

Dateline Washington

prepared by the Division of Advocacy and Health Policy

Senate passes patient safety legislation

The U.S. Senate unanimously passed the Patient Safety and Quality Improvement Act on July 22 (H.R. 663 as amended by S. 720). This landmark agreement was reached after nearly a year of bipartisan negotiations involving Sen. Judd Gregg (R-NH) and Sen. Edward Kennedy (D-MA). Specifically, the legislation would create a legal framework through which patient safety organizations (PSOs) may voluntarily and confidentially collect information from providers about medical errors. The PSOs would then analyze the data and suggest system changes to prevent future harm to patients.

Thomas R. Russell, MD, FACS, Executive Director of the College, responded to the Senate's action with a press release stating that Senators Gregg and Kennedy "should be congratulated for working in a bipartisan manner to pass this important legislation." A joint House and Senate conference committee will now negotiate the differences between the Senate and the House versions of the Patient Safety and Quality Improvement Act, which passed early last year. The College will be working to ensure that the conference committee finishes its work and that strong patient safety legislation is signed into law before Congress adjourns for the year. To see a copy of the ACS press release, please go to <http://www.facs.org/news/patientsafetypassed.html#1>.

Medicare fee schedule proposed rule issued

On July 27, the Centers for Medicare & Medicaid Services (CMS) released the proposed rule containing changes for the 2005 Medicare physician fee schedule. Major changes affecting surgeons include:

- Updating the geographic practice cost indices for physician work and practice expenses to reflect 2000 census data.
- Refining practice expense relative value units (RVUs) for a large volume of codes and updating malpractice RVUs for all codes. CMS did not change the way the malpractice RVUs were computed; it simply updated the existing methodology using more recent data. As a result of the proposed revisions, neurosurgery will experience an estimated payment loss of 0.6 percent.
- Implementing a fee schedule conversion factor update of 1.5 percent, as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MPDIMA).
- Increasing the deductible to \$110 for 2005, and by the same percentage as the premium increases thereafter. That modification also is the result of a change made by the MPDIMA.

Overall, vascular surgery is projected to experience a 4 percent increase in payment. All other surgical specialties except ophthalmology and urology will see 1 or 2 percent increases. Ophthalmology is expected to secure the same amount overall as in 2004. The picture is much less clear for urology because of the uncertainty over the final amount Medicare will pay for drugs, but CMS estimates that the specialty will lose 2 to 13 percent of its current reimbursement.

Comments on the proposed regulation are due September 24, 2004.

To see the proposed regulation, go to <http://www.cms.hhs.gov/physicians/pfs/default.asp>.

ACS discusses quality initiatives with CMS

Dr. Russell and R. Scott Jones, MD, FACS, Director of the ACS Division of Research and Optimal Patient Care, met with CMS Administrator Mark McClellan, MD, PhD, in August to discuss planned expansion of the ACS National Surgical Quality Improvement Program to additional private sector hospitals. The College emphasized its interest in working with the agency to promote effective quality improvement efforts, as well as its conviction that evidence-based, risk-adjusted outcomes measurement is key to evaluating the quality of surgical care.

CMS has been looking at potential quality improvement incentive programs and demonstration projects aimed at better understanding trends in surgical complications. Dr. Jones has worked closely with the agency during its development of the Surgical Care Improvement Program that will be implemented by CMS's Quality Improvement Organizations next August.

Guidance issued on HIPAA privacy rule and law enforcement

The U.S. Department of Health and Human Services Office for Civil Rights (OCR) recently released guidance on its HIPAA (Health Insurance Portability and Accountability Act) Privacy Frequently Asked Questions Web page. The directive identifies the circumstances under which the privacy rule allows covered entities to disclose protected health information to law enforcement officials. To view the OCR guidance, please go to <http://www.hhs.gov/ocr/hipaa>.

ACS replies to inpatient rule on graduate medical education

The College has submitted comments in response to CMS's proposal to redistribute "unused" resident positions and proposed changes to policy regarding volunteer training in the nonhospital setting. Both provisions are included in the 2005 hospital inpatient prospective payment systems proposed rule. The College recommended changes to the criteria CMS will use to judge whether a hospital meets the requirements of gaining new residency slots.

The College also opposes the requirement that hospitals pay "volunteer" teaching faculty for nonhospital site training costs. Additionally, the College asks CMS to extend the existing one-year moratorium on changes to graduate medical education policy regarding financial arrangements between hospitals and teaching physicians training at nonhospital sites to all specialties, and not limit it just to family practice, as is currently the case. The full text of the College's comments can be found at: <http://www.facs.org/ahp/views/gme8.html#1>.