

Feb. 26, 2021: National Advocacy Update

AMA urges Biden administration to include physician offices in COVID-19 vaccine distribution and administration plans

On Feb. 18, the AMA wrote to the White House COVID-19 Response Team urging them to include physician offices in plans to distribute and administer COVID-19 vaccines.

The AMA has raised this issue in multiple conversations with both the Biden Transition team as well as the White House COVID Response Team. While vaccine roll out continues to ramp up in many states, physician offices have not been included as administration sites in many states, despite physician interest in participating in vaccine administration plans.

While the supply of COVID-19 vaccines cannot meet the current demand, the AMA urged the White House to work with states to include physician offices in vaccine strategies once the supply of available vaccine allows for broader distribution. The letter notes that physician offices can play an important role in reaching many vulnerable patients, particularly in underserved areas such as rural areas. It also highlights the key role physicians will play in addressing vaccine hesitancy as demand for the vaccine by those enthusiastic about being vaccinated begins to wane.

Also read an AMA Viewpoints on this issue, by Susan R. Bailey, MD, AMA president, “Physicians provide key voice in building vaccine confidence.”

New telehealth bill modernizes telemedicine laws

On Feb. 24, Senators Scott, Schatz and Shaheen introduced the Telehealth Modernization Act, which would ensure continued coverage of telehealth services for all CMS beneficiaries by eliminating the 1834(m) statutory restrictions on originating site and geographic location, thereby ensuring Medicare coverage of telehealth services regardless of where the patient is located. Telehealth services have been a crucial component of caring for patients during the COVID-19 pandemic but without a fix by Congress, most Medicare beneficiaries will lose access to these services at the end of the current public health emergency.

It is critically important that we build on the coverage gains made during the pandemic with the telehealth waivers so that Medicare beneficiaries can continue to access telehealth services from their physicians without restrictions. The Telehealth Modernization Act would allow beneficiaries to access these essential services throughout the COVID-19 public health emergency and beyond, and bring telehealth coverage laws into the twenty-first century.

New legislation would reduce America’s maternal and infant mortality rate

On Feb. 24, Senators Durbin (D-IL) and Duckworth (D-IL) introduced the bicameral Mothers and Offspring Mortality and Morbidity Awareness (MOMMA's) Act. The legislation seeks to reduce America’s rising maternal and infant mortality rate, especially for moms and babies of color who are significantly more likely to die during or shortly after pregnancy. In the United States Black women are three times more likely than white women to die as a result of their pregnancy. In the U.S., maternal mortality claims the lives of 700 American women each year with 70,000 having near-fatal health complications and 60% being preventable.

We are also losing babies in the U.S. with the average death rate of over 23,000 babies per year, with many deaths also being preventable. Babies of color are particularly at risk with Black babies being twice as likely to die as white babies during the first year of birth. The MOMMA's Act seeks to change the unacceptably high death rate for mothers and babies of color and the dynamic that leads to this egregious health disparity with a six-pronged approach that would reduce maternal deaths by:

- | Establishing national obstetric emergency protocols through a federal expert committee
- | Ensuring dissemination of best shared practices and coordination amongst maternal mortality review committees
- | Standardizing data collection and reporting
- | Improving access to culturally competent care throughout the care continuum
- | Providing guidance and options for states to adopt and pay for doula support services
- | Expanding Medicaid coverage to new mom’s entire post-partum period (one year)

The AMA has strong policy in support of expanding Medicaid coverage to one year for a new mom's entire post-partum period; and in conjunction with the AMA Center for Health Equity, has as one of its chief aims the goal of eliminating health disparities and furthering health equity in federal legislation. Consequently, the AMA proudly endorsed the MOMMA's Act along with a host of other federal and state leaders on maternal and child health, with AMA President Susan R. Bailey, MD, quoted as saying,

By expanding access to health care coverage and social services for postpartum women, this bill would help change the dynamic causing the tragically high maternal mortality that disproportionately harms Black and Brown communities in the United States. The American Medical Association supports this legislation and is committed to working with Congress to tackle the issues surrounding maternal mortality and morbidity.

Rep. Robin Kelly (D-IL-2) plans to introduce the companion bill in the House and the AMA looks forward to working with bill sponsors to see this important legislation enacted so we can start to make meaningful change in the unacceptably high rate of maternal mortality and morbidity for racial and ethnic minorities in this country.

AMA urges passage of the Equality Act

On Feb. 24, the AMA signed its support (PDF) of H.R. 5, the Equality Act, alongside 49 other organizations; it passed the House on Feb. 25. H.R. 5 would amend several provisions of the Civil Rights Act of 1964 to provide affirmative, statutory non-discrimination protections for LGBTQ Americans both in the workplace and in the community. In 2019, the Equality Act was introduced on a bipartisan basis in both the House and Senate, and it passed the House with a bipartisan majority. The AMA signed onto a similar letter in support of the 2019 legislation with this same coalition. These organizations, "representing and employing tens of millions of Americans...have been at the forefront of efforts to combat discrimination based on sexual orientation and gender identity in the workplace," and again urge passage of H.R. 5.

CMS holds physicians harmless from MIPS penalties amid COVID-19 PHE

On Feb. 25, CMS announced it will hold physicians harmless from up to 9% MIPS penalties due to the significant disruptions of the COVID-19 public health emergency on physician practices'

performance in 2020. The AMA strongly advocated for this automatic relief from MIPS penalties and sincerely thanks CMS for ensuring physicians will not be unduly penalized during the pandemic.

The Extreme and Uncontrollable Circumstances Hardship Exception policy will be automatically applied to ALL MIPS eligible clinicians who do not submit any MIPS data for the 2020 performance period and avoid a 2022 payment penalty. CMS is also reopening the hardship exception application for group practices, virtual groups, and alternative payment model entities who missed the previous 2020 deadline. The reopened application deadline is March 31, 2021. Note, groups and eligible clinicians who submit data in at least two MIPS categories will override the hardship exception and be eligible to earn a bonus from the exceptional performance bonus pool or potentially be subject to a penalty.

Federal government proposes changes to HIPAA

The AMA continues to track proposed changes to the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, published in the Federal Register on Jan. 21, 2021, with the intent of supporting value-based health care and reducing regulatory burden, while preserving the privacy and security of each patient's protected health information (PHI). Proposed changes (PDF), including but not limited to the following, focus on the rights of individuals to access their PHI and modifications to requirements that may impede care coordination and case management:

- | Creating new regulatory definitions of electronic health record (EHR) and personal health application (PHA)
- | Clarifying the scope of covered entities' abilities to disclose PHI to social services agencies, community-based organizations or home- and community-based service providers
- | Modifying the definition of "health care operations" to include care coordination and case management for individuals
- | Shortening a covered entity's required response time to an individual's request to access their own health records from 30 days to no later than 15 calendar days (with a one-time opportunity to extend the deadline)
- | Adjusting to the scope of an individual's right to direct the transmission of PHI to third parties following the *Ciox v. Azar* decision
- | Codifying an individual's right to direct electronic copies of PHI stored in an EHR to a third party, such as a health plan or another health care provider
- | Creating an exception to the minimum necessary standard for individual-level care coordination and case management disclosures
- | Eliminating the requirement that a covered entity obtain an individual's written acknowledgement of receipt of a treatment provider's Notice of Privacy Practices, and the associated requirement to retain copies of such documentation for six years

If included in the final rule, several of the proposed changes will impact how physicians comply with regulations linked to HIPAA, including the Office of the National Coordinator for Health Information Technology's Information Blocking Rule. The AMA will be developing substantive comments in response to the NPRM, which are due to OCR by March 22.

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