

May 21, 2021: National Advocacy Update

COVID-19 Hate Crimes Act enacted

In response to increasing violence against Asian Americans during the coronavirus pandemic, on May 20, President Joe Biden signed the COVID-19 Hate Crimes Act into law. The House of Representatives passed S. 937, the COVID-19 Hate Crimes Act, on May 18 by a vote of 364-62. The bill, which comes on the heels of the horrific March 2021 spa shootings in Georgia, passed the Senate by a vote of 94-1 last month.

The COVID-19 Hate Crimes Act was originally introduced by Senators Mazie Hirono (D-HI) and Grace Meng (D-NY) in late March. The initial structure of the bill designated a specific employee within the U.S. Department of Justice (DoJ) fully dedicated to facilitating expedited reviews of COVID-19 hate crimes ultimately reported to federal, state and local law enforcement. In addition, the bicameral bill required the release of federal guidance for state and local law enforcement agencies to establish online reporting of hate crimes and notices regarding the availability of digital reporting in multiple different languages. Federal guidance for state and local law enforcement agencies on expanding culturally competent and linguistically appropriate public education campaigns, data collection and public reporting of hate crimes is also mandated.

The legislation includes a directive for the Department of Health and Human Services (HHS), working in tandem with the COVID-19 Health Equity Task Force and community-based organizations, to issue guidance on best practices for mitigating racially discriminatory language when describing the current pandemic, as well. The AMA wrote a letter (PDF) to Senator Hirono and Representative Meng supporting the original legislation in April.

The Senate, however, added an additional bill, specifically the Khalid Jabara and Heather Heyer National Opposition to Hate, Assault and Threats to Equality Act, also known as the Jabara-Heyer NO HATE Act, to S. 937. As a result, the amended version of the COVID-19 Hate Crimes Act also allows the DoJ to make grants to states and local governments to assist with the implementation of the FBI's National Incident-Based Reporting System. Three years after receiving the grants, jurisdictions are required to provide hate crime information through the Uniform Crime Reporting System and states that fail to comply with this mandate are forced to repay the grants plus associated interest and

penalties. Finally, the combined bill directs DoJ to award states five-year grants to create phone hotlines to report hate crimes.

AMA applauds Congress for passing this important bipartisan legislation to help combat rising incidents of xenophobia and racially charged violence during the COVID-19 pandemic.

Interim Final Rule on nonimmigrant visa classification program vacated

The AMA applauds the Biden administration for quickly and efficiently implementing the ruling of the U.S. District Court for the Northern District of California and vacating the Interim Final Rule (IFR) entitled, Strengthening the H-1B Nonimmigrant Visa Classification Program. The AMA had submitted comments (PDF) in opposition to the IFR and in support of the court's ruling in Dec. 2020. As a result of this vacatur, the IFR will be removed from the Code of Federal Regulations (CFR) and the regulatory text will be restored to appear as it did before the IFR was implemented.

Final rule on wage protections affecting H-1B visas delayed

The Biden administration has delayed the effective date of the Final Rule entitled, "Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States" until Nov. 14, 2022, and the corresponding transition dates have been delayed until Jan. 1, 2023, Jan. 1, 2024, Jan. 1, 2025 and Jan. 1, 2026, respectively. Though the delay is a positive step and provides the Biden administration with additional time to review the negative consequences that this Trump era regulation would have on our H-1B physician workforce, the AMA still urges the administration to revise or rescind the computation of prevailing wage levels to ensure that the computation of wages effectively guarantee the employment of IMGs and does not adversely affect the wages of U.S. workers similarly employed. If rescission to pre-rule wage levels is not possible, the AMA will urge the U.S. Department of Labor (DOL) to exempt physicians from the rule. Additionally, the AMA strongly urges the DOL to continue to approve and to annually accept, the wage data from the Association of American Medical Colleges (AAMC) Survey of Resident/Fellow Stipends (PDF) and benefits report (PDF) for foreign medical students.

Tell Congress to make expanded telehealth services permanent

The COVID-19 pandemic has impacted the delivery of health care in a number of ways. During the pandemic, telehealth services emerged as a critical tool to provide care to patients while supporting physical distancing efforts and reducing the spread of COVID-19 and other infectious diseases by avoiding unnecessary outpatient visits. In response, Congress acted to temporarily expand access to Medicare-covered telehealth services to all Medicare beneficiaries by authorizing the U.S. Department of Health and Human Services (HHS) to waive outdated statutory restrictions on where telehealth services may be provided. Stories poured in from all over the country from physicians and patients alike about the positive effects of expanded telehealth benefits. It has continued to allow physicians to provide high-quality care using new digital tools. Congress needs to act. Recently, legislation was introduced in both the House and Senate that, if passed, would make the expanded access to telehealth services permanent.

The Telehealth Modernization Act of 2021 (H.R. 1332/S. 368) would lift the rural-only restriction and add any site where a patient is located as a potential originating site and ensure all Medicare beneficiaries may receive covered Medicare telehealth benefits, including at home and via mobile technologies as appropriate, while the CONNECT for Health Act (H.R. 2903/S. 1512) would provide HHS with permanent authority to waive these restrictions, similar to the authority the agency has for the duration of the COVID-19 public health emergency. The success of telehealth technology adoption during the COVID-19 public health emergency has made it abundantly clear that Medicare covered telehealth benefits should be available to ALL Medicare patients regardless of where they live or how they access broadband services.

Tell Congress to make expanded telehealth services permanent and ask them to support making expanded telehealth services permanent today.

AMA supports the MOMMA's Act to help reduce maternal mortality

In an effort to bolster support for ongoing efforts to decrease maternal mortality, the AMA sent a letter (PDF) to Senators Richard Durbin (D-IL) and Tammy Duckworth (D-IL) in support of the Mothers and Offspring Mortality and Morbidity Awareness Act or the MOMMA's Act. The MOMMA's Act would extend the current 60-day coverage for postpartum care to one year under Medicaid and the Children's Health Insurance Program (CHIP). This change is critical, as research has shown that about 33% of pregnancy-related deaths happen between one week and one year after childbirth. The expansion of maternity care under Medicaid is particularly important as this program pays for more than 40% of all births.

The MOMMA's Act would further address disparities in health by supporting the training of clinicians on implicit bias and health equity issues as well as provide guidance and options for states to adopt and pay for support services provided by doulas. The AMA believes that implicit bias training for health care professionals in conjunction with expanded efforts to train and deploy a health care workforce that displays a diversity of backgrounds and experiences will help to reduce the inequities that currently exist. In addition, the MOMMA's Act would ensure dissemination of best shared practices and coordination among maternal mortality review committees to increase the much-needed standardization of data collection and reporting.

Proposed rule on visa application requirements withdrawn

The AMA applauds the U.S. Department of Homeland Security (DHS) for withdrawing the proposed rule on the Collection and Use of Biometrics by U.S. Citizenship and Immigration Services on May 10. This proposed rule would have changed the requirements for visa applications by expanding the collection of DNA samples to include children, potential immigrants and U.S. sponsors. Moreover, this rule would have undermined fundamental and long-standing accepted ethical conventions related to patient privacy and consent. The AMA has opposed (PDF) this rule since it was originally proposed and requested (PDF) that the Administration withdraw the proposed rule.

AMA urges the USCIS to prioritize visas for foreign national medical students and physicians

On May 19, the AMA submitted comments (PDF) in response to a U.S. Citizenship and Immigration Services (USCIS) request for input on barriers that prevent foreign citizens from accessing eligible immigration services and benefits. The comments urged USCIS to rescind the H-1B Interim Final Rule which would prioritize H-1B visa registrants based on the highest prevailing wage. This would price H-1B physicians out of the market in rural areas where they are most needed. The AMA also urged USCIS to not move forward with the Duration of Status Proposed Rule because there are preexisting and less burdensome systems for monitoring J-1 visa holders making the Proposed Rule redundant and unnecessary.

Continued advocacy brings further improvements to Optum Pay program

In response to ongoing advocacy by the AMA, many state medical associations, national medical specialty societies and individual physician practices, Optum Pay™ recently announced that it has further modified its electronic payment program to allow unlimited users for each account through the basic, no-cost option effective May 22. Previously, Optum Pay had required practices to enroll in its premium program, which assesses a 0.5% per payment fee, to gain system access for more than two users.

This change builds on previously announced Optum Pay program improvements that provide downloadable remittance information and up to 13 months of payment data for UnitedHealthcare (UHC) claims for free. More details are available on the UHC provider website.

National Clinical Care Commission (NCCC) drafts recommendations

Established by a 2017 law, the National Clinical Care Commission (NCCC) charter (PDF) calls for it to develop recommendations for federal agencies on the treatment and prevention of diabetes by Oct. 2021. In a comment letter (PDF) responding to draft recommendations circulated April 29, the AMA welcomed the NCCC's recognition of the need for all federal agencies involved in diabetes to improve health equity, and urged a particular focus on Black, Latinx and Indigenous Americans.

The draft recommendations indicate that the NCCC plans to adopt many other policies advocated by the AMA, including: expanded Medicare coverage for screening laboratory tests to identify patients with prediabetes; ongoing research into other evidence-based interventions to prevent type 2 diabetes and strengthening and increasing utilization of the Medicare Diabetes Prevention Program.

AMA comments urged the commission to:

- Add “physician-led” to its recommendations for team-based care.
- Clearly state support for removing the geographic and originating site restrictions that prevented most patients from accessing telehealth before the pandemic.
- Support Medicare coverage of hemoglobin A1C tests for screening and monitoring of prediabetes.
- Call for adoption all three AMA-developed electronic clinical quality measures for prediabetes.

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