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## AMA holds 159th Annual Meeting

In his inaugural address, President Cecil B. Wilson, MD, promised to help mend divisions among physicians. Coverage of the House of Delegates starts on page 21.

## Physicians feel Medicare pay pinch after 6-month fix stalls in Congress

**Frustrated with this year's bruising Medicare pay fight, delegates at the AMA Annual Meeting ordered legislation drafted to expand private contracting options.**

DAVID GLENDINNING & DOUG TRAPP  
AMNEWS STAFF

Lawmakers officially ran out of time to prevent physicians from feeling the effects of a 21% cut in Medicare payments. A last-minute attempt in the

Senate to reverse the reduction and raise pay by 2.2% through November ran into some initial trouble in the House.

After a jobs bill containing a 19-month pay patch passed in the House, but failed in the upper chamber, Senate Democratic leaders reduced the length of the physician piece to six months and stripped it out of the package, passing it separately by unanimous consent

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on June 18. But with the expiration the same day of a Medicare claims hold designed to give lawmakers more time to act, it already was too late to stop Medicare contractors from starting to process the first June claims with the 21% cut applied.

That meant the roughly 50 million claims backlogged since the beginning of the month would start being

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## FTC chair: Doctors shouldn't be under "red flags" rule

**Jon Leibowitz tells AMA delegates that although the agency is delaying enforcement of the security rule, it is Congress' responsibility to exempt physicians from it.**

VICTORIA STAGG ELLIOTT  
AMNEWS STAFF

**Chicago** Physicians should not be required to follow the so-called red flags rule that requires anyone offering credit to develop and implement written identity theft prevention and detection programs. That's the word from the head of the Federal Trade Commission — the organization that first declared physicians must submit to the rule.

"We feel your pain on red flags, and we want to fix it," Federal Trade Commission Chair Jon Leibowitz said at the American Medical Association Annual Meeting June 14. "We agree with you that the red flags rule reaches too far."

Leibowitz said the rule will not be enforced on members of the AMA, the American Osteopathic Assn., state medical societies and the Medical Society of the District of Columbia while one of at least two lawsuits on the red flags rule works its way through the court system.



PHOTO BY PETER WYNN THOMPSON

**The FTC agrees physicians should be exempt from red flag regulations on identity theft protections, says Chair Jon Leibowitz. The question is if FTC can change the rule without Congress first changing the legislation.**

The red flags rule is the result of the FTC's interpretation, issued Nov. 1, 2008, of the Fair and Accurate Credit Transactions Act of 2003. The legislation was intended to improve the security of financial data held by banks and credit card companies.

The agency interpreted the rule to include physicians and other service professionals who hold financial data on clients to bill for services after they are provided or to set up payment plans. Medical societies say complying is burdensome for many small practices that already are subject to regulations that ensure the safeguarding of patient information.

The AMA is opposed to the inclusion of physicians as "creditors" and

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## Physician-owned hospitals' future

A provision in the health reform law bans new facilities and places restrictions on expansions of existing ones.  
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## Managing office stress with humor

Knowing when to incorporate laughter into your practice can help put everyone at ease.  
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HHS-approved EMRs to be available this fall  
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# Physicians feel Medicare pay pinch after 6-month fix stalls in Congress

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paid at the reduced rates, on a first-in, first-out basis. The Centers for Medicare & Medicaid Services said it would automatically reprocess those claims as soon as a patch retroactive to June 1 was enacted, at an expected additional cost to the government of 30 cents per claim.

That enactment had not come by this article's deadline. House Speaker Nancy Pelosi (D, Calif.) criticized the Senate for passing a scaled-down physician payment bill separate from the rest of the jobs bill, which contains other provisions that are a high priority for Democrats. "I see no reason to pass this inadequate bill until we see jobs legislation coming out of the Senate," Pelosi said in a June 18 statement, though congressional aides expressed confidence that an agreement could be reached soon.

The American Medical Association slammed Congress for allowing such an unprecedented cut to take place, even temporarily.

"Congress is playing Russian roulette with seniors' health care," said AMA President Cecil B. Wilson, MD. "Congress has finally taken its game of brinkmanship too far, as the steep 21% cut is now in effect and physicians will be forced to make difficult practice changes to keep their practice doors open."

## Looking for another way

Frustrations over the near-constant threat of huge Medicare pay cuts helped motivate the AMA House of Delegates to adopt policies supporting more Medicare participation and payment flexibility during the Association's Annual Meeting in Chicago.

As the Senate was still attempting to move its physician pay bill, delegates on June 14 adopted a resolution calling on the AMA to write its own bill to allow additional Medicare fee-for-service payment options. The bill would permit patients and physicians to contract freely for payments that differ from the Medicare fee schedule, while still allowing patients to use Medicare benefits. About two-thirds of delegates supported the resolution.

Under current Medicare rules, physicians can contract privately with Medicare patients only if the doctors opt out of the program completely for two years, during which time neither they nor their patients can claim any money from Medicare for care those physicians provided. Balance-billing, asking a patient to pay the difference between Medicare fees and the cost of providing the care, is also strictly limited to doctors who don't accept Medicare assignment.

"A new patient-centered category of Medicare payment will allow seniors to use their Medicare benefit fully for the health care they need," said AMA Board of Trustees member David O. Barbe, MD, a family physician from Missouri. The policy set a Sept. 30 deadline to finish the bill.

The resolution was offered by



PHOTO BY PETER WYNN THOMPSON

**Delegates at the AMA Annual Meeting wrote messages on white coats, urging members of Congress to repeal the Medicare sustainable growth rate formula. Among participants were (from left) anesthesiologist John Abenstein, MD; geriatrician Peter Hollmann, MD; and family physician David T. Walsworth, MD.**

members of a coalition of 15 state medical societies and four specialty societies that formed last year during the national debate on health reform.

"We see this as a giant step in the right direction toward restoring patients' access to physicians by guaranteeing they can see the doctors they need to see," said M. Todd Williamson, MD, immediate past president of the Medical Assn. of Georgia and spokesman for the Coalition of State Medical and National Specialty Societies. The coalition felt that the AMA hadn't lobbied hard enough for Medicare private contracting and balance billing despite extensive AMA policy supporting it.

Most delegates speaking about the resolution supported it. But others raised concerns.

"There's language in here that I believe very strongly is unachievable and will get us laughed out of the room," said Richard F. Corlin, MD, a former AMA president. A day before the AMA house approved the resolution, outgoing President J. James Rohack, MD, also cautioned that Congress may not be receptive to such alternative Medicare pay options.

But Dr. Williamson said that until Congress is willing to pay the actual costs of treating patients, private contracting with fewer limits is the only way to ensure that physicians will be able to cover their costs and care for patients. "The fact that Congress isn't receptive to this doesn't mean much to my patients. The need is there."

Delegates also sought additional flexibility in Medicare participation. The house adopted policy calling for elimination of "any restrictions, including timing, on physicians' ability to determine their Medicare participation status." Currently, doctors choose whether to enroll on an annual basis, sometimes without knowing the new fee schedule.

"It's not good business practice to

sign a contract unless you know what's included," said Paul A. Wertsch, MD, a family physician from Madison, Wis., and a Wisconsin Medical Society delegate.

## Coated messages

Delegates urged lawmakers to prevent Medicare pay cuts and overhaul the sustainable growth rate formula by writing messages to lawmakers on white coats, an event the AMA dubbed the Write Coat Rally. The coats were delivered to congressional offices.

Some delegates said good working relationships with elected officials have not always translated into votes.

Stephen Tharp, MD, an internist from Frankfort, Ind., and delegate for the Indiana State Medical Assn., wrote "Retire the SGR or we retire" on three white coats headed for his congressional representative and senators. "I believe all three have not voted to repeal the SGR," Dr. Tharp said, adding that they've told him the cost of repeal is a barrier. Dr. Tharp interprets this as meaning there's not enough money to support government-driven health care.

"Please follow the advice of the president and kill the SGR," wrote Michael M. Miller, MD, a Wisconsin delegate and addiction medicine specialist from Madison. He said the U.S. House has adopted a permanent reform plan, but more pressure is needed in the Senate.

Tom Garcia, MD, a cardiologist from Houston and a delegate for the Texas Medical Assn., wrote "Please repeal the SGR" on his white coats.

Dr. Garcia said repeal is necessary because he is already seeing an influx of new patients from other physicians who have stopped taking Medicare. "It's about patients," he said. "It's always been about patients." ♦

—Kevin B. O'Reilly contributed to this article.

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## 19-month Medicare pay patch fails in Senate

Instead, the Senate passed a bill on June 18 that calls for giving physicians a 2.2% raise through November. Then cuts would return.

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## DSM-5 revised; doctors prepare to field-test

Thousands responded to the first-ever call for public input on the new version of the psychiatric manual, scheduled for publication in 2013.

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## FTC chair: Doctors shouldn't be under "red flags" rule

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praised the fact that the FTC now concurs. "We think that this was an incorrect interpretation. We appreciate the fact that the chairman [of the FTC] agrees with us, and that he is working to get this changed," said AMA President Cecil B. Wilson, MD.

A sticking point is whether the FTC can reinterpret the law and issue a new rule or if legislation is needed to prevent physicians from being affected. The FTC says it needs legislative action. The Senate's Committee on Banking, Housing, and Urban Affairs is considering a House-passed

bill that would exempt certain small businesses, including medical practices, with 20 or fewer employees.

"We do not have the authority to exempt any categories or professions of businesses from the rule," wrote Leibowitz in an e-mail to *American Medical News* a few days after his AMA speech. "As required by Congress, the rule applies to 'creditors,' as defined under the Equal Credit Opportunity Act. This definition has an unusually broad scope and includes entities that regularly permit deferred payments for goods or services. ... Congress has also acknowl-

edged that this is a problem that requires a legislative fix."

Medical society officials disagreed that legislation was necessary.

"Physicians were inappropriately included in that rule," Dr. Wilson said. "We believe that the FTC can change their rule."

### Enforcement may hinge on lawsuits

But whatever the mechanism, it's becoming less likely that many physicians will be affected by the rule. The FTC announced May 28 that, in response to requests from several members of Congress, enforcement of the

red flags rule would be delayed again until at least the end of the year.

If the issue isn't settled by Congress before Jan. 1, 2011, the FTC chair also said that the agency would not enforce the rule against members of several medical societies, including the AMA, until a case brought by the American Bar Assn. is resolved in the D.C. Circuit Court of Appeals. The ABA sued to prevent the rule from applying to attorneys. It won its case Dec. 1, 2009. The FTC is appealing.

A lawsuit was also filed in the U.S. District Court for the District of Columbia May 21 by the AMA through the Litigation Center of the American Medical Association and the State Medical Societies. The Association was joined by the American Osteopathic Assn. and the Medical Society of the District of Columbia. The suit seeks to prevent the red flags rule from applying to members of these groups.

Those who advise physicians on legal matters cautioned against assuming that exemption was a done deal.

"Until the law or the regulations are changed, you are stuck with what they are. ... We don't know if physicians will be fully exempt or partially exempt. It would be unwise to do nothing," said Peter McLaughlin, senior council with Foley & Lardner LLP in Boston. ♦

## FTC plans workshop on clinical integration

The Federal Trade Commission plans to host a workshop that would clarify how physicians and others in the health care system can form accountable care organizations or joint ventures, or otherwise collaborate without running afoul of antitrust laws.

FTC Chair Jon Leibowitz made the announcement June 14 at the AMA Annual Meeting in Chicago. The FTC said the workshop would happen this fall; the specific date has not been established and remote-access plans have not yet been announced.

Clinical integration is encouraged under the health system reform law. This includes pilot programs to test formation of care networks aimed at improving quality and saving money. The law also eases some regulatory burdens that otherwise would prevent such integration.

While speaking at the AMA meeting, Leibowitz said physicians who work together to lower health care costs and raise quality would be "applauded" by the agency. Clinical integration that fixes prices, interferes with competition, and raises expenses would initiate FTC action, he said.

He urged physicians to ask the agency for guidance on the types of arrangements that would be considered unlikely to trigger FTC scrutiny.

AMA President Cecil B. Wilson, MD, said the Association is pleased that the FTC has heard physicians' concerns about clinical integration and antitrust, and is working to address them. The AMA recently developed its own member resource on these topics (<http://www.ama-assn.org/go/paymentpathways>). ♦

— Victoria Stagg Elliott

# AMA House of Delegates

■ COVERAGE FROM THE 159TH ANNUAL MEETING, JUNE 12-15 IN CHICAGO ■

## E-cigarettes need FDA regulation, sales limits



PHOTO BY JUDY TETZLAFF

**Smokers should “know exactly what they’re inhaling,” says Atlanta internist Sandra Fryhofer, MD.**

**The AMA recommends that electronic cigarettes be classified as drug delivery devices. The Association also supports a ban on smoking in multiunit housing.**

CHRISTINE S. MOYER  
AMNEWS STAFF

**Chicago** Testing and safety information on electronic cigarettes is limited, the American Medical Association said, and the devices should be restricted.

The AMA House of Delegates adopted policy at the organization’s Annual Meeting in June recommending that e-cigarettes be classified as drug delivery devices that are subject to regulation by the Food and Drug Administration. In addition, state legislatures should prohibit the sale of e-cigarettes and all other nicotine devices that are not FDA-approved, and the products should be covered by smoke-free laws, the policy says.

“I want them subject to [FDA] regulations so people know exactly what they’re inhaling,” said Atlanta internist Sandra Fryhofer, MD, a member of the AMA Council on Science and Public Health.

The FDA said it detected diethylene glycol, a chemical

used in antifreeze that is toxic to humans, during examination of a small sample of cartridges from two leading e-cigarette brands. In several other samples, the agency identified carcinogens in the cartridges, including nitrosamines, which can be found in tobacco smoke.

FDA spokeswoman Siobhan DeLancey said the agency welcomes the AMA’s support. The FDA also wants the products regulated as drug delivery devices. She said the agency is in litigation with two e-cigarette firms over the regulatory status of the products. The companies did not return requests for comment as of this article’s deadline.

Also during the Annual Meeting, delegates debated whether individuals should be banned from smoking tobacco products in multiunit buildings because of the possible adverse health impact on other people who live there.

Jonathan Klein, MD, MPH, associate executive director of the American Academy of Pediatrics and an alternate delegate for the academy, from Elk Grove Village, Ill., noted that multiunit housing often has shared ventilation systems, meaning that smoke can filter into residences where children and nonsmoking adults live.

Tobacco smoke also can move through cracks in walls and floors, through elevator shafts, and along plumbing

**Continued on next page**

### Taking care of business

More than 500 representatives from the House of Medicine gathered in Chicago in June to consider about 200 proposals on key issues facing physicians today. High on that list was Medicare, with a 21% cut in physician pay in effect, and Congress running out of time to reverse it. Outgoing AMA President J. James Rohack, MD, issued a call to action: “Hold your members of Congress accountable for his or her votes on issues such as repealing the SGR permanently and making Medicare sound for our seniors.”

Rare for an Annual Meeting was this year’s three-way race for president-elect, with Peter W. Carmel, MD, winning the office.

For more about the meeting, see our website: [www.amednews.com/house](http://www.amednews.com/house)

PHOTO BY PETER WYNN THOMPSON



### 1 in 5 claims to health plans processed wrong

**An AMA study says inaccurate claims processing is costing physicians and insurers.**

PAMELA LEWIS DOLAN  
AMNEWS STAFF

**Chicago** Nearly 20% of all claims processed by health plans have errors, costing the health care system billions each year, according to the American Medical Association’s third annual National Health Insurer Report Card, released June 14 during the AMA Annual Meeting.

With about \$210 billion spent on claims processing annually, the study found claims to be costly. The health care system could save \$15.5 billion each year if the industry’s accuracy rate improved to 100%. Each percentage point improvement would save about \$777 million, the study said.

Additionally, eliminating the time spent on claims processing red tape, which has been estimated to be the equivalent of five weeks annually, would give physicians more time to spend on direct patient care.

The blame for this 20% error rate lies mostly with the complexity of the system and a lack of streamlining among payers, according to the report card, which looked at claims er-

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## Meeting Notes

## Public Health

**ISSUE:** Despite efforts to educate parents about the safety of vaccines, a 2010 *Pediatrics* study found that 25% of American parents still believe that some immunizations cause autism in healthy children.

**PROPOSED ACTION:** Ask the Office of the Surgeon General to offer a definitive repudiation of the link between either thimerosal-containing vaccines or the measles, mumps and rubella vaccine and developmental disorders, such as autism. *[Adopted]*

**ISSUE:** People of color are significantly affected by skin cancer, but awareness of prevention and screening is low.

**PROPOSED ACTION:** Encourage and support efforts that increase awareness of skin cancer risks and sun-protective behavior in communities of color. *[Adopted]*

**ISSUE:** Prescription monitoring programs help physicians track the narcotics their patients are on, but confidentiality rules mean that those medications given as part of opioid treatment programs are not included.

**PROPOSED ACTION:** Seek changes to allow states more flexibility in requiring reporting to prescription monitoring programs. *[Adopted]*

**ISSUE:** An increasing number of children and adolescents are being treated with atypical antipsychotic medications, but there is limited evidence on their safety and efficacy in this age group.

**PROPOSED ACTION:** Ask the AMA Council on Science and Public Health to prepare a report on the safety and appropriate use of drugs in the pediatric population. *[Adopted]*

**ISSUE:** Unused over-the-counter and prescription drugs are getting into the hands of those who shouldn't have them, such as children. They also are polluting the environment.

**PROPOSED ACTION:** Support initiatives designed to promote safe and proper disposal of unused medications. *[Adopted]*

**ISSUE:** Adolescents are not getting enough sleep, and this is leading to a host of health problems.

**PROPOSED ACTION:** Identify insufficient sleep and sleepiness in adolescents as a public health issue. *[Adopted]*

## Fight obesity by adopting nutritional rating system

**Delegates also agree that healthy foods should be more affordable and that food labels need greater accuracy.**

CHRISTINE S. MOYER  
AMNEWS STAFF

**Chicago** The American Medical Association is boosting its efforts to reduce obesity by tackling the price disparity between nutritious and unhealthy foods, and addressing inaccuracies on nutritional labels.

The AMA House of Delegates approved several nutrition-related policies, including one that urges the Food and Drug Administration to use more precise processes to measure fat content in foods. Delegates at the Annual Meeting in June also called on the FDA to include the most accurate nutritional information on food labels.

FDA nutrition labeling requirements allow trans fat or saturated fat content to be reported as zero if the food product contains less than 0.5 grams per serving. That means someone eating a product labeled "trans fat-free" could be consuming as much as 20% to 25% of his or her recommended daily allowance of trans fat, said Ryan Ribeira, regional medical student alternate delegate. The American Heart Assn. recommends limiting trans fat intake to less than 1% of total daily calories.

Citing a price gap between nutritious foods and calorie-dense, nutrition-poor products, delegates also adopted policy that supports efforts to lessen the cost disparity. The policy calls on the AMA to encourage the expansion of existing programs

that aim to improve nutrition and reduce obesity.

But even when individuals can afford healthy food, delegates noted, it is not always clear what products are the most nutritious. To help consumers make better food choices, delegates asked the AMA to support implementation of a uniform nutritional rating system in the U.S. The system should be evidence-based, developed without food industry influence, applicable to nearly all foods and easily understood by consumers. It should also permit relative comparisons of different foods.

"We know we have a significant obesity epidemic. ... If people eat healthier food that will reduce [the problem] ... but they can't understand existing labels on food," said Robert Gilchick, MD, MPH, of Los Angeles, a delegate of the American College of Preventive Medicine.

The house action came as the Dept. of Agriculture and the Dept. of Health and Human Services issued preliminary recommendations June 15 in the 2010 Dietary Guidelines Advisory Committee Report. The report said a disconnect exists between dietary recommendations and what Americans consume. Americans eat too much added sugars, solid fats, refined grains and sodium, it said.

The guidelines recommend that people reduce calorie consumption, increase physical activity and shift food intake patterns to a more plant-based diet, while eating only moderate amounts of lean meats, poultry and eggs.

The guidelines, updated every five years, will be released at the end of the year. ♦

## E-cigarettes need FDA regulation

Continued from preceding page

and electrical lines, according to an article in the June 17 *New England Journal of Medicine* that advocates a ban on smoking in public housing.

"I'm against smoking and second-hand smoke, and I don't think people should be exposed to it in their apartments. But how do you tell someone they can't smoke in their own house? Some individual rights are in conflict



DR. KLEIN

there," said Daniel Koretz, MD, an Ontario, N.Y., internist and alternate delegate for the Medical Society of the State of New York, who spoke on his own behalf.

The Association moved in favor of the greater public health, adopting policy that recommends prohibiting smoking in multiunit housing.

"There is an emerging social justice framework requiring us to protect others from secondhand smoke," Dr. Klein said.

Delegates also adopted policy that advocates for a tobacco-free school environment as defined by the Centers for Disease Control and Prevention. The CDC definition prohibits tobacco smoking, and use of spit or chewing tobacco, by students, faculty, staff and visitors in school buildings, on school grounds and in school buses or other vehicles that transport students. The tobacco ban also applies to off-campus, school-sponsored events.

The AMA policy recommends that the Association provide on its website resources that could help people implement tobacco-free school environments in their communities. ♦

## Patents should not be issued for human genes

**Delegates say such patenting may interfere with the availability of affordable genetic tests and inhibit the development of new ones.**

VICTORIA STAGG ELLIOTT  
AMNEWS STAFF

**Chicago** The American Medical Association opposes the patenting of human genes and related naturally occurring mutations, according to policy adopted June 15 at the organization's Annual Meeting.

"Genes are not legitimately patentable matter," said Raymond Lewandowski, MD, of Corpus Christi, Texas, who proposed the policy as a delegate from the American College of Medical Genetics.

The policy also states that patents that already have been issued should be licensed in a way that allows broad access by physicians and patients. The AMA will support legislation making those who use patented genes for medical diagnosis and research exempt from claims of infringement.

"Gene sequences are part of the practice of medicine and should be widely available," said Edmund Donoghue, MD, of Savannah, Ga., a delegate from the American Society for Clinical Pathology. "When patents are exclusive or prevent physicians and clinical laboratories from using

certain tests, when [patents] limit access to medical care and raise costs, that is not in the public interest."

The patenting of genes has long been controversial, with those opposed saying that this practice limits medical research and prevents patients and physicians from accessing competitively priced genetic testing services.

On March 29, the U.S. Court of Appeals for the Federal Circuit in Washington, D.C., invalidated patents on breast and ovarian cancer genes held by Myriad Genetics Inc. on the basis that they violated the prohibition of patenting natural phenomena. The American College of Medical Genetics was a plaintiff in that case. The Litigation Center of the American Medical Association and the State Medical Societies, along with a group of other medical organizations, filed a court brief challenging these gene patents.

The ruling is expected to be appealed, and some of the delegates expressed concern that prohibiting these kinds of patents could hinder rather than help medical research.

"It takes a lot of time and money to develop genetic tests. Who is going to spend that money if they do not have some assurance of recouping their investment later?" said Kenneth Crabb, MD, an obstetrician-gynecologist and a delegate from the Minnesota Medical Assn., who was speaking personally.

In a related development, the AMA Council on Science and Public Health released a report on genomic-based personalized medicine. The AMA says it will continue to develop educational resources and point-of-care tools on the subject. ♦



DR. LEWANDOWSKI

# Delegates want disease experts on government panels

**Action was taken in response to controversy generated by recently issued mammography guidelines.**

VICTORIA STAGG ELLIOTT  
AMNEWS STAFF

**Chicago** Government task forces and committees addressing certain diseases should include physicians who have expertise in those illnesses, according to policy adopted June 15 by the American Medical Association House of Delegates at the organization's Annual Meeting.

"It is essential that physicians with expertise be on these panels," said Steven Chen, MD, a surgical oncologist from Sacramento, Calif., and an alternate delegate for the AMA Young Physicians Section.

The action was taken in response to the breast cancer screening guidelines by the U.S. Preventive Services Task Force in the Nov. 17, 2009, *Annals of Internal Medicine*. They caused a firestorm then and continue to stir controversy. The line of doctors wanting to comment on the issue when it came up at a committee session stretched out the door.

The task force statement recommended against routine screening mammography in women age 40 to 49 and called for women age 50 to 74 to receive the procedure every two years. The recommendations were an update of the 2002 guidelines, which said women age 40 and older should consider having a screening mammography every one to two years.

The task force is sponsored by the U.S. Agency

for Healthcare Research and Quality and develops guidelines for preventive services in the primary care setting. Members are experts on prevention in the primary care setting. But many delegates felt that physicians who treat women with breast cancer, such as radiation oncologists, should have been represented.

The AMA also debated whether to endorse the American Cancer Society's mammography guidelines, which recommend annual mammograms starting at age 40, continuing as long as a woman is in good health. "With all due respect to the able men and women who serve on the U.S. Preventive Services Task Force, we believe that the American Cancer Society guidelines serve the health and well-being of our patients," said Milton Guiberteau, MD, a delegate from the American College of Radiology and a radiologist in Houston.

That issue was referred to the AMA Board of Trustees for a decision.

Many delegates, including those from the ACS, felt that in light of the many evidence-based guidelines from many different groups, the AMA should not recommend one over another. "This is not the place to be debating whose guideline is a better guideline," said oncologist Len Lichtenfeld, MD, a delegate from the American College of Physicians and deputy chief medical officer of the ACS.

Delegates were also concerned about how the



PHOTO BY PETER WYNN THOMPSON

**Physicians should be on any panels that develop practice guidelines, says Steven Chen, MD, a surgical oncologist.**

task force guidelines influenced insurers' willingness to pay for the service. The guideline does not say women age 40 to 49 should be barred from mammography; rather, any decision on screening before age 50 should be made by a woman and her doctor.

"Guidelines are designed for one thing, and that has nothing to do with determining payment," said John F. Schneider, MD, PhD, an internist from Flossmoor, Ill., who spoke for the Illinois State Medical Society. "They provide information to enable a physician to provide the best, most appropriate care to his or her patient." ♦



PHOTO BY AP/WIDE WORLD PHOTOS

**Workers along the beach in Port Fourchon, La., collect oil that washed ashore from the Deepwater Horizon oil rig explosion. Few studies have examined the long-term health effects of oil exposure, but some workers have complained about flu-like symptoms.**

## Gulf oil spill highlights need for health risk information

**The AMA also will encourage water and air quality studies about areas affected by exposure to crude oil and will monitor the spill's environmental impact.**

CHRISTINE S. MOYER  
AMNEWS STAFF

**Chicago** The House of Delegates said the AMA should take action on the Gulf Coast oil spill that has left the public worried and doctors uncertain of how to ease patients' fears.

The house adopted policy at the Association's Annual Meeting that calls

for the AMA to help educate health professionals and the public on potential health risks associated with exposure to crude oil and byproducts. The policy will pair the AMA with federal agencies to convene an expert panel, which will address the immediate and long-term human and environmental health impacts of the oil spill.

The policy says the Association should encourage further studies of water and air qualities in areas near the spill, as well as health outcomes in affected people.

Elvin C. Irvin Jr., MD, a family physician in Pensacola, Fla., said patients there are worried about getting

sick from chemicals in the oil. He said many doctors don't know the health effects of eating fish caught in the spill area or breathing vapors from carcinogens such as benzene, which is naturally found in crude oil.

"Patients are scared and they're nervous. ... The AMA [should] take [this] opportunity to educate patients and physicians in the area. ... This is a real challenge and a huge concern," said Dr. Irvin, a delegate for the Florida Medical Assn.



DR. IRVIN

Since the April 20 oil rig explosion off the Louisiana coast, millions of gallons of oil have gushed into the Gulf of Mexico. Oil-slicked water has washed up on the shores of Alabama, Florida and Louisiana, and strands of oil have been spotted off Mississippi's coast, according to reports.

U.S. Senate and House committees held hearings in June to evaluate the health impacts of the spill. The American Public Health Assn. applauded the legislators' efforts, insisting that individuals helping clean up the spill and that those living and working along the Gulf Coast need protection.

Some delegates at the Annual Meeting questioned whether the AMA has the resources to take a lead role in the matter. Others noted that the spill, for now, is largely an environmental disaster, not a medical problem.

"Public health includes the environment. It doesn't just include the people. We think this is very important," said Joseph Murphy, MD, an alternate delegate for the American Assn. of Public Health Physicians and an internist from Chicago. ♦

## Dr. Wilson installed as new AMA president

**Peter Carmel, MD, won a rare runoff to become president-elect.**

**Chicago** Winter Park, Fla., internist Cecil B. Wilson, MD, was inaugurated as the 165th president of the AMA during the Association's Annual Meeting in June.

Peter W. Carmel, MD, a pediatric neurosurgeon from New York City, was named president-elect after a three-way race for the office against Edward L. Langston, MD, and Joseph M. Heyman, MD. Dr. Carmel won a runoff against Dr. Heyman.

Elected to the AMA Board of Trustees were Albuquerque, N.M., oncologist Barbara L. McAneny, MD; Philadelphia family physician Stephen R. Permut, MD; Pittsburgh critical care physician and internist Carl A. Sirio, MD; and Meredith C. Williams, a medical student at Baylor College of Medicine in Houston.

Lexington, Ky., infectious disease physician Ardis Dee Hoven, MD, became board chair. Greenwood Village, Colo., psychiatrist Jeremy A. Lazarus, MD, was re-elected speaker. Hollidaysburg, Pa., orthopedic surgeon Andrew W. Gurman, MD, was re-elected vice speaker.

Lexington, Ky., emergency physician Steven J. Stack, MD, was named secretary. Robert M. Wah, MD, an obstetrician-gynecologist from McLean, Va., is board chair-elect. ♦

## Meeting Notes

## Medical Practice

**ISSUE:** Communication between patients and physicians is essential to good care. Interpreters often are needed for non-English speaking or hearing-impaired patients referred from emergency departments. Interpreting services usually are offered at a physician's expense and often cost more than the doctor is paid for his or her services.

**PROPOSED ACTION:** Study the feasibility of requiring hospitals to provide and pay for interpreter services for the follow-up care of patients who physicians are required to accept as a result of a patient's emergency department visit. *[Adopted]*

**ISSUE:** Physicians in some individual and small practices will have difficulty meeting the proposed Centers for Medicare & Medicaid Services' meaningful use standards for electronic medical records, such as computerized physician order entry for 80% of patient services. Therefore, they will not receive the federal bonuses available for successful EMR adoption.

**PROPOSED ACTION:** Work with the Dept. of Health and Human Services to improve the incentive requirements to maximize physician participation. *[Adopted]*

**ISSUE:** CMS relaxed the standards for physicians to qualify for bonus payments for electronic prescribing. However, it has not done so for the Medicare Physician Quality Reporting Initiative.

**PROPOSED ACTION:** Ask Congress to delay mandatory physician participation in the Physician Quality Reporting Initiative until it is made more physician-friendly and reporting standards made less arduous. *[Adopted]*

**ISSUE:** Patients often have a poor understanding of proposed medical interventions' benefits and risks, and can have trouble visualizing how treatments could affect their lives.

**PROPOSED ACTION:** Adopt policy recognizing the value of "shared decision-making" tools that help patients understand clinical information about their conditions, treatment options and potential outcomes while helping them integrate their personal values in making health care decisions. Payers should not require use of the decision aids, however, and the Association will support efforts to test the tools' effect and develop quality standards for them. *[Adopted]*

## 1 in 5 claims to health plans processed wrong

Continued from page 21

rors for the first time.

Different plans have different processes for filing. Many have payment rules for work done by multiple physicians or for a series of treatments that make the claims process more confusing for plans and doctors.

The more complex the pricing, the more likely the claim was to contain errors, said Mark Rieger, CEO of National Healthcare Exchange Services. The company is a Sacramento, Calif.-based compliance and denial management solutions provider that supplied most of the data used in the analysis.

The study found Coventry Health Care to have the best record when it comes to accuracy, with a rating of 88.4%. WellPoint-owned Anthem Blue Cross and Blue Shield landed on the bottom of the list with an accuracy rate of 74%. Neither Coventry nor Anthem responded to requests for comments by this article's deadline.

Nancy Nielsen, MD, PhD, then AMA Immediate Past President, said the goal is to bring claims-processing error rates to 1% by focusing on accuracy, timeliness, transparency and industry standardization.

Numerous efforts have been launched, both by the medical and payer communities, focusing on these areas, including a call by the AMA for a standard set of rules to be adopted

and used by all payers.

Robert Zirkelbach, spokesman for the trade group America's Health Insurance Plans, said in a blog response to the AMA report card: "Health plans are investing in cutting-edge technologies to make it easier for providers to submit claims electronically and receive payment quickly."

He pointed to a portal project, being tested by the health plans group, that will provide a one-stop shop for physicians to conduct financial transactions with all their contracted payers.

Dr. Nielsen said physicians can do their part to improve accuracy by filing timely and accurate claims the first time, and by reviewing and reconciling claims payments. Practices also should focus on implementing practice efficiencies, she said.

But the survey shows that plans also have work to do on improving consistencies that could help reduce errors. For example, when it came to the accuracy of reporting contracted fees, the survey found that plans' accuracy rates ranged from 78% to 95%. Performance varied significantly by state, ranging from 58.6% to 96.9%.

The survey also found inconsistencies when it came to denials, with rates ranging from 0.7% to 4.5%. Lack

of eligibility continued to be the most common reason for denials. Insurers' response time to claims also was lacking, according to the report, which found ranges from five to 13 days.

But there also were gains made from a year ago. The study found significant improvements in pay rates matching fee schedules, as well as in insurers disclosure of allowed amounts. Most plans are approaching 100% compliance with disclosing their allowed amounts.

"I can think of no other [piece of information] more important as the one that says, 'I think I owe you this,'" Rieger said. "This is an essential field in the revenue cycle management process for the physicians to know what the contractual adjustment is."

Dr. Nielsen said the gains were possible because the report card provides actionable data that are "not just a gotcha, but a win-win for the national payers and for the AMA."

Some of the plans agreed with Dr. Nielsen, saying that the data from prior years gave them improvements to focus on for the following years.

The report card is an annual program that was launched as part of the AMA's Heal the Claims Process campaign in 2008. ♦



DR. NIELSEN

## Delegates seek pay for telemedicine care

**The AMA will advocate for pilot projects testing new payment models for treatment delivered via Web portals and other electronic formats.**

KEVIN B. O'REILLY  
AMNEWS STAFF

**Chicago** In an era when virtual medicine is becoming more common, physicians deserve separate payment for the care they provide via telephone, e-mail, Web portals and other electronic means, according to the AMA House of Delegates.

"We want insurers and Medicare to recognize this is going to be a true form of health care delivery, not just a convenience," said Barbara L. McAneny, MD, then chair of the AMA Council on Medical Service, whose report the house adopted. "This should be a separately reimbursable and Medicare-payable expense."

All "non-face-to-face electronic visits" should be adequately paid for, according to the newly adopted policy.

The Association has had policy seeking such payment since 2000, but the new policy also directs the AMA to advocate "pilot projects of innovative payment models be structured to include incentive payments for the use of electronic communications such as Web portals, remote patient monitoring, real-time virtual office visits, and e-mail and telephone communications."

It is unlikely that Congress will approve more money to pay for telemedicine, so the AMA should focus on



PHOTO BY PETER WYNN THOMPSON

**Electronic devices can help deliver care in a way that is especially vital in remote areas, says Barbara L. McAneny, MD, an Albuquerque, N.M., oncologist.**

pressuring states and private health plans to pay, said Donna Sweet, MD, a Wichita, Kan., internist and member of the Council on Medical Service.

Twelve states mandate that health plans cover virtual care, with Virginia in April being the latest to enact such legislation. Meanwhile, telecom firm Cisco Systems Inc., announced in January a \$10 million pilot partnership with Long Beach, Calif.-based health plan Molina Healthcare to create 15 telehealth sites across underserved areas of the state.

In reference committee testimony,

some delegates said expanding telemedicine could exacerbate existing disparities in access to health care. But Dr. McAneny, an Albuquerque, N.M., oncologist, disagreed.

"I work with a clinic that serves the Navajo Nation, and the patients text me on their cell phones all the time," said Dr. McAneny, who was elected June 15 to the AMA Board of Trustees. "Addressing disparities is important, and I absolutely think electronics will make it easier for patients to access physicians even when they live 100 miles away or more." ♦



PHOTOS BY TYLER MALLORY

## Field trip for healthy learning

About 50 medical students from the AMA Medical Student Section spent part of the meeting's opening day promoting healthy lifestyles to parents and children on a rainy-day visit to Chicago's Lincoln Park Zoo. The event featured exercise sessions for children and body mass index and blood pressure screenings for adults. Medical student Katie Stitely (above) of the University of Florida College of Medicine led a group of visitors in an exercise showing you're never too young to learn about the effects of smoking on the body's ability to breathe. Medical student Maggie Tillquist (right) of the University of Colorado, Denver, School of Medicine gave Reagan King a hands-on lesson on how to use a stethoscope.



## Meeting Notes

# Medical Education

**ISSUE:** The National Board of Medical Examiners in 2008 made an agreement with the Council for the Advancement of Comprehensive Care to license questions for doctor of nursing practice certification exams originally used on the U.S. Medical Licensing Examination. Subsequent communications suggested equivalency between the exams.

**PROPOSED ACTION:** Oppose and continue to monitor use of USMLE questions for purposes other than assessing physicians or physicians-in-training, and work with the NBME to ensure that communications clarify the difference between certification and licensure exams. *[Adopted]*

**ISSUE:** More international medical graduates are seeking residency or fellowship training in the U.S. under H-1B or J-1 visa programs that restrict their time in the country.

**PROPOSED ACTION:** Continue to monitor physicians under non-immigrant visas who cannot finish residency or fellowship training within visa time restrictions; reaffirm AMA's stance that state medical boards should not use an IMG's medical school as a basis of denying licensure. *[Adopted]*

# More physicians needed to counter work force shortages

**The AMA will push to create more residency slots, promote primary care and expand care in underserved areas.**

CAROLYNE KRUPA  
AMNEWS STAFF

**Chicago** The AMA House of Delegates adopted policies aimed at increasing the physician work force and staving off shortages.

The policies call for promoting physician practice in underserved areas, expanding residency training, encouraging more people to become primary care physicians, and addressing a severe shortage of child and adolescent psychiatrists.

Demand for doctors is expected to outpace supply by as many as 159,000 physicians by 2025. At least 22 states and 15 medical specialties have reported physician shortages.

The millions of people who will become insured under the health system reform law will compound the issue, said Jayesh Shah, MD, chair of the AMA International Medical Graduate Section and an undersea medicine specialist from San Antonio. "The shortage is going to get worse with the health care reform."

An AMA report adopted by delegates urges vigilance in seeking funding from a variety of sources for more residency slots.

"This is a very, very important report on an extremely important issue," said New York internist Michael Reichgott, MD, PhD, a delegate for the

AMA Section on Medical Schools.

While medical school enrollment has climbed 2% annually over the past five years through new schools and expansion of existing schools, the number of residency slots funded by Medicare has been capped at about 100,000 since 1997. The health reform law calls for redistribution of unused residency positions and more federal funding equivalent to about 300 new training slots, but that's "far below what the population growth and aging population will require," the AMA report said.

To encourage more people to become primary care physicians, the AMA will work with other agencies, and federal and state governments, to promote community-based training and care models.

The Dept. of Health and Human Services on June 16 announced \$250 million to strengthen primary care, including \$168 million to create more primary care residency slots. The money is expected to help train more than 500 primary care physicians by 2015.

David Fassler, MD, an alternate delegate for the American Academy of Child & Adolescent Psychia-

try, which represents 7,400 child and adolescent psychiatrists, said the specialty has been hit hard by physician shortages. Delegates adopted policy calling for the AMA to work with federal agencies

to train more people in the specialty through the National Health Service Corps.

Delegates approved a report that says medical schools and residency programs should develop policies to attract students to practice in rural and underserved areas. J.L. Lawson, MD, a general surgeon and an Arkansas Medical Society delegate from Cammack Village, said most medical schools are in metropolitan areas where graduates want to stay. "Most don't appreciate the ability to practice in underserved, rural areas," he said.

The AMA will work with the Centers for Medicare & Medicaid Services and other organizations to develop training programs outside hospitals. "The predominance of our health care is now being provided away from the hospital," said Kosciusko, Miss., family physician Tim Alford, MD, president of the Mississippi State Medical Assn. "The training and money for training is not following that." ♦



PHOTO BY JUDY TETZLAFF

**Physician shortages will get worse under health reform, says Jayesh Shah, MD.**

## Meeting Notes

## Medical Ethics

**ISSUE:** Men who have had sex with men since 1977 are banned from donating blood. A previous AMA report concluded that medical evidence supports allowing men to donate five years after their last same-sex contact, but said the ethical aspects of such a change should be explored.

**PROPOSED ACTION:** Study the societal and ethical consequences of moving to a five-year deferral policy and report back at the 2011 Annual Meeting. [Adopted]

**ISSUE:** Few adults age 18 to 24 have completed advance directives or named health care proxies, making it difficult for physicians and loved ones to make care decisions on their behalf.

**PROPOSED ACTION:** Educate young adults about the importance of advance directives and health care proxies and encourage physicians to talk with their younger adult patients about such planning. [Adopted]

**ISSUE:** A growing number of for-profit hospice care organizations have helped double the number of patients in hospice since 2000, to more than 1 million, and nearly quadrupled Medicare hospice costs to \$11.2 billion.

**PROPOSED ACTION:** Reaffirm physicians' responsibility to authorize hospice care in appropriate circumstances, develop educational materials and call on CMS to study the hospice benefit's structure, pay methodology and quality assurance. [Adopted]

**ISSUE:** Industry funding of continuing medical education and CME faculty with financial conflicts may compromise the independence of educational content.

**PROPOSED ACTION:** Adopt ethical guidance saying physicians should expect conflict-free CME when possible and that, when unavoidable, the conflicts should be scrutinized closely and disclosed in detail. [Referred]

**ISSUE:** Commercial sponsorship of clinical practice guidelines and guideline-committee members with financial conflicts may improperly influence the recommendations made to physicians.

**PROPOSED ACTION:** Support the position that physician organizations should not receive industry support for writing or promoting practice guidelines and call for independent review of guidelines before publication. [Referred]

## Doctors' online conduct topic at CEJA forum

**Other issues explored include whether doctors and patients should be Facebook friends and if flu shots should be mandatory for physicians.**

KEVIN B. O'REILLY  
AMNEWS STAFF

**Chicago** Business and English majors aren't the only students who have run into trouble over risqué content posted to social networking websites such as Facebook and Twitter. So have medical students.

Meanwhile, one physician-blogger had his identity unmasked when he wrote about ongoing litigation.

How do standards of physician professionalism apply online? Must the same rules of decorum that patients expect from doctors in the clinic or the hospital also apply on physicians' private Facebook pages? Should physicians "friend" their patients on Facebook?

These were among questions delegates discussed at the Council on Ethical and Judicial Affairs open forum at the American Medical Association's Annual Meeting in June.

Some delegates advised their physician colleagues to be wary of disclosing too much on the Internet.

"Common sense prevails here," said Robert T. Phillips, MD, PhD, an Annapolis, Md., psychiatrist and delegate for the American Academy of Psychiatry and the Law. "We've had this issue long before the Internet. Certain behaviors may cast aspersions on your character, and how you behave will put your career in jeopardy. There always will be someone out there looking — that's the nature of our society. So, *caveat emptor*."

Sixty percent of medical schools reported incidents of students posting unprofessional content online, according to survey results published in the Sept. 23/30, 2009, *Journal of the American Medical Association*.

Some younger doctors said it can be difficult to resist the pressure to join social networking websites that have become the nearly universal way that their far-flung colleagues keep in touch. But using the Internet to connect with family, friends and other physicians is different from crossing boundaries with patients, said Paul O'Leary, MD, a sectional delegate for the Resident and Fellow Section.

"No matter where I go, I'm called Dr. O'Leary. It doesn't turn off and turn on. We should respect that," said Dr. O'Leary, a Birmingham, Ala., child and adolescent psychiatrist. "I don't text patients. I don't Facebook friend them."

Dr. O'Leary suggested that just as Facebook has different levels of privacy settings that users can apply, ethical guidance also could differ based on how openly physicians use social media. "If you're going to let it all hang out, so to speak, then you probably shouldn't make it public to the world," he said.

The House of Delegates is asking the AMA to study physician use of social media.



PHOTO BY TED GRUDZINSKI / AMA

**The need to safeguard one's public image precedes the Internet, says Maryland psychiatrist Robert T. Phillips, MD, PhD. "Common sense prevails here."**

CEJA already is at work on ethical guidance that could be presented as a report within the next 12 to 18 months.

## Mandating physician immunization

Delegates also addressed pros and cons of whether health care organizations should require physicians to get flu shots. CEJA is studying the topic pursuant to a resolution proposed by the Infectious Diseases Society of America at the 2009 Interim Meeting. The resolution said the AMA should back universal seasonal and H1N1 flu immunization unless health professionals have medical contraindications or religious objections.

Several delegates said that in formulating guidance, CEJA should be careful to allow opt-outs for physicians who are pregnant or living with immunocompromised family members. Mark A. Levine, MD, a Denver internist and former CEJA chair, said the council should take into account the potential backlash of requiring vaccination.

"Whatever the benefits of mandatory immunization would be, that must be proportional to the effect you'd anticipate from the social consequences of instituting that mandatory policy," he said. "Obviously, there's going to be some degree of social disruption. That's the balance that needs to be solved."

The national influenza immunization rate was 48% among health care workers in 2008, the most recent year data were available from the Centers for Disease Control and Prevention. Hospitals that have mandatory vaccination policies, such as Virginia Mason Medical Center in Seattle and Barnes-Jewish Hospital in St. Louis, have immunization rates exceeding 95%. ♦



DR. LEVINE

## Hospitals may be trying to recoup lawsuit expenses

**New Mexico delegates say they are seeing more and more claims against physicians after liability cases are over.**

DOUG TRAPP  
AMNEWS STAFF

**Chicago** The American Medical Association Board of Trustees will examine how frequently hospitals sue physicians to recover the cost of medical liability settlements, according to new policy adopted June 15 at the AMA Annual Meeting.

"We thought this was very much worthy of study by the board," said Albuquerque, N.M., nephrologist Steven Kanig, MD, a delegate for the New Mexico Medical Society, which

introduced the resolution.

Dr. Kanig's wife, Barbara McAneny, MD, an oncologist and new member of the AMA Board of Trustees, said she found out about the issue from a physician colleague. The colleague — a hospital employee — was the subject of a medical lawsuit. The hospital settled the case but filed a claim against the physician after the doctor left the job. The issue is still being litigated, Dr. McAneny said.

These lawsuits are increasingly common for contract physicians and those who leave hospitals to pursue other employment, Dr. McAneny said, citing conversations she's had with liability insurance brokers.

The policy directs the AMA to investigate the frequency of these suits.

It also calls on the Association to write model contract language physicians can use to prevent hospitals from settling lawsuit claims and then suing to recover settlement costs.

Several delegates spoke in support of the resolution, including members of the Young Physicians Section and the Organized Medical Staff Section.

New Mexico Hospital Assn. President and CEO Jeff Dye said he was not familiar with the case or trend cited by Dr. McAneny. Dye plans to ask hospitals in his organization if they have pursued this type of lawsuit.

Dye said he will examine the issue, but he doubts these cases are common. "It just seems really counterproductive that [hospitals] would go after their own doctors in that manner." ♦