

March 26, 2021: National Advocacy Update

Closing the “Charleston Loophole” adds additional protection to House bill on background checks

On March 10, the House passed H.R. 1446, the Enhanced Background Checks Act of 2021. Introduced by Majority Whip James Clyburn (D-SC) and Judiciary Chairman Jerrold Nadler (D-NY), the bill would close the so-called “Charleston Loophole” by extending the time period the FBI has to determine whether a buyer is qualified to purchase a gun.

Currently, after only three days, a gun dealer can transfer the gun even if the background check has not been completed. H.R. 1446 extends that time to ten days. The three-day deadline enabled the man who murdered nine people at the A.M.E. Church in Charleston, SC, to buy a gun even though he was prohibited by law from possessing one. The AMA supports this bill based on AMA policy calling for a waiting period of at least one week before purchasing any form of firearm in the U.S. This is the second bill passed in the House recently to address gun violence. The first bill, H.R. 8 would expand the existing background check system to cover all firearm sales including those at gun shows, over the internet and through classified ads, while providing reasonable exceptions for law enforcement and family and friend transfers. Both bills face long odds in the Senate but given the recent tragic mass shootings in Georgia and Colorado, the Senate is facing increased pressure to act on legislation to prevent firearm violence.

AMA asks FEMA to include physician offices in vaccine distribution efforts

Last week, the AMA wrote to Federal Emergency Management Agency (FEMA) (PDF) Acting Administrator Robert Fenton urging FEMA to work to include physician offices in federal programs to distribute and administer COVID-19 vaccines to the public. In most states, physician offices have not yet been included in vaccine administration efforts and are likewise not included in current federally managed vaccination efforts. In both the FEMA letter and in similar outreach to the White House, the AMA noted the critical role physicians can play in increasing vaccination rates throughout the United

States, as physicians are best positioned to help address vaccine hesitancy with their patients. AMA outreach has also noted the role physician offices can play in reaching individuals in underserved communities, where access to health systems and pharmacies may be difficult and in areas lacking mass vaccination events.

More funding is needed to curb youth e-cigarette use

In a recent sign-on letter (PDF) the AMA was joined by 57 other health care organizations in urging Congress to increase the funding for the Centers for Disease Control and Prevention's (CDC) office on Smoking and Health (OSH) by \$7.2 million, for a total of \$310 million. This increase is vitally important to respond to the alarming increase in e-cigarette usage rates among youth and the devastating toll that tobacco continues to take on our nation's health during the COVID-19 pandemic, especially in disproportionately affected communities. After making tremendous progress in reducing youth tobacco use over the past several decades, e-cigarettes are threatening to undermine declines in youth smoking and overall youth tobacco use. E-cigarettes have been the most commonly used tobacco product among youth since 2014 and youth use of e-cigarettes has reached what the U.S. Food and Drug Administration (FDA) and the Surgeon General have called "epidemic" levels. The 2020 National Youth Tobacco Survey (NYTS) shows that 3.6 million kids used e-cigarettes in 2020 including nearly 1 in 5 high school students. The risks are also becoming clearer. In 2020, 38.9% of all high school e-cigarette users used e-cigarettes on 20 or more days a month, a sign that youth are addicted or at risk of addiction. With additional resources:

- | CDC could better advance health equity by focusing on groups who are disproportionately harmed by tobacco products, including designing and implementing prevention and cessation programs that are tailored to address their specific needs.
- | CDC could strengthen efforts to end youth and young adult tobacco use, including e-cigarette use, by providing more resources to state and local health departments; educating youth, parents, health professionals, communities and others about tobacco products and the harms associated with their use; and identifying evidence-based strategies to protect youth and young adults from initiating tobacco use.
- | CDC could expand a program that we know works: the Tips media campaign. From 2012 through 2018, CDC estimates that more than 16.4 million people who smoke attempted to quit and approximately one million smokers have quit for good because of the Tips campaign. As a result, the Tips campaign has helped prevent an estimated 129,100 smoking-related deaths and saved an estimated \$7.3 billion in health care costs. Increasing the number of weeks Tips is on the air each year, better targeting the ads into communities that experience a disproportionate impact and increasing the frequency with which ads run will help even more smokers to quit.

Medicaid programs in U.S. territories need funding extension

The AMA is urging the Committee on Energy and Commerce (PDF) to favorably report out legislation that would properly fund Medicaid programs for Puerto Rico, the U.S. Virgin Islands and other U.S. territories. The federal government continues to provide additional funding to help ensure the island nations and territories can cover the costs of their Medicaid programs, but these resources will expire on Sept. 30. Unless funding is at least maintained at current levels, Puerto Rico's Medicaid program, for example, will lose 90% of its current funding. With the COVID-19 pandemic continuing to affect all U.S. territories, it is imperative that Congress act expeditiously to stabilize the fiscal situation facing Medicaid programs in the island nations and territories.

Medicare payment increase for COVID-19 vaccine

The Biden-Harris administration nearly doubled Medicare payment for administration of the COVID-19 vaccine, including administration of vaccines requiring two doses, to \$40 per administration. This follows significant advocacy by the AMA and the AMA/Specialty Society RVS Update Committee (RUC) with the Biden transition team and the Centers for Medicare & Medicaid Services (CMS) to increase payment to ensure adequate reimbursement for the administration of these life-saving vaccines for Medicare patients, while ensuring there are no out-of-pocket costs for patients. On the second day of the administration, the White House called on (PDF) CMS to review the cost of administering vaccines to evaluate whether a higher rate would more accurately compensate physicians.

The updated Medicare payment rate reflects the additional resources necessary to ensure the vaccine is administered safely and appropriately. The AMA and RUC brought to the administration's attention the increased expenses to safely administer the vaccines and provide in-person care during the public health emergency. These costs are described by the CPT Editorial Panel with the new CPT code 99072 and are now bundled into the new COVID-19 immunization administration payments.

Bipartisan House bill alleviates Provider Relief Fund tax issue

The Provider Relief Fund (PRF) remains a crucial source of fiscal relief for urban and rural physicians working tirelessly to treat patients afflicted with SARS-CoV-2. Initially created as part of the Coronavirus Aid, Relief and Economic Security (CARES) Act, the federal government has, to date, allocated approximately \$178 billion to the PRF in order to help physicians, hospitals and other providers cover expenses and lost revenue associated with COVID-19. Although it remains a vital

financial resource, a 2020 determination by the Internal Revenue Service (IRS) to deem PRF grants as taxable income lessens their overarching utility by subjecting physician practices structured as for-profit businesses to tax liabilities of at least 21%.

To help ensure the maximum benefit of federal financial assistance, Reps. Cindy Axne (D-IA), Brian Fitzpatrick (R-PA) and Neal Dunn, MD (R-FL) introduced H.R. 2079, the Eliminating the Provider Relief Fund Tax Penalties Act. This bipartisan bill stipulates that PRF grants do not count as taxable income and clarifies that expenses covered by these funds will retain associated tax deductibility. Congress has clarified in previous COVID-19 relief bills that other forms of federal assistance, including forgivable loans issued via the Paycheck Protection Program, do not count as taxable income and retain tax deductibility. AMA, along with numerous other physician, hospital, nursing and provider organizations, are working together to advance this important bipartisan legislation in the 117th Congress.

Resident Physician Shortage Reduction Act of 2021

The AMA signed onto a letter supporting (PDF) the Resident Physician Shortage Reduction Act of 2021. This important piece of legislation, which the AMA has been advocating in favor of for years, would provide 14,000 new federally funded graduate medical education (GME) slots over the next seven years. Due to the Balanced Budget Act of 1997, which capped the number of residents and fellows that are funded by Medicare, GME programs have experienced minimum growth and have not expanded to meet the demands of an aging and growing patient population. While new medical schools are opening and existing medical schools are increasing their enrollments to meet the need for more physicians, federal support for residency positions are still subject to this outdated cap. The Resident Physician Shortage Reduction Act of 2021 would help to provide critical federal funding to expand GME training positions and improve the number of physicians in rural, lower income and underrepresented communities through distribution and reporting requirements. The AMA encourages the House and Senate to pass this important piece of legislation.

Application period now open for 2022 Primary Care First Model

Primary care practices in 26 regions across the country are now eligible to apply to participate in the CMS Innovation Center’s Primary Care First model. Applications are being accepted until April 30, and approved applicants will participate in the model for five years, from 2022 through 2026. The first cohort to participate in Primary Care First started in Jan. 2021. CMS is offering several opportunities for physicians considering applying for the model to learn more about it, including a webinar on March 31, at 3:00 p.m. Eastern, specifically focusing on the application process.

In addition, several resources are available from the AMA for physicians who want to learn more about Primary Care First, including a comparison table describing key features of the two Medicare medical home models and a webinar recorded in 2020 featuring staff from the CMS Innovation Center, American College of Physicians and American Academy of Family Physicians, as well as the AMA. Additional details, including a map of the 26 regions and a list of the practices that began participating this year, are available on the CMS Primary Care First website.

DHS vacates August 2019 Public Charge final rule

On March 15, the Department of Homeland Security (DHS) issued a final rule vacating the August 2019 final rule, Inadmissibility on Public Charge Grounds. The August 2019 rule, if it had been implemented, would have replaced a more narrow definition of who is considered a public charge to a definition in which any “alien who receives one or more public benefits” would have been considered a public charge.

The AMA strongly opposed the August 2019 rule because it would have penalized individuals and families from seeking necessary medical care, public housing, nutrition assistance and other public benefits that are available to immigrants. DHS’ recent action restores the regulatory text to appear as it did prior to the issuance of the August 2019 final rule.

More articles in this issue

- | March 26, 2021: Advocacy Update spotlight on progress made to extend sequester moratorium
- | March 26, 2021: State Advocacy Update
- | March 26, 2021: Advocacy Update other news