Oct. 22, 2021: National Advocacy Update

AMA supports passage of the TRIUMPH Act to combat maternal mortality

The AMA sent a letter (PDF) to the U.S. House of Representatives in support of H.R. 4217 the “Taskforce Recommending Improvements for Unaddressed Mental Perinatal & Postpartum Health for New Moms Act of 2021” or the TRIUMPH for New Moms Act of 2021.

If passed, the bill would create a task force on maternal mental health which would identify, evaluate and make recommendations to coordinate and improve federal responses to maternal mental health conditions as well as create a national strategic plan for addressing mental health disorders. This is part of an ongoing effort to address the crisis of maternal mortality in the United States.

Each year nearly 700 women die during or within a year of their pregnancy due to pregnancy-related or pregnancy-associated complications despite studies that show that more than half of pregnancy-related deaths are preventable. Pregnant and postpartum individuals may experience a broad range of mental health disorders and symptoms, including pregnancy and postpartum depression, general anxiety, obsessive-compulsive disorder, psychosis and birth-related post-traumatic stress disorder. Mental health conditions have been identified as an underlying cause for almost nine percent of pregnancy-related deaths according to the U.S. Centers for Disease Control and Prevention (CDC).

Moreover, Black women, Latina women and women who have low incomes are more likely to experience symptoms of depression while pregnant and during the postpartum period. In addition to this human cost, untreated perinatal mental health conditions that occur during pregnancy and the first five years of a child’s life have been estimated to carry a societal burden of $14 billion per year in the U.S. and this is considered to be an underestimate.

COVID public health emergency extended into 2022

Effective Oct. 18, Health and Human Services Secretary (HHS) Xavier Becerra has renewed the nationwide COVID-19 Public Health Emergency (PHE) for an additional 90 days. The COVID-19 PHE was first declared on Jan. 27, 2020, and has been renewed every 90 days since then. The current
extension of the PHE will take it into late January 2022.

Under the PHE, a number of laws that would ordinarily be in effect are waived. For example, the waivers issued due to the PHE allow Medicare to cover telehealth services for patients who live all over the country, not just those in rural areas, and for patients to receive telehealth services in their homes without having to travel to a medical facility.

CMS has also used its Extreme and Uncontrollable Circumstances policy to allow physicians to avoid reporting measure data and receiving payment adjustments due to the Merit-based Incentive Payment System (MIPS) during the PHE. Find additional information (PDF) on flexibilities available during the COVID-19 PHE.

**Accountable care organization benchmarks affected by COVID-19**

The AMA joined with the National Association of Accountable Care Organizations (NACOS) and other health care organizations in a letter to CMS (PDF) recommending that Medicare ACOs be permitted to have only data from pre-pandemic years included in the benchmark spending calculations that determine whether or not they earn shared savings. The letter arose due to concerns about variations in utilization and expenditures for patients with Medicare due to the pandemic that are beyond ACO control. For example, some parts of the country faced COVID-19 surges in 2020 yet have now resumed more in-office visits and elective procedures, whereas other areas saw little change in 2020 utilization relative to previous years but are now being hit hard by the pandemic.

COVID-19 has also affected which patients are attributed to ACOs based on their Medicare claims data. With attribution based largely on primary care services and many patients delaying primary care, utilization patterns for services used to attribute patients to ACOs have been greatly affected by the pandemic. Differences in ACOs’ attributed populations and performance year expenditures related to the pandemic are beyond the control of ACOs and may not be reflected in the benchmarks used to assess ACO performance.

For these reasons, the AMA and the other organizations joining in the letter are asking that ACOs be able to choose to exclude data from the pandemic years from their financial benchmark calculations. The recommendation that data gathered during COVID-19 be excluded is also consistent with AMA recommendations for MIPS due to performance measure data being affected by the pandemic.

**The AMA urges federal advisory committee to listen to**
In comments to the National Committee on Vital and Health Statistics (NCVHS) (PDF), the AMA urged the federal advisory committee to listen to physicians and address administratively burdensome issues in health care. NCVHS is undergoing a multi-year effort to identify how information technology and other health care standards can be used to improve health information exchange and use. Physicians collect and document clinical information used to treat patients and to support administrative needs like billing.

While the federal government is examining how to align technology with both clinical and administrative needs, the AMA has provided several specific recommendations the federal government can take to aid physicians and improve care for the patients they treat. Importantly, these recommendations are focused on reducing the complexity of physician/payer data exchange without disrupting physician workflows or impacting foundational systems like claims and payment. Specifically, the AMA called on NCVHS to:

- Recommend a universal technical standard to support data exchange between providers and payers of all types for medical services and prescription drug prior authorizations.
- Recommend that any technology used for real-time prescription benefits integrates with all EHR systems and provides accurate information for all drug plans and patients.
- Study, evaluate and recommend standards and/or operating rules to inform physicians’ and patients’ conversations about care costs.
- Recommend standardizing payer rules to reduce the burden on physicians and streamline compliance with disparate payer billing rules and requirements.

The AMA will continue to engage with NCVHS and the federal government to reduce friction imposed by payer requirements or federal policy initiatives.

**FDA holds public workshop on AI transparency**

On Oct. 14, the Food and Drug Administration (FDA) held a day-long virtual public workshop on transparency in artificial intelligence (AI). AMA President-elect Jack Resneck Jr., MD, participated in the meeting as a panelist representing the physician view on transparency in AI. The public workshop followed the January 2021 release of FDA’s Artificial Intelligence/Machine Learning-based Software as Medical Device Action Plan, which highlighted transparency as one of the five key areas of focus for the agency going forward.

Dr. Resneck highlighted the importance of AI transparency and explainability during his remarks, commenting that meaningful clinical integration of AI-based tools will not happen without them. He
further discussed how critical certain elements of transparency, such as clinical validation and information on training data sets, will be key to helping physicians trust new AI-based tools.

FDA is accepting further public comment on AI transparency through a docket open until Nov. 15.

**AMA urges FDA to pursue meaningful solutions to nation’s drug overdose epidemic**

Rather than pursue a new opioid prescribing education mandate, the AMA urged the U.S. Food and Drug Administration (FDA) to support research for medications to treat substance use disorders (SUD) related to methamphetamine and cocaine as well as removing arbitrary thresholds contained in the 2016 CDC opioid prescribing guideline, said Bobby Mukkamala, MD, chair of the AMA Board of Trustees and chair of the AMA Substance Use and Pain Care Task Force.

Dr. Mukkamala’s comments (PDF) were part of a two-day “FDA Public Workshop on Opioid Prescriber Education” to discuss whether the FDA should move forward on mandatory opioid prescriber education through a Risk Evaluation and Mitigation Strategy (REMS) requirement. The FDA is accepting public comment on the concept through Dec. 3.

“Physicians continue to educate themselves through many avenues,” said Dr. Mukkamala. “Education provided by medical societies has increased from courses and materials being accessed about 120,000 times per year in 2015-2016, to courses and materials being accessed several million times each year.”

In his comments and panel discussion, Dr. Mukkamala and other speakers detailed how the nation’s drug overdose epidemic has worsened as a result of death related to illicit fentanyl, methamphetamine and cocaine. A mandatory REMS will not address that, nor will it have a significant impact on providing meaningful education to different physician specialties, said Dr. Mukkamala. Dr. Mukkamala highlighted how pain management needs for patients seen by otolaryngologists whose practices focus on different patient conditions would be different, as would patients seen by an obstetrician-gynecologist. He also cautioned the FDA on the need to avoid exacerbating existing health equity problems in the treatment of pain and SUD for minoritized and marginalized patients.

“Rather than a mandatory REMS, there is a great need to support GME programs to hire core faculty in pain medicine and addiction medicine and psychiatry,” said Dr. Mukkamala, who urged that such education be integrated throughout undergraduate and graduate medical education.

Over the course of the two days, multiple speakers echoed the concerns raised by Dr. Mukkamala, urging the FDA to acknowledge that the nation’s decreased opioid prescribing rates have not been
matched by decreasing mortality rates. Starting in 2012, opioid prescriptions began to decrease and have dropped by more than 44% in the past decade—down to 1992 levels when accounting for population growth. In addition, several speakers voiced concern that a mandatory opioid prescribing REMS would not be able to address individualized patient care needs, could further stigmatize patients with pain and effective public health solutions will need to focus on the polysubstance nature of the epidemic.

Visit the AMA’s End the Epidemic microsite for more information on the recommendations of the AMA Substance Use and Pain Care Task Force.

Changes to made public service loan forgiveness

The Department of Education announced that, over the coming months, the Department will enact a series of changes including a time-limited waiver so that student borrowers will be able to count additional payments toward public service loan forgiveness (PSLF). This waiver will also allow for additional loan types and payment plans to count towards the 120 required payments if certain conditions are met (a.k.a., the borrower has a qualifying employer, etc.). The Department said that it “will pursue opportunities to automate PSLF eligibility, give borrowers a way to get errors corrected, and make it easier for members of the military to get credit toward forgiveness while they serve.”

The Department has stated that it will:

- Implement a limited PSLF waiver to count all prior payments made by student borrowers toward PSLF, regardless of loan program. The waiver will run through Oct. 31, 2022.
- Simplify what it means for a payment to qualify for PSLF.
- Eliminate barriers for military service members to receive PSLF.
- Automatically help service members and other federal employees access PSLF.
- Review denied PSLF applications and identify and correct errors in PSLF processing.
- Improve outreach and communication with PSLF-eligible borrowers.
- Simplify the PSLF application process.
- Make long-term improvements to PSLF through rulemaking.

Unfortunately, private loans will still not count towards the PSLF program. However, loans taken by students under the Federal Family Education Loan Program (FFELP) and Federal Perkins Loan Program will count toward loan forgiveness if the borrower consolidates the loans into a Federal Direct Consolidation Loan. (This is in addition to the already qualifying loan types such as Direct Loan (DL) Program Loans, including subsidized and unsubsidized loans, made to undergraduate and graduate students, and Graduate PLUS Loans made to students). Additionally, payments made in any repayment plan, including graduated repayment and extended repayment, not just standard.
repayment, and income-driven repayment, will count toward loan forgiveness.

The Department has indicated that it intends to alter the program in future rulemaking. However, the waiver does not affect qualifying employer rules. The employer still needs to be a governmental organization, a 501(c)(3) organization or a not-for-profit organization that provides a designated public service to get PSLF under normal rules and the limited PSLF waiver.

In order to see if you qualify for loan forgiveness under this temporary waiver, contact the Department of Education and your loan servicer. You can also find answers to questions at the Department of Education website.

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