the Institute of Medicine (IOM) has embarked on a review of the GME system. On July 29, 2014, IOM released a report, "Graduate Medical Education That Meets the Nation's Health Needs," which recommends a sweeping overhaul of the current graduate medical education (GME) system.

The report:

- Recommends maintaining Medicare support for GME;
- Rejects calls from physicians and hospitals to increase GME funding to address current and future projected workforce shortages;
- Calls for a complete overhaul of the current GME financing system, which will result in GME cuts and a shift of GME funds away from academic medical centers to community hospitals, clinics and other ambulatory care settings; and
- Significantly increases Centers for Medicare & Medicaid Services' (CMS)

authority over workforce and GME.

Overall, organized neurosurgery was disappointed by the report and issued a response to that effect. The AANS and CNS commended the IOM for its two-year effort to develop the report and noted that we are pleased that the committee supported continued Medicare funding of GME. We nevertheless expressed our disappointment that the IOM failed to address the looming shortage of neurosurgeons adequately. Furthermore, we noted that we are very concerned that the recommendations calling for cuts to GME financing and other changes may jeopardize neurosurgical residency training programs. The AANS and CNS also organized a Surgical Coalition press release, which pointed out data on the surgical workforce shortage and called for increased Medicare spending to fund additional residency training slots.

In the coming months, organized neurosurgery will continue to advocate that having an appropriate supply of well-educated and trained physicians is essential to ensure access to quality healthcare services for all Americans.

If you have questions about this report, please contact Katie Orrico, director of the AANS/CNS Washington Office at korrico@neurosurgery.org.

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Coding and Reimbursement

AANS and CNS Comment on 2015 Proposed Medicare Physician Fee Schedule

On July 3, 2014, the Centers for Medicare & Medicaid Services (CMS) released the 2015 proposed Medicare Physician Fee Schedule rule. Overall, the changes result in a net one- percent increase in payments to neurosurgeons, not including looming reductions attributed to the sustainable growth rate (SGR) formula. On Sept. 1, 2014, the AANS and CNS submitted comments on the proposed rule which:

- Opposes the proposal to eliminate the 10- and 90-day surgical global periods.
- Backs the ability of physicians to opt-out of Medicare and privately contract without filing an affidavit every two years to remain in an opt-out status.
- Supports the implementation of an improved schedule for adopting new relative values and urges CMS to institute a meaningful appeal and review process of CMS proposed MPFS RVUs.

In addition, the AANS and CNS joined 74 specialty societies in an AMA-coordinated letter to CMS asking the agency to work with specialty societies and the Relative Value Scale Update Committee (RUC) to develop a schedule that will allow the agency to begin including their recommended values for misvalued and new or revised CPT codes in the annual Medicare Fee Schedule proposed rule. Currently the new values for the coming year are not published until the November final rule, giving physicians little time to prepare for changes.

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AANS and CNS Send Letter to CMS on OPPS/ASC Proposed Rule

On July 14, 2014, the Centers for Medicare & Medicaid Services (CMS) published the 2015 Hospital Outpatient Prospective Payment (HOPPS) and Ambulatory Surgical Center (ASC) proposed rule. On Sept. 2, 2014, the AANS and CNS sent a letter to CMS expressing cautious optimism that the agency has reasonably captured facility costs associated with stereotactic radiosurgery. We opposed the proposed comprehensive facility payment for deep brain stimulation because CMS did not adequately capture costs.

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- **Neurosurgery Opposes Denials of Transpsoas Procedures**

On Aug. 7, 2014, the Council of Surgical Spine Societies (COSSS) sent a letter to Blue Cross Blue Shield of Michigan (BCBS MI) objecting to payment denials for transpsoas approaches to the lumbar spine. BCBS MI considers this procedure experimental, investigational and not medically necessary. The non-coverage policy includes laparoscopic ALIF (LALIF), axial anterior lumbar interbody fusion (AxiaLIF) and lateral interbody fusion (e.g., XLIF, DLIF). The COSSS letter urged BCBS MI to consider recent literature that supports a reversal of the non-coverage policy. In addition, the letter highlighted the correct CPT coding for the procedures and disagreed with the BCBS MI assertion that the procedures should be coded as "unlisted."

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- **CMS Finalizes ICD-10 Implementation Date**

On Aug.4, 2014, the Centers for Medicare & Medicaid Services (CMS) released a notice formalizing a one-year delay in the implementation date of ICD-10 from Oct. 1, 2014, to Oct. 1, 2015. The Protecting Access to Medicare Act, enacted on April 1, 2014, mandated the delay. When implemented, ICD-10 will utilize roughly 68,000 codes as compared to ICD-9, which has 13,000 codes. The AANS and CNS continue to support efforts to bypass ICD-10 in favor of ICD-11. Click here for more information on ICD-10.

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

- **Neurosurgery Comments on 2015 Proposed Medicare Physician Fee Schedule**

On July 3, 2014, the Centers for Medicare & Medicaid Services (CMS) released the 2015 proposed Medicare Physician Fee Schedule rule. On Aug. 26, 2014, the AANS and CNS submitted comments on the quality-related provisions contained in the proposed rule. In our comments we:

- Opposed the proposal to increase Physician Quality Reporting System (PQRS) reporting requirements and eliminate several surgery quality measures, as this will leave neurosurgeons with few, if any, relevant and meaningful mechanisms by which to participate.
- Opposed the proposed timeline for tying Medicare payments to physician performance via the Value-Based Payment Modifier and for public reporting physician performance data.
- Don't routinely obtain CT scanning of children with mild head injuries.
- Supported the PQRS Qualified Clinical Data Registry (QCDR) reporting option.

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- **AANS and CNS Send Letter to Senate Finance Committee on Data Transparency**

Per the request of the Senate Finance Committee, on Aug. 8, 2014, the AANS

and CNS submitted a comment letter on ways to improve transparency of healthcare data. Our letter stressed that while increased data transparency has the potential to help providers better understand and improve the care they are delivering, the unfettered release of such data carries many significant risks and could result in inaccurate and misleading information that could impede the goal of higher quality and more efficient care.

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- **CMS Allows Flexibility in EHR Program and Extends Stage 2 Timeline for Meaningful Use**

On Aug. 29, 2014, the Centers for Medicare & Medicaid Services (CMS) published a final rule giving physicians an additional year to use 2011 Edition certified electronic health record technology (CEHRT) software and meet Stage 1 meaningful use criteria. The agency made this decision based on feedback from multiple stakeholders, including the AANS and CNS.

The rule grants flexibility to providers who are unable to implement the 2014 Edition due to delays in 2014 CEHRT availability. Providers may now use electronic health records (EHRs) that are certified under the 2011 Edition, a combination of the 2011 and 2014 Editions, or the 2014 Edition. All eligible professionals will be required to use the 2014 Edition CEHRT in 2015. Click here for a CMS fact sheet on the 2014 CEHRT rule.

The rule also extends Stage 2 through 2016 for certain providers. Physicians who are unable to meet the more stringent Stage 2 requirements will have the opportunity to seek a waiver and continue complying with Stage 1 requirements. This will enable them to receive an EHR incentive payment and avoid payment penalties for non-compliance. Furthermore, the rule delays the start date for Stage 3 meaningful use requirements until 2017 for providers who first became meaningful users in 2011 or 2012. Stage 3 criteria are currently under development, with an anticipated draft release expected later this year.

Finally, CMS clarified that physicians who are new to meaningful use this year, and who are unable to meet the Oct. 1, 2014 deadline, can still attest for the last 90 days of the year and qualify for an incentive based on 2014 data. The new attestation deadline is Feb. 28, 2015.

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- **PQRS and eRx Incentive Program Feedback Reports Now Available**

2013 Physician Quality Reporting System (PQRS) and 2013 Electronic Prescribing (eRx) Incentive Program feedback reports are now available for eligible professionals who submitted quality data between Jan. 1, 2013 and Dec. 31, 2013. It is important that neurosurgeons who participated in these programs review these data to understand better what they need to do to improve their scores in 2014. These data also will serve as the foundation for performance benchmarks that will be publicly reported and used for physician payment adjustments in future years.

2013 Feedback Reports are available through two methods:

- National Provider Identifier (NPI)-level reports can be requested through CMS' Communication Support Page.
- Taxpayer Identification Number (TIN)-level reports, which contain NPI level detail, are available for download on the Physician and Other Health Care Professionals Quality Reporting Portal. Use of the Portal requires an Individuals Authorized to Access CMS Computer Services (IACS) account. For more information visit the IACS Quick References Guides.

Group practices who participated in the 2013 PQRS Group Practice Reporting

Option (GPRO) can access PQRS feedback through the 2013 Quality and Resource Use Reports (QRURs) using a valid IACS account at https://portal.cms.gov.

For more information on accessing and interpreting the data in the report, download the 2013 PQRS Feedback Report User Guide and the 2013 eRx Incentive Program Feedback Report User Guide.

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 rgroman@hhs.com.

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Drugs and Devices

- **DEA Releases Final Rule on Hydrocodone Combination Products**

On Aug. 22, 2014, the Drug Enforcement Administration (DEA) issued a final rule reclassifying combination hydrocodone painkillers, such as Vicodin®, from Schedule III to the more restrictive Schedule II category. Earlier this year, the AANS, CNS and AANS/CNS Joint Section on Pain submitted a letter to the DEC opposing the reclassification. This rule takes effect on Oct. 6, 2014, and prescriptions for combination hydrocodone products issued after this date must comply with requirements for Schedule II prescriptions; refills will be prohibited.

More details are available from a fact sheet developed by the American Medical Association.

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- **Open Payments Data Released on September 30**

Despite the problems associated with the Physician Sunshine Open Payments system, including inaccurate data and computer system problems, on Sept. 30, 2014, the Centers for Medicare & Medicaid Services (CMS) released physician-industry data on the Open Payments public website. Congress passed the Sunshine Act as part of the Patient Protection and Affordable Care Act (ACA). The goal of Open Payments is to create "greater transparency around the financial relationships of manufacturers, physicians and teaching hospitals." Each year, manufacturers of drugs, devices, biologicals, and medical supplies must report payments or others transfers of value they make to physicians and teaching hospitals. Physicians may continue to register and review their data, but corrections will not occur until sometime next year when CMS “refreshes” the data.

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- **CMS Proposes to Eliminate Open Payments CME Exemption**

Included in the 2015 proposed Medicare Physician Fee Schedule rule is a provision eliminating the exemption under the Open Payments program for reporting payments for accredited continuing medical education (CME). On Sept. 2, 2014, the AANS and CNS sent a letter to CMS objecting to this change since the current exemption requires compliance with the rigorous Accreditation Council for Continuing Medical Education’s (ACCME) standards for commercial support. At a minimum, we argued that a change in the CME policy should be delayed until organizations and CMS can fully analyze the impact of the proposal to eliminate the current exemption.

In addition to neurosurgery’s letter, we also supported similar comments made by the Council of Medical Specialty Societies (CMSS). The AANS and CNS

recently became members of the CMSS, which includes 41 member societies, representing 750,000 physicians.

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- **AANS President Addresses Open Payment Issues**

Over the past several years, AANS president, Robert E. Harbaugh, MD, FAANS, has written and spoken tirelessly about the benefits of physician/industry relationships. On Aug. 19, 2014, he provided the physician perspective about the Open Payments program to an audience of industry representatives. Sponsored by CBI, the 8th Annual Forum on Transparency & Aggregate Spend focused on transparency reporting for medical device and pharmaceutical manufacturers. In his remarks, Dr. Harbaugh highlighted the important patient benefits of innovation, which is enhanced by physician and industry cooperation. He expressed concern that the Open Payments system was burdensome on physicians and could have a potentially chilling effect on innovation.

If you have any questions regarding this or other drug and device issues, please contact Cathy Hill, AANS/CNS senior manager for regulatory affairs, at chill@neurosurgery.org.

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Of Note

- **Physician Foundation Unveils Survey Demonstrating Low Morale Among Doctors**

In September 2014, The Physicians Foundation released its "2014 Survey of America's Physicians: Practice Patterns & Perspectives." One of the largest and most comprehensive physician surveys in the U.S, this year's report addressed a range of issues, including professional morale, physician shortages, Medicare and Medicaid participation rates, electronic health records and more. According to the research, 81 percent of physicians described themselves as either over-extended or at full capacity, less than one-half of physicians described their morale and their feelings about the current state of the medical profession as positive, and 39 percent of physicians indicated they will accelerate their retirement plans due to changes in the healthcare system.

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Communications

- **AANS and CNS Register Outrage Over "Surprise Billing" Practices**

On Sept. 21, 2014 The New York Times published an article, "After Surgery, Surprise $117,000 Medical Bill From Doctor He Didn't Know," highlighting a problem known as "surprise billing." The story detailed an example of this practice, which involved a neurosurgeon who served as an assistant on a spine procedure, and who billed the patient $117,000 for his out-of-network fee. In a letter to the editor, the AANS and CNS expressed outrage for this billing practice, noting that it is indefensible and cannot be condoned by any neurosurgical organization. Our letter went on to acknowledge that physicians "can, and must, do better" and that we "owe it to our patients to observe the highest standards for ethics and professionalism."

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Neurosurgery Advocates in the News

Organized neurosurgery continues to work closely with several healthcare coalitions — including the Partners for Healthy Dialogues initiative — to bring attention to the many benefits of physician-industry collaboration. As part of our ongoing efforts, Robert E. Harbaugh, MD, FAANS; John K. Ratliff, MD, FAANS; and Nathan R. Selden, MD, FAANS, worked with the media to generate the following media hits:

- Is the Sunshine Act website repeating HealthCare.gov's mistakes?
- Ain't No Sunshine in This Act
- Physician Payments Sunshine Act: Medical Groups Petition CMS to Add Proper Context to Payments, Increase Physician Outreach, Simplify Open Payments Registration
- Doctors want to know how CMS plans to display Sunshine payment data
- Medical, Pharma Groups Ask CMS for Details on Payment Database
- Docs Complain to CMS About "Sunshine" Data Disclosures
- Docs' Groups Ask CMS For Preview Of Sunshine Data Context

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Subscribe to Neurosurgery Blog Today!

The mission of Neurosurgery Blog is to investigate and report on how healthcare policy affects patients, physicians and medical practice, and to illustrate how the art and science of neurosurgery encompass much more than brain surgery. Over the past few months, Neurosurgery Blog has ramped up its reporting efforts to include multiple guest blog posts from key thought leaders and members of the neurosurgical community. Listed below are some recent blog posts on topics including healthcare costs, GME, medical liability and health reform in general.

- The Importance of Quality Neurosurgery Data
- AANS Spotlight: Neurosurgery Around the World
- CNS Spotlight: 2014 Fall Congress Quarterly Released
- Closed Intensive Care Units: Are Neurosurgical Patients Better Off?
- My Dog Park Encounter
- Make September National Brain Aneurysm Month
- California's MICRA is Under Attack
- GME Changes: Are we in danger of throwing the baby out with the bathwater?
- IOM Report Calls for Sweeping Overhaul of Medical Education Funding

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

- 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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