May 7, 2021: State Advocacy Update

Washington is the first state to require PPE reimbursement

Washington State Medical Association (WSMA) recently assisted in passing Senate Bill 5169, providing a major win for the physician community by requiring commercial insurance carriers to begin reimbursing for personal protective equipment (PPE) costs during the pandemic. The bill was signed into law by Governor Jay Inslee on April 16. The bill took effect immediately upon signature, making Washington the first state in the country to require reimbursement for PPE in this way.

For the duration of the federal public health emergency, any physician or health care provider in Washington treating patients in state-regulated commercial health plans who has incurred costs for PPE will be able to bill the newly created CPT code 99072 and be reimbursed $6.57 per patient encounter, reflecting the direct costs recommended by the AMA’s RVS Update Committee (RUC) to Centers for Medicare & Medicaid Services (CMS).

The CPT® Editorial Panel approved CPT code 99072 last September to be used to report the additional supplies, materials and clinical staff time over and above the practice expense(s) included in an office visit or other non-facility service(s) when performed during a public health emergency, as defined by law, due to respiratory-transmitted infectious disease. To help address the significant fiscal pressures placed on physicians by the COVID-19 pandemic, the AMA and other supporters have called upon CMS, America’s Health Insurance Plans (AHIP), Blue Cross Blue Shield Association (BCBSA) and major commercial health plans (e.g., Anthem, Aetna, Cigna, Health Care Service Corporation, Humana and UnitedHealthcare) to implement and pay for CPT code 99072. The passage of the Washington bill sends a strong message to CMS, commercial health plans and other states that these are real resource-based practice expenses that should be paid for so that physicians’ offices can mitigate the impact of COVID-19 while continuing to provide critical services.

In response to the passage of the Washington bill, the WSMA stated, “We are thankful to the AMA for creating the code during the pandemic and the legislature’s equally swift action to require carriers to reimburse in Washington state. Physicians should not be left on their own to disproportionately manage these unexpected increased costs of providing fundamental life-saving and preventative care to our state’s residents during the pandemic. This is a necessary step to help spread the increased costs of delivering care during the pandemic and ensure everyone is paying their fair share.”

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Action needed to help justice-involved individuals who have a substance use disorder

There is no legal, medical or policy reason to deny access to medications for opioid use disorder (MOUD) for justice-involved persons, according to leading medical, legal and health policy experts speaking on recent webinar from the AMA and Manatt Health. The webinar is part of a year-long series to showcase specific policy recommendations in action from the 2020 AMA-Manatt Health national policy roadmap (PDF).

“We need to take action to help the nation’s justice-involved population,” said AMA Immediate Past President Patrice A. Harris, MD, MA. “We are facing a multi-factorial drug overdose epidemic that has become worse from the COVID pandemic. Whether a person is in jail or prison, on parole, or in a drug diversion program, there must be a focus on evidence-based treatment.”

Learn more about the webinar, including work being done by leading physicians, legal experts and state officials to help ensure access to MOUD for individuals in justice-involved settings.

Indiana and South Dakota take important steps to support physician wellness

Building off landmark legislation in Virginia last year championed by the Medical Society of Virginia, the state medical societies in Indiana and South Dakota helped enact new laws this year that will provide critical confidentiality protections for physicians seeking care for burnout and other stressors. Indiana Senate Enrolled Act No. 365 has among its protections that “all verbal communication belonging to or performed as part of a wellness program are confidential and privileged and may not be used in any administrative or judicial proceeding.”

“Physicians are hardly immune to the stressors that have been brought on by COVID-19,” said Indiana State Medical Association Executive Vice President Julie Reed, JD. “We strongly supported this bill because physicians deserve to have a ‘safe space’ where they can seek out professional counseling and other confidential care before such stressors adversely impact their careers.”

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South Dakota’s House Bill 1179 also was enacted this year and contains similar confidentiality protections. Provisions include protection that “any record of a person's participation in a physician wellness program is confidential and not subject to discovery, subpoena or a reporting requirement to the applicable board,” unless the person voluntarily agrees to release the information or there is evidence of a crime or unprofessional conduct.

The South Dakota State Medical Association was also successful in advocating for a change in questions on the state medical license application to no longer require applicants to disclose unnecessary information. The question was changed from one that asked whether an applicant had ever “received care or treatment for alcohol abuse, alcoholism, drug abuse, drug addiction or mental illness,” to one that focuses on whether an applicant “is currently suffering from any condition for which they are not being appropriately treated that impairs their ability to practice medicine in a competent, ethical and professional manner.”

“The privacy and confidentiality of a physician’s health and treatment history is essential, and this change wouldn’t have been possible without physician advocacy,” said South Dakota State Medical Association President Benjamin C. Aaker, MD. “Under the revised rule, physicians who are not impaired but yet suffering from feelings of burnout and/or stress can come forward without fear of disciplinary action or reprisal. We know that allowing physicians to take the best care of themselves equates to the best care for patients.”

The AMA applauds the actions taken in Virginia, Indiana and South Dakota and strongly urges all states to consider similar legislation. For more information, please review the AMA Advocacy Resource Center issue brief (PDF) on confidential care to support physician health and wellness. The issue brief provides additional legislative and other suggestions for medical society advocacy.

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