

# COVID-19: AMA's recent and ongoing advocacy efforts

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## Advocacy efforts

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In the midst of the COVID-19 pandemic, the American Medical Association has been the leading physician and patient ally—voicing recommendations to federal and state policymakers, as well as private sector stakeholders.

See a summary of the Biden Administration's executive orders and proclamations related to COVID-19.

## Recent advocacy efforts

### Financial relief

- Due to organized medicine advocacy, HRSA has provided an extenuating circumstances exception for physicians who missed the reporting period for the Provider Relief Fund. AMA provides a new workflow resource (PDF) which outlines the steps necessary for submitting a "Request to Report Late."
- To help mitigate the impact of the pandemic on the financial health of physician practices, successfully urged Congress to pass legislation to prevent 2 percent Medicare payment sequester cuts and to offset budget neutrality adjustments due to changes in E/M coding and payment rules by temporarily raising the fee schedule conversion factor by 3.75 percent. Also persuaded the Administration to hold physicians harmless for MIPS penalties during the pandemic reporting period.
- Successfully sought billions in emergency funding to help physician practices stay viable and keep providing needed care through the Coronavirus Aid, Relief and Economic Security (CARES) Act and subsequent emergency supplemental legislation (many practices qualified for loan-to-grant programs, advance payments and emergency payments).
- Secured another \$20 billion in CARES Act Provider Relief Funds, wherein behavioral health care providers and previously ineligible physicians became eligible to apply for funding.

- Secured an additional \$8.5 billion dollars to the Provider Relief Fund—part of the American Rescue Plan Act.
  - This legislation also added \$15 billion in new funding for Targeted Economic Injury Disaster Loan Grants to provide hard-hit, underserved small businesses with increased flexible monetary relief.
- Secured revisions to the Medicare Accelerated and Advance Payments program that offer relief to physician practices by postponing the recoupment of disbursed funds, reducing the per-claim recoupment amount and lowering the interest rate.
- Convinced HHS to reverse course and agree to allow physicians who treat patients insured by Medicaid to obtain targeted distributions from the CARES Act Provider Relief Fund even if they already received a small amount previously from the general distribution.
- Successfully sought introduction of federal legislation to ensure Provider Relief Fund grants do not count as taxable income.
- Collected expenditure and practice data from a nationwide survey of physicians to help address the financial impact of COVID-19.

## Telehealth

- Sought and secured broad telehealth coverage expansion and improved payments at the federal and state levels to increase access to care and provide patients with a safer way to receive care.
- Obtained changes to federal policy to allow for telehealth payment rates to be equivalent to in-person services whether provided by audio/video means or audio-only.
- Secured introduction of legislation to make key telehealth policy changes permanent.
- Obtained permanent ability to utilize smart phones for Medicare telehealth services.
- Received HIPAA-enforcement discretion allowing physicians and patients to use a broader array of telehealth applications and tools.
- Provided state-level policy guidance and recommendations to expand coverage, access and payment of high-quality telehealth.
  - All 50 states took some action to expand telehealth for Medicaid and/or state-regulated plans.
- Convinced the FDA to lift restrictions on distributing mifepristone remotely via telemedicine.

## Personal protective equipment and medical supplies

- Secured the use of the Defense Production Act (DPA) to provide personal protective equipment (PPE), vaccines and onshore production of rapid COVID-19 tests.
- Developed a new CPT code to help physicians pursue payment for additional supply costs associated with caring for patients during the COVID-19 public health emergency.

## Testing and vaccines

- Secured Medicare payments that were nearly doubled for administration of the COVID-19 vaccine, including administration of vaccines requiring two doses, to \$40 per administration.
- Urged the federal government to improve and expand testing and allow increased FDA Emergency Use Authorizations to speed the process and lead to more informed policy decisions.
- Convinced FDA and CDC to review and revise guidelines for antibody and other COVID-19 testing based on validity concerns, reflecting guidelines issued by the AMA to help ensure physicians and the public are aware of the limitations and potential uses of serological testing/antibody testing.
- Secured the use of the DPA for testing supplies.
- Collaborated to create a webinar series featuring physician leadership from FDA and CDC that was viewed by thousands of physicians and addresses the science, evidence and process of vaccine development and distribution, regulatory review and what physicians need to know about each authorized vaccine. Also hosted an additional webinar focused on COVID-19 therapeutics with the FDA Acting Commissioner.
- Created materials on COVID-19 for physicians to distribute to their patients and developed a web-based COVID-19 Vaccine Resource Center.
- Successfully sought temporary expansion of Medicaid eligibility to uninsured individuals for COVID-19 testing.
- Strongly supported and secured evidence-based, fully transparent review process of COVID-19 vaccine candidates with no political interference; fair and equitable allocation of vaccines; and appropriate prioritization of vaccines to high-risk groups, including physicians.
- Facilitated dialogue between the administration and pathology community to provide updates on testing supply chain and voice concerns about COVID-19 testing services in hospital/academic laboratory settings.
- Successfully advocated for White House to encourage states to include physician offices in COVID-19 vaccine distribution and administration plans.
- Engaged in dialogue with Administration regarding vaccine credentials, urging them to ensure equity and data privacy concerns are addressed.
- Supported state and federal COVID-19 vaccine mandates for health care professionals.

## Expanding coverage

- Urged states to eliminate Medicaid cost-sharing for COVID-19 related care, simplify Medicaid enrollment and renewal processes, and eliminate barriers to Medicaid coverage such as work requirements.

- Encouraged states to suspend prior authorization requirements, including those that apply to treatment and care related to COVID-19.
- Called for coverage for the cost of care related to COVID-19 or potential COVID-19 cases without regard to the network status of the provider.
- Supported successful efforts to secure a special enrollment period.
- Urged states to establish grace periods for patients and other continuity of coverage policies that relieve patients and physicians of financial risk associated with delayed payment or nonpayment of premiums.
- Provisions were included in the American Rescue Plan Act that:
  - Give states an option to provide 12-month post-partum coverage under Medicaid and CHIP.
  - Provide a temporary (two-year) 5 percent increase in the Medicaid FMAP to states that enact the Affordable Care Act's (ACA) Medicaid expansion and covers the new enrollment period per requirements of the ACA.
  - Invest nearly \$35 billion in premium subsidy increases for those who buy coverage on the ACA marketplace.
  - Expand the availability of ACA advanced premium tax credits to individuals whose income is above 400 percent of the federal poverty line for 2021 and 2022.
  - Invest in trust and treaty obligations to provide essential safety-net programs that serve Native American communities.

## Health equity

- Urged CDC to make new investments aimed at improving health equity in response to the pandemic.
- Supported legislation that was introduced to address Asian American and Pacific Islander hate crimes.
- Called on the administration and Congress to promote health equity by collecting and releasing demographic data to help address any potential race, sex and age disparities during the pandemic.
- Submitted a written statement to Congress on the disproportionate impact of COVID-19 on people of color.
- Testified at a hearing titled "Health and wealth inequality in America: How COVID-19 makes clear the need for change."
- Testified before the National Association of Insurance Commissioners on the need for health insurance companies to identify whether Black and Brown patients are receiving evidence-based treatment for opioid use disorder with health insurance company networks as well as the need to remove structurally racist barriers that direct Black and Brown patients to treatment with methadone while white patients receive buprenorphine.

## Reducing regulatory impediments

- Convinced CMS to provide physicians with the option to opt out completely or partially from the 2020 MIPS program.
- Convinced CMS to hold physicians harmless from the up to 9 percent MIPS penalties due to the significant disruptions of the PHE on physician practices' performance in 2020.
- Convinced CMS to extend the MIPS Extreme and Uncontrollable Hardship exception through 2021.
- Advocated for added liability protections for physicians in federal legislation, state executive orders and state legislation to provide safe harbors for physicians when faced with suboptimal treatment arrangements, guidelines and protocols, patient surges and postponement of elective procedures; successfully pursued introduction of federal bipartisan safe harbor legislation protecting physicians, and assisting state medical associations in similar efforts, with at least 21 states enacting physician safe harbor legislation.
- Successfully called on federal and state policymakers, and private payers, to ease extraneous administrative burdens for physicians, such as prior authorization, audits, data requests and quality reporting, and persuaded CMS not to penalize physicians for failing to complete MIPS reporting this spring.
- Created a number of new CPT codes for COVID-19 diagnostic testing, serology testing, and vaccine administration.
- Successfully delayed physician compliance with information blocking regulations.
- Secured an extension of the Appropriate Use Criteria education and operations testing period through Dec. 31, 2021.
- Secured one-year delay of e-prescribing controlled substances compliance enforcement for Medicare prescriptions.
- Influenced CMS to modify the 2020 Medicare Advantage Star Ratings data submission requirements, in light of public safety issues.
- With radiation oncology specialty societies, achieved one-year delay in radiation oncology payment model implementation date.

## Workforce issues

- Urged the administration to open visa processing for international physicians during the pandemic.
- Urged the administration to delay implementation of a problematic Department of Homeland Security (DHS) final rule regarding cap-subject H-1B visa petitioners.
- Urged the administration to rescind its directive that would have barred F-1 visa students from the U.S. if their colleges canceled in-person instruction during the pandemic.

## Drug overdose and treatment

- Brought to the DEA's attention shortages of Schedule II controlled substances that were needed by patients with COVID-19 on ventilators and within three days they increased manufacturing quotas for these drugs.
- Helped win numerous flexibilities for physicians treating patients with pain and substance use disorders during the COVID-19 public health emergency.
- Helped ensure California passed a sweeping mental health and substance use disorder parity bill.
- Joined more than 30 leading academic, medical and public health organizations to support guiding principles for medical societies to use to help guide policymakers' use of settlement funds from state and national opioid litigation; helping win legislative victories already in Virginia and Kentucky and key changes in national coalition policy principles and model legislation.
- Developed a national policy roadmap with Manatt Health for medical societies to use in support of tangible best practices and recommendations for states to use in advocating policies to remove barriers to evidence-based care for substance use disorders, to help patients with pain, and promote comprehensive harm reduction measures.
- Successfully advocated for implementation of new buprenorphine practice guidelines allowing physicians to issue prescriptions for opioid use disorder medication without obtaining a DEA waiver; SAMHSA administrator said on HHS call that more than 5,000 physicians and other health care professionals have received the new waiver.
- Released the 2021 Overdose Epidemic Report, highlighting the worsening epidemic during the pandemic (due primarily to illicit fentanyl, methamphetamine and cocaine as well as polysubstance use of prescription opioids and heroin). Report also shows physicians' efforts to reduce opioid prescribing by 44.4 percent; use of PDMPs more than 900,000 times, increased education and prescribing of naloxone.
- Launched the AMA Substance Use and Pain Care Task Force to combine efforts and expertise from the Opioid and Pain Care task forces. New task force and its 25+ organizations released updated recommendations to address worsening epidemic.

## Medical liability

- Through proactive tracking and outreach to the Federation of medicine, helped the Federation enact state legislation providing immunity from medical liability for physicians caring for patients during the pandemic in at least 29 states.
- Helped the Indiana State Medical Association develop liability immunity legislation that was recently enacted.



## Ongoing efforts

Along with other continued actions, the AMA is:

- Urging the Surgeon General to take action against COVID-19 misinformation.
- Advising Congress and the administration on the true scope of physician financial loss during the pandemic and ways to aid physician practices in the upcoming COVID-19 legislative package.
- Urging administration to increase transparency and communication on COVID-19.
- Continuing to call for significant transparency, communication, and education for physicians and patients around COVID-19 vaccines, vaccine boosters, and pediatric vaccinations
- Supporting efforts to ensure physicians are included as COVID-19 vaccine administrators, urging administration to assist in making it easier for physicians to administer in-office (smaller required orders, smaller vials, etc.)
- Urging administration to develop materials explaining the need for racial and ethnic data.
- Urging administration to emphasize to patients with underlying medical conditions the importance of seeing their physician to assess status and treatment.
- Supporting state and federal COVID-19 vaccine mandates for health care professionals.
- Working with laboratory and pathology community to urge CMS to ensure appropriate reimbursement for COVID-19 testing services.
- Urging CMS to cover physicians' additional supplies and staff activities needed to keep patients safe during the pandemic.
- Calling on federal and state leaders to rely on science when considering reopening businesses, schools, etc.
- Pressing for the continuation of temporary telehealth provisions that enable better patient care, greater alignment of telehealth coverage, payment and coding policies across all payers, and the continued suspension of further regulatory hurdles.
- Urging Congress and states to protect and expand high-quality, affordable health care coverage during this unemployment crisis, including additional funding for Medicaid.
- Continuing to work with private insurers to mirror new Medicare telehealth flexibilities in the commercial markets and call on employers with self-funded plans to do the same.
- Urging the reduction of limitations for international medical graduates and those with Deferred Action for Childhood Arrival status to remain in the country and provide urgently needed care as appropriate.
- Calling on states to adopt, in-full, DEA and the Substance Abuse and Mental Health Services Administration increased flexibility in prescribing and treatment requirements for opioid use disorder and for patients with pain.
- Emphasizing importance of prescribing naloxone to patients at risk of opioid-related overdose and urging states to increase availability of sterile needle and syringe services

programs to help prevent spread of blood-borne infectious diseases.

- Urging state and federal policymakers, as well as health plans, to suspend (or remove) prior authorization, step therapy and other utilization management programs that result in delayed care and wasted resources, especially during the pandemic.
- Continuing to proactively identify, initiate contact with, and provide support to, state medical associations attempting to enact medical liability protections for physicians in connection with the COVID-19 pandemic.