Dec. 2, 2022: National Advocacy Update

Moving from policy to action: Fighting the nation’s drug overdose and death epidemic

In a new webinar on Dec. 12, the AMA and Manatt Health will highlight leading physicians, other health care professionals and advocates taking action to fight the nation’s drug overdose and death epidemic.

In 2021, drug-related overdose deaths topped 107,000. Despite a nearly 50% decrease in opioid prescribing over the past decade, drug overdose mortality continues to trend in the opposite direction. In particular, drug-related deaths have disproportionately impacted Black, American Indian, Native Alaskan Americans and young people.

The staggering data drives home the need for evidence-based policy and leadership to reduce drug-related overdoses. The AMA and Manatt Health released a national policy roadmap (PDF) in Dec. 2020 with detailed recommendations for policymakers. In 2022, the AMA and Manatt launched a more comprehensive state toolkit (PDF) that identified specific laws, regulations and other initiatives that demonstrated success. Now, in this webinar, they highlight leading physicians, other health care professionals and advocates taking action across the six areas that were the focus of these reports:

- Increasing access to evidence-based treatments to help patients with a substance use disorder (SUD)
- Ensuring access to addiction medicine, psychiatry and other trained physicians
- Improving access to multidisciplinary, multimodal care for patients with pain
- Enforcing mental health and SUD parity laws
- Expanding harm reduction efforts to reduce death and disease
- Enhancing public health data surveillance, monitoring and evaluation

Register for this webinar on Dec. 12 at noon, Central, to join Patrice A. Harris, MD, MA, former AMA president and chair of the AMA Substance Use and Pain Care Task Force, and Bobby Mukkamala, MD, immediate past chair of the AMA Board of Trustees and chair of the AMA Substance Use and Pain Care Task Force, in their discussion of these topics.

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AMA submits comments on Senate cybersecurity policy proposal

The AMA submitted detailed comments (PDF) on Dec. 1 in response to a cybersecurity policy paper issued by Senator Mark Warner (D-VA) in early Nov. The 35-page document, entitled “Cybersecurity is Patient Safety: Policy Options in the Health Care Sector,” (PDF) essentially operates as a request for information and marks Senator Warner’s continued interest within this particular issue area over multiple Congresses.

The white paper consists of three primary chapters, specifically “Improving Federal Leadership and Our National Risk Posture,” “Improving Health Care Providers’ Cybersecurity Capabilities through Incentives and Requirements” and “Recovery from Cyberattacks.” While it is unlikely a bill would be introduced before Dec. 31, 2022, Senator Warner is expected to pursue bipartisan cybersecurity legislation in the first quarter of the 118th Congress.

The cover letter signed by James L. Madara, MD, AMA executive vice president and CEO, that accompanies the detailed comments highlights a multitude of reasons for Congress and the Biden administration to address cybersecurity, including: “1) cybersecurity is a patient safety issue; 2) cyberattacks are inevitable and increasing; 3) physicians are interested in receiving tools and resources to assist them in cybersecurity efforts; and 4) the health care sector exchanges health information electronically more than ever before, putting the entire health care ecosystem at risk.”

The detailed comments touch on a multitude of disparate concepts such as:

- The need to view all potential cybersecurity processes through the lens of small physician practices that have limited financial resources
- Support for Section 405(d) of the Cybersecurity Act of 2015 as a way to develop and raise awareness about cybersecurity best practices
- The importance of health care cybersecurity guidance or playbooks from the National Institute for Standards and Technology (NIST) remaining voluntary
- Opposition to the creation of a health care sector-specific definition of cybersecurity
- Opposition to the expansion of HIPAA to cover app developers and the preference for the Office of the National Coordinator for Health Information Technology (ONC) to implement a privacy framework for electronic health record vendor APIs
- Potential modifications to the Stark and anti-kickback statutes to permit greater exchange of cybersecurity software and hardware
- The key components of minimum cyber hygiene practices and opposition to making such concepts a Medicare Condition of Participation
Support for easy-to-understand Software Bill of Materials (SBOM) for all technologies currently in use

The benefits of providing physician practices with greater federal resources to recover from cyberattacks, as well as the growing importance of a robust cyber insurance marketplace that includes a reinsurance program backed by the federal government.

The AMA appreciates Senator Warner’s ongoing engagement and looks forward to working on future cybersecurity legislation.

Final 2023 hospital outpatient and ASC payment rule highlights

On Nov. 1, 2022, the Centers for Medicare & Medicaid Services (CMS) finalized 2023 Medicare payment rates for hospital outpatient and ambulatory surgical center (ASC) services. CMS updated hospital outpatient payment rates by 3.8%, based on the projected hospital market basket increase of 4.1% minus 0.3 percentage point for the productivity adjustment.

The AMA is pleased that CMS finalized its proposal to use the hospital market basket in 2023 to update ASC payment rates, making the update factor 3.8%, as ASC rates have fallen further below outpatient hospital rates due to lower updates in the past. CMS also finalized policies establishing Rural Emergency Hospitals, a new type of Medicare provider that Congress created in the Consolidated Appropriations Act of 2021.

Rural Emergency Hospitals will receive additional Medicare payments to help maintain access to a wide array of services in rural areas. CMS finalized its proposal to add Facet Joint Interventions to the list of services that require prior authorization but delayed the implementation date from March 1, 2023, to July 1, 2023.

Read the AMA’s comment letter (PDF) in response to the proposed rule and CMS’ fact sheet and press release for more information about the final policies.

Physician groups urge Congress to extend QPP support for small, rural practices

The AMA joined nine national medical specialty societies in a letter (PDF) urging Congress to extend the Quality Payment Program Small, Underserved, and Rural Support (QPP-SURS) program, which provides technical assistance to qualifying practices that participate in the Medicare Merit-based Incentive Payment System (MIPS) and alternative payment models (APMs). After five years of
support, QPP-SURS ended in Feb. 2022.

This has left clinicians without a direct technical assistance program to help them navigate the continuously changing regulations and increasing performance thresholds of the QPP. Although MIPS has been scaled back since 2019 due to COVID-19, participation requirements will again be in full effect starting on Jan. 1, 2023. Restarting this technical assistance program at this time would be beneficial to patients in these medically underserved communities and valuable to small and rural physician practices.

**2021 MIPS public reporting data open for review until Dec. 21**

Physicians can now preview their 2021 MIPS performance information as it will be publicly reported on Medicare Care Compare (previously Physician Compare) and in the Provider Data Catalog (PDC). You can access the secure preview through the QPP website. The MIPS preview period will close on Dec. 20, 2022, at 8 p.m. Eastern (5 p.m. Pacific).

The 2021 QPP performance information planned for public reporting in 2023 will be added to Care Compare and/or the PDC after all targeted reviews are completed. If you have an open targeted review request, you will still be able to preview your 2021 QPP performance information during the Doctors and Clinicians Preview Period.

Please note that Accountable Care Organization (ACO)-level data is not available for viewing via the QPP site during the preview period. MIPS-eligible clinicians who participate in Medicare Shared Savings Program ACOs can preview their performance information in their 2021 MIPS Performance Feedback.

Shared Savings Program ACOs can also review quality performance information in their previously provided 2021 Quality Performance Reports. The list of ACO performance information planned for public reporting is available on the Care Compare: Doctors and Clinicians Initiative page.

If you have any questions about public reporting for doctors and clinicians on Care Compare, contact the QPP Service Center at 1-866-288-8292 (Monday-Friday, 8 a.m.- 8 p.m. Eastern) or by email at QPP@cms.hhs.gov. To receive assistance more quickly, consider calling during non-peak hours (before 10 a.m. and after 2 p.m. Eastern). Customers who are hard of hearing can dial 711 to be connected to a TRS Communications Assistant.

For additional assistance with accessing the QPP website or obtaining your HCQIS Access Roles and Profile (HARP) user role, contact the QPP Service Center at QPP@cms.hhs.gov. You can also use the QPP Access User Guide to learn how to register with HARP.
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