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AAOS in the States

AUGUST 2009

Health Care Reform Update from President Zuckerman

In the rapidly changing environment of health care reform, we know it is important to keep our membership informed about ongoing developments and to provide frequent updates about AAOS advocacy efforts to ensure that our Fellows can deliver excellent musculoskeletal care to all Americans. We all know how critically important these efforts are as Congress crafts a package that has the potential to fundamentally change the way health care is delivered in the United States.

The AAOS cannot fully support H.R. 3200 because there are major components that are contrary to our clearly stated positions on health care reform. However, there are some components that are consistent with our positions. We will be submitting our comments on H.R. 3200 and clearly indicate those components we can support and those which we strongly oppose. We feel this is a more strategic approach than a blanket decision of "support" or "no support."

Recent House Committee Action. On Tuesday, July 14, in the House of Representatives, Speaker Nancy Pelosi and the Democratic leadership unveiled H.R. 3200, the "America's Affordable Health Choices Act of 2009." H.R. 3200 is the product of a three-committee effort, known as the Tri-Committees, which is comprised of the Education and Labor Committee, the Ways and Means Committee, and the Energy and Commerce Committee.

On Thursday, July 16, the House Ways and Means Committee approved H.R. 3200 by a vote of 23-18 with three Democrats, Representatives Ron Kind (D-WI), Earl Pomeroy (D-ND) and John Tanner (D-TN), joining all Republicans in opposition to its passing. The vote was held shortly after Congressional Budget Office Director Doug Elmendorf testified to the committee that none of the major health care bills would significantly slow the growth of health spending.

The House Education and Labor Committee passed H.R. 3200 out of committee on

Friday, July 17, by a vote of 26-22 with three Democrats, Jason Altmire (D-PA), Jared Polis (D-CO) and Dina Titus (D-NV), joining all Republicans in opposition.

The Energy and Commerce Committee, after debating and marking up H.R. 3200 Thursday and Friday, resumed their markup on Monday, July 20, for further consideration of the bill. Representative Mike Ross (D-AR), the leader of the Blue Dog Coalition (Democratic fiscal conservatives) who serves on the House Energy and Commerce Committee, said the House plan is losing support and could be stuck in committee if it remains unchanged.

Prior to the unveiling of the House Democrats' bill, both the Blue Dog Coalition (Democratic fiscal conservatives) and the New Democrats (moderate Democrats) issued letters to Speaker Pelosi and Majority Leader Steny Hoyer (D-MD) expressing concerns over the House bill. New Democrats expressed concerns over the bill's public option.

(Cont on Page 2)

How E-Prescribing fits into your practice and how the AAOS can help

By Toya M. Sledd, MPH, MBA

Since its implementation on January 1, 2009, orthopaedic surgeons and executives have shown interest in the Electronic Prescribing (E-Prescribing) Incentive Program. The program is a voluntary claims-based reporting program that allows individual eligible professionals to qualify to earn an incentive of 2 percent of the total Medicare Part B payments in 2009 and 2010, 1 percent in 2011 and 2012, and 0.5 percent in 2013.

To be considered a successful e-prescriber for 2009, eligible professionals must have a qualified stand-alone e-prescribing system or a full electronic medical record (EMR) system with e-prescribing functionality; at least 10 percent of his or her Medicare Part B covered services must be made up of codes that appear in the denominator of the e-prescribing measure; and eligible professionals must report on at least 50 percent of Medicare Part B claims for services furnished during the 2009 reporting period. If a eligible professional starts reporting July 1, 2009, he or she would

need to report on 100 percent of the patient encounters to "catch up" for missing the earlier reporting and achieve the 50 percent overall for the year and receive the 2 percent incentive payment. A list of these codes, as well as the e-prescribing G-codes, can be found on the Centers for Medicare & Medicaid Services (CMS) Web site (<http://www.cms.hhs.gov/ERxIncentive/>).

In a recent survey by the American Academy of Orthopaedic Surgeons (AAOS), 34 percent of the respondents planned to participate in the program for 2009. Forty-three percent of the respondents were not sure if they would participate. This number is not surprising as many were unsure how to participate, required additional time to investigate the program and how it would affect their practice, and finally the inability to e-prescribe a controlled substance for their patient was a major concern.

To address these concerns, the AAOS has developed resources to help members understand the process and decide whether it is feasible for their practice to participate. Just recently, the AAOS and

the American Association of Orthopaedic Executives co-hosted a Special Open Door Forum on the 2009 PQRI and E-Prescribing Incentive Programs with the CMS. The forum focused on orthopaedic-specific topics related to participation in the incentive programs.

There are other resources available designed to help physicians and their team transition from paper-based prescribing to e-prescribing. Such resources include the GetRxConnected Program (www.getrxconnected.org). Created under the auspices of the Center for Improving Medication Management, GetRxConnected contains useful information and guidance for an estimated 150,000 prescribers located throughout the United States. This program aims to assess a medical practice's readiness for e-prescribing and support them as they acquire, implement, and use technologies that will allow them to establish a direct electronic connection with pharmacies and payers.

(Cont on page 2)

E-Prescribing (cont...)

It allows practices to determine if their existing technologies can be enabled for E-Prescribing services including electronic transmission of prescription information to pharmacies, and the ability to receive patient formulary, eligibility and medication history information. Practices can also take advantage of resources that will help them acquire new electronic prescribing technology. By visiting the GetRxConnected Web site, individuals will find:

- Tools to help select a prescribing system, including details on programs that can help them acquire this technology at a reduced rate or for free.
- A free personalized report that shows the e-prescribing services their existing practice software may be certified for, plus a tool they can use to request connectivity for these services by their technology vendor. This is especially important for practices that use EMR systems that may not yet provide all of their customers with access to the e-prescribing functionality required to be eligible for the Medicare Improvements for Patients and Providers Act of 2008 (MIPAA) incentive payment.
- An estimate of the value of the time their practice spends annually managing prescription renewal requests by phone/fax – time better spent on patient care, or other reimbursable activity.
- A listing of pharmacies in their area that can exchange prescription information with their practice electronically.

It is extremely important for members to understand the readiness of their practice to e-prescribe and steps needed to obtain access to full e-prescribing functionality in order to be eligible for the E-Prescribing incentive program as soon as possible to maximize incentive payments. Be aware that beginning in 2012, Medicare payments will be reduced by 1 percent to physicians who do not participate; by 2014, the penalty will be a 2 percent reduction in payments.

For more information on e-prescribing, visit the AAOS Web site <http://www.aaos.org/research/committee/evidence/qualityinitiatives.asp>. To view the Special Open Door Forum presentations and call transcript, visit http://www.aaos.org/research/committee/evidence/PQRI_opendoorforum.asp.

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Zuckerman (cont...)

Blue Dog Democrats expressed their opposition to a mandate in the draft that requires employers to pay a fee to the government if they fail to provide their employees with health care coverage.

As health care reform continues to progress through Congress, several physician groups have already come out in public support of H.R. 3200, the house legislation. On Thursday July 16, the American Medical Association and the American College of Surgeons supported H.R. 3200 in letters to the chairmen of the three committees. The neurosurgeons have sent a letter opposing the bill.

In a related item, on Monday, July 20, the AAOS sent out a letter to Representative Jackie Speier (D-CA) requesting she reconsider the legislation she introduced, H.R. 2962, "The Integrity in Medicare Advanced Diagnostic Imaging Act of 2009," which would remove advanced diagnostic imaging from the Stark in-office ancillary exception. We believe that this act would undermine the patient-physician relationship and diminish the ability of physicians to ensure that their patients have access to the right care at the right time in the right setting.

Representatives Anthony Weiner (D-NY) and Bruce Braley (D-IA) are likely to offer an amendment similar to the Speier bill during the Energy and Commerce Committee markup this week. The AAOS Office of Government Affairs has initiated a "Call to Action" urging AAOS members to contact their Representatives urging them oppose this provision which would significantly hinder patients' ability to access quality specialty care. We strongly encourage your participation in these calls to action and appreciate your support. In addition, we have sent out a [letter](#) in strong opposition to this amendment to all members of the Energy and Commerce Committee where it will be considered. After a series of delays, the Energy and Commerce Committee is expected to consider the amendment on Wednesday, July 22, and we encourage you to continue to contact your representatives on this issue.

Recent Senate Developments. In the Senate, the Health Education Labor and Pensions Committee (HELP), led by Acting Chairman Chris Dodd (D-CT) and Ranking Member Michael Enzi (R-WY), passed a bill out of committee on a party line vote of 13-10.

The Senate Finance Committee announced Monday that their plans to introduce their bill this week will yet again be postponed until the week of July 27, due to delays involving Congressional Budget Office scoring (cost) and Chairman Max Baucus's (D-MT) push for bipartisan support.

On Friday, July 17, a bipartisan group of senators, Ben Nelson (D-NE), Olympia Snowe (R-ME), Susan Collins (R-ME), Mary Landrieu (D-LA), Ron Wyden (D-OR) and Joseph Lieberman (I-CT), sent a letter to Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY) asking their leaders to "take additional time" to reach a bipartisan compromise on health care reform legislation. This comes on the heels of Director Elmendorf's Thursday comments in front of the Senate Budget Committee in which he said, "In the legislation that has been reported we do not see the sort of fundamental changes that would be necessary to reduce the trajectory of federal health spending by a significant amount. And on the contrary, the legislation significantly expands the federal responsibility for health care costs."

Outlook. As we look toward the next few weeks of activity, I remind you that in a debate this politically volatile, the timing and terrain change every minute. However, as we understand it, House Democrats are still planning to bring H.R. 3200 to the floor of the House for a vote by the end of July just before they leave for August recess. In the Senate, the leadership insists it will also bring a full bill to vote prior to the Senate recess at the end of the first week of August. However, the Senate Finance Committee has not yet introduced their bill or held a markup, so the likelihood of a full Senate vote in August is unlikely.

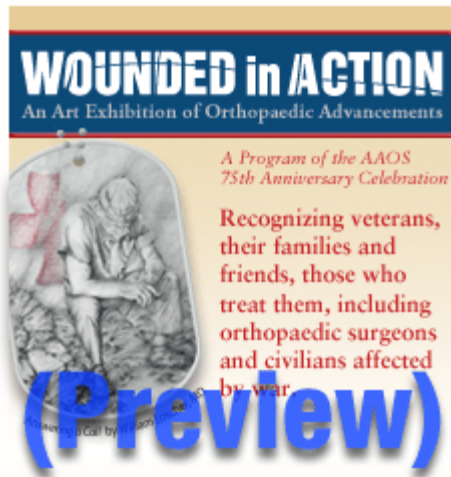
The AAOS is committed to ensuring that the final bill be as beneficial as possible to the Orthopaedic community, including our patients. We will not make any decisions in support or opposition until something closer to a final bill is available.

Our plan is to provide weekly updates on the progress of health care reform to the entire membership. These updates will be emailed at the start of each week with additional updates as needed based on any significant developments. The entire Presidential Line places the highest priority on the AAOS's continuing efforts to advocate for our patients and their orthopaedic surgeons as health reform continues to move through Congress.

* The original version of this was distributed to AAOS members on July 21, 2009 and is the first of a weekly letter to members on the status of federal health care reform efforts.

Join the AAOS in three new, exciting projects!

Include these graphics and descriptions in newsletters to your members or on your Web sites and Facebook pages!



Wounded in Action Web Site



Become a fan on Facebook!

Wartime experiences not only affect the military personnel and their loved ones, but the physicians and medical teams who treat them. As a tribute to injured troops and families, civilians and the orthopaedic surgeons who are caring and have cared for them, the AAOS is seeking entries to a unique juried art exhibition: *Wounded in Action: An Exhibition of Orthopaedic Advancements in Art*. The art exhibit will be unveiled during the AAOS 2010 Annual Meeting in New Orleans, La. A cash award will be given. For more information, visit www.woundedinactionart.org. Have your webmaster copy and paste the embed code below.

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<h3>Wounded in Action Web Site</h3><p align="center"></p><p>Visit the new Wounded in Action Web Site (<a href="http://www.woundedinactionart.org">www.woundedinactionart.org</a>)</p>
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Save Your Knees Web Site

The American Academy of Orthopaedic Surgeons has created a comprehensive, interactive site about KNEES! The new Save Your Knees Web Site (saveyourknees.org) is full of multimedia information focused on knees: keeping knees healthy, exercise, common knee problems, injury prevention, treatments, including non-surgical and surgical options and more.

Now you can send your patients to a trusted source. Save Your Knees provides patients and the public with the most up-to-date knee information. Have your webmaster copy and paste the embed code below.



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<h3>Save Your Knees Web Site</h3><p align="center"></p><p>The new Save Your Knees Web Site (<a href="http://www.saveyourknees.org">www.saveyourknees.org</a>) is full of multimedia information focused on knees: keeping knees healthy, exercise, common knee problems, injury prevention, treatments, including non-surgical and surgical options, and more.<br><a href="http://www.saveyourknees.org">Visit www.saveyourknees.org</a><br><a href="http://www6.aaos.org/news/Pemr/releases/release.cfm?releasenum=774" target="_blank">Read press release</a><br></p>
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Exercise on Facebook



Do you, or your patients, have a Facebook.com account? If so, get ready to get up, get out and get moving! A free AAOS application, available for download on Facebook, "Get Up! Get Out! Get Moving! Let's Exercise!" encourages users to enables users to get healthy, strengthen bones, encourage participation in the game of life, and help spread the message about exercise and strong bones around the world.

Have your webmaster copy and paste the embed code below.

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<div class="newsHeader">Get Up! Get Out! Get Moving! </div><div style="text-align:center;padding-top:3px;padding-bottom:3px;"></div><div class="newsText">The AAOS has developed a new way to exercise with friends on Facebook. This public service campaign helps you stick with your exercise program by making it more social.</div><div class="newsText"><br>Sign in on <a href="http://www.facebook.com/apps/application.php?id=17689008911" target="_blank">Facebook</a></div>
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Advocacy in the States

2009 State legislative Update By Winnie W. Strzelecki

Chiropractors

Michigan House Bill 5091, the Chiropractor Practice Act, introduced on June 16, 2009 substantially expanded the scope of practice for chiropractors. The legislation expanded the definition of "practice of chiropractic" to "a discipline within the healing arts that deals with the human nervous system and the musculoskeletal system and their interrelationship with other body systems the practice of chiropractic." The Michigan Orthopaedic Society (MOS) worked to educate lawmakers about the dangers to patients a substantial expansion, such as the one in HB 5091, would pose. The advocacy efforts of the MOS resulted in the sponsor withdrawal of the legislation.

Certificate of Public Need

On March 25, 2009 when Governor Tim Kaine signed into law HB 1598, which amends the Certificate of Public Need (COPN) law. The Virginia Orthopaedic Society (VOS) played a vital role in the effort to help draft and ultimately secure the passage of the legislation. The new measure makes the most significant changes to the Certificate of Public Need law in decades, placing more emphasis on competition, patient access and quality. The COPN laws in Virginia have traditionally favored incumbent providers, usually hospitals, and have been virtually insurmountable obstacles to new physician-provided services and facilities.

Physical Therapy

The Florida Orthopaedic Society (FOS) successfully prevented the filing of legislation to grant physical therapists direct access to patients during the 2009 legislative session. Advocacy efforts conducted by the FOS to educate lawmakers on the dangers to patients direct access poses were successfully received by legislative leadership. The FOS expects an attempt to reintroduce during the 2010 legislative session and plans to remain vigilant in their effort to protect patients.

Tort Reform

The Oklahoma State Orthopaedic Society (OSOS) scored a major victory on May 21, 2009 when Governor Brad Henry signed HB 1603, the Comprehensive Lawsuit Reform Act of 2009 into law. The OSOS' grassroots efforts play a pivotal role in the passage of this landmark legislation through a call to action to that prompted orthopaedic surgeons to call their legislators and Governor. The efforts of OSOS helped secure the support of the Governor, a trial lawyer who had previously stated his opposition to the legislation. The new law, widely praised by House and Senate leadership as the most important tort reform measure in state history, makes several changes to how class-action lawsuits are handled including a \$400,000 cap on non-economic damages for all negligence cases.

The Nevada Orthopaedic Society (NVOS) successfully defeated a legislative repeal of the liability reforms, including a \$350,000 cap on non-economic damages, passed by the legislature in 2002 and then expanded upon by initiative in 2004. Repeal of these reforms would have significantly penalized surgeons in the state of Nevada driving up the cost of liability coverage. The NVOS developed and implemented a successful campaign to educate and engage physicians and their patients in order to raise awareness and opposition to the proposed legislation. The grassroots and direct advocacy efforts of the NVOS generated enough opposition to kill the legislation.

The push for tort reform in Hawaii made great advances during the 2009 legislative session. For the first time in Hawaii's history, the Hawaii House of Representatives voted in favor of establishing effective disincentives for abuse of the medical tort system. By preventing non-meritorious lawsuits, the legislation would significantly decrease physician fear of being sued thereby improving patient care. The Hawaii Orthopaedic Association's (HOA) advocacy efforts helped to bring about this success with two public events to deliver a public message to legislators and the media about how medical liability reform can help solve Hawaii's access to care crisis. The legislation died in the Senate.

Volunteer Immunity

As the country's need for volunteer physicians grows, medical liability exposure as well as the cost of medical liability insurance is discouraging some physicians from volunteering medical services to the indigent and uninsured and in declared emergencies. In response to the need for physician volunteers to provide care, four states (AL, GA, KY, and MT) passed charitable immunity laws that protect physicians when providing medical care without remuneration from legal liability due to negligence. While the need for care during a crisis disaster such as Hurricane Katrina has led six states (AZ, LA, MN, MT, ND, and OK) to pass laws to limit liability for volunteering physicians when responding to a crisis disaster or declared emergencies. The AAOS is following this trend closely and works to continue to support the expansion of charitable immunity laws.

Keeping our fellow state orthopaedic society members abreast of your legislative activities is key to advancing the issues of importance to the orthopaedic community in state legislatures nationwide. Please continue to email your state legislative updates to Winnie W. Strzelecki in the AAOS Office of Government Relations at strzelecki@aaos.org



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MARK YOUR CALENDARS: Executive Directors' Institute

The AAOS 2009 Executive Directors' Institute will be held Thursday, November 12 and Friday, November 13. This one and half day meeting will be held at the Hyatt Rosemont in Rosemont, IL.

The Executive Directors' Institute will cover a wide range of topics. Participants, among other things, will hear how to increase membership and engage in discussions on how societies can continue at a high rate of activity in the midst of a slumping economy.

This year's Executive Directors' Institute will be expanded to also include the executive directors of the orthopaedic specialty societies. The addition of these executive directors will add new perspectives and experiences that will enhance quality and utility of the meeting.

Please mark your calendars and look for more information about the Executive Directors' Institute to be sent out in the near future. For any questions regarding the meeting, please contact Susan Koshy at Koshy@aaos.org or Jennifer Jones at Jones@aaos.org.

Advocacy Resources for State Societies

Legislative Strategy Development: State legislative strategy development based on best practices, opposition tactics and the state society's unique strengths is provided to state orthopaedic societies confronting legislative issues.

State Legislative Tracking: State legislative and regulatory tracking is conducted at the national level to monitor trends and identify bills and proposed regulations of interest to individual states.

Legislative Alerts: Periodic alerts concerning bills and regulations requiring a response from the orthopaedic community are sent to state societies as necessary.

Weekly Bill Status Reports: Customized weekly bill status reports are available to each state orthopaedic society informing state society leaders of legislative action in their state.

State Legislative Updates: A summary of action on state legislation affect-

ing orthopaedic surgeons across the country is sent to state orthopaedic societies and published in AAOS Now on a quarterly basis.

Advocacy Resource Development: Legislative materials including fact sheets, position statements, talking points, visual aides and other useful information are developed on an ongoing basis and made available through the AAOS Web site. Upon request, materials may be produced and tailored to meet the specific needs of individual states.

Legislative and Regulatory Research: Research assistance such as data collection and case study development on legislative and regulatory issues is available to state orthopaedic societies.

Lobbying Assistance: The AAOS is available to advise states on the hiring, management and evaluation of state society lobbyists.

Grassroots Development: Assistance in developing strategies to mobilize state society members for advocacy efforts is offered to state society leaders.

Model Legislation: Model legislation is sent to state orthopaedic societies prior to the start of each legislative session to facilitate proactive advocacy efforts.

Coalition Building: Assistance in developing contacts and forging legislative coalitions with other state health care groups is provided to state societies seeking to broaden their government relations programs.

Financial Assistance: Financial assistance to state societies engaged in advocacy efforts is available through the State Society Health Policy Action Fund. The AAOS also assists state societies in identifying external sources of financial support.

For more information please contact Winnie at strzelecki@aaos.org.