

April 24, 2015

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### NEXT WEEK IN WASHINGTON...

- \* On Tuesday, April 28, the Senate HELP Committee will hold a hearing – “Continuing America’s Leadership: The Future of Medical Innovation for Patients.”
- \* On Thursday, April 30, the Senate Labor, Health and Human Services and Education Appropriations Subcommittee will hold a hearing on the FY16 National Institutes of Health budget.

## 1. HHS SECRETARY TESTIFIES AT SENATE APPROPRIATIONS HEARING

On Thursday, April 23, Health and Human Services Secretary Sylvia Mathews Burwell testified at a hearing of the Senate Labor-HHS-Education Appropriations Subcommittee on the department’s FY 2016 budget. Senators of both parties expressed interest in increased funding for the National Institutes of Health, but the discussion was not confined to funding matters.

The HELP Committee Chairman, Senator Lamar Alexander (R-TN), raised concerns about electronic health records (EHR). He and Sen. Patty Murray (D-WA) have formed a bipartisan working group to highlight problems with EHRs that can be addressed administratively or legislatively. The Secretary responded that HHS is working on EHR concerns and noted that these issues touch everything from opioid abuse to precision medicine to delivery system.

The Chairman of the Subcommittee, Sen. Roy Blunt (R-MO), asked if the department needs more authorizing language or funding to address opioid abuse. Sec. Burwell suggested that the department may request legislation related to training guidelines on prescribing opioids.

Senator Jeff Merkley (D-OR) asked about the status of regulations to extend the Food and Drug Administration’s authority to electronic cigarettes and other unregulated tobacco products, and the Secretary reported that HHS is still reviewing comments and will finalize it this summer.

She reiterated that there is nothing HHS can do to prevent the damage if the Supreme Court strikes down the health insurance subsidies established by the *Affordable Care Act*.

## **2. HOUSE PASSES PRESCRIPTION DRUG ABUSE MEASURE**

On April 21, the House passed the bipartisan *Ensuring Patient Access and Effective Drug Enforcement Act* (HR 471) by voice vote. The bill seeks to clarify the *Controlled Substances Act* in order to establish clear and consistent enforcement standards and promote collaboration among government agencies, patients, and industry stakeholders to ensure patients have access to medications. The bill requires the HHS Secretary, in coordination with the head of the Drug Enforcement Administration, to identify obstacles to legitimate patient access to controlled substances, determine what are the issues with diversion of controlled substances and how collaboration between agencies and stakeholders can benefit patients and prevent prescription drug abuse.

## **3. TRADE BILLS WOULD EXTEND LOWER MEDICARE PAYMENTS**

On Thursday, April 23, the House Ways and Means Committee approved, voice vote, several trade promotion and assistance measures. Included in the group of bills was the *Trade Adjustment Assistance Act* (HR 1892), which is designed to renew and adjust health coverage assistance for trade-displaced workers. The cost of the assistance program is offset, in part, by an extension of the long-term sequestration cut to Medicare provider payments. The Senate Finance Committee the day before had advanced a package of similar trade bills, with the same extension of the Medicare sequester.

## **4. SENATE SUBCOMMITTEE EXAMINES PATH FORWARD ON TELEMEDICINE**

On Tuesday, April 21, the Subcommittee on Communications, Technology, Innovation, and the Internet of the Senate's Committee on Commerce, Science, and Transportation held a hearing entitled: "Advancing Telehealth Through Connectivity." The witnesses were Kristi Henderson, DNP, Chief Telehealth and Innovation Officer, University of Mississippi Medical Center; Jonathan D. Linkous, CEO of the American Telemedicine Association; M. Chris Gibbons, M.D. of the Federal Communications Commission; and Todd Rytting, Chief Technology Officer, Panasonic Corp. of North America.

The hearing explored the current barriers to wider adoption of telemedicine services, particularly payment and licensure, as well as access to broadband services. The Subcommittee Chairman, Sen. Roger Wicker (R-MS), pointed out that Mississippi's population is 54 percent rural, with the lowest ratio of physicians to patients of any state. He also stated that 53 percent of Americans live in an area without access to broadband services. Sen. Brian Schatz (D-HI) summarized the payment barriers: "If a primary care doctor in rural Iowa wants to take a picture of a suspicious arm lesion, on a 68-year-old male patient, then send it to a dermatologist hours away, that episode would not be reimbursed by Medicare," adding that "Medicare will not pay for services for a patient who is located at home."

## **5. NOMINATIONS MADE TO HHS ADVISORY COUNCIL ON ANTI-BIOTICS**

The AAFP sent the Department of Health and Human Services a letter on April 22 nominating three family physicians for appointment to the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria. The AAFP agreed that antibiotics are a critical public health tool and committed to working with the Administration to implement the National Action Plan for Combating Antibiotic-Resistant Bacteria developed by the interagency Task Force for Combating Antibiotic-Resistant Bacteria. The AAFP nominated Ada D. Stewart, RPh., MD, FAAFP, AAHIVM, Theodore G. Ganiats, MD, and Madalyn Schaeffgen, MD, FAAFP. The AAFP stated the belief that these three family physicians demonstrate broad experience regarding infectious disease and public policy, and a clear dedication to the overall health of the public.

## 6. AAFP SUPPORTS GINA PROTECTIONS FOR WELLNESS PROGRAMS

On April 21, the AAFP joined an organizational [letter](#), along with the American Academy of Pediatrics and American Public Health Association, opposing provisions within the “Preserving Employee Wellness Programs Act” that may weaken the Genetic Information Nondiscrimination Act (GINA) and other protections associated with workplace wellness programs. In recent years, GINA protections have been in place requiring that participation in wellness programs be voluntary and that employees’ privacy be protected. In recent years, interpretations of several different laws that govern wellness program administration created a conflict between employees’ rights and the employer’s imposition of certain penalties. Also, this has been a growing concern for employees who benefit from wellness program incentives who then face tax penalties tied to high-cost health insurance spending.

Congressional leaders have called on the Equal Employment Opportunity Commission (EEOC) to provide guidance. This week, the EEOC issued a [proposed rule](#) on wellness programs’ requirements.

## 7. AAFP WEIGHS IN VACCINE PROVISIONS OF DRAFT MEDICAL INNOVATIONS BILL

On April 17, AAFP joined 14 health and medical organizations, including American College of Physicians and American Osteopathic Association, in sending a [letter](#) to members of the House Energy and Commerce Committee outlining concerns about the vaccine provisions within the draft medical innovations bill being developed by the committee. The draft legislation would require standard time lines for vaccine approvals and establish new guidelines for engagement with pharmaceutical manufacturers.

Rep. Fred Upton (R-MI), chair of the House Energy and Commerce Committee, introduced a comprehensive 400-page proposal to accelerate the health innovations and the process of bringing cures to patients. The committee is expected to revise and discuss the draft legislation in the coming months.

## 8. HOUSE COMMITTEE REVIEWS OPIOID ABUSE PREVENTION RECOMMENDATIONS

On April 23, the House Energy and Commerce’s Oversight and Investigations Committee held a [hearing](#) titled, “Combating the Opioid Abuse Epidemic: Professional and Academic Perspectives.” The hearing brought together national health experts and substance abuse experts. Witnesses and policy makers mentioned the need to work with primary care physicians on clinical awareness strategies association with pain management. The hearing also touched on the challenge of patient privacy laws that prevent effective care coordination. Participants also discussed the underutilization of the Prescription Drug Monitoring Program. In addition, hearing witnesses and policy makers touched on the need for research on effective substance abuse treatment methods, health information technology interoperability, treatment access and additional health care clinical quality measures.

## 9. FamMedPAC MAINTAINS BUSY PACE IN 2015

FamMedPAC is maintaining a brisk pace in 2015, collecting over \$211,000 in donations from AAFP members, and making \$174,000 in campaign contributions. This week, the PAC supported the following candidates:

- **Sen. Orrin Hatch (R-UT)**, the Chair of the Senate Finance Committee.
- **Rep. Sandy Levin (D-MI)**, the Ranking Democrat on the House Ways and Means Committee. FamMedPAC was a co-host of this event, held with the physician specialty community in Washington, D.C.
- **Sen. Roy Blunt (R-MO)**, the Chair of the Health Subcommittee of the Senate Finance Committee.
- **Rep. Jim Clyburn (D-SC)**, the Assistant Democratic Leader in the House.

## 10. FTC ADVISES MISSOURI LEGISLATURE ON PHYSICIAN SUPERVISION

Earlier this week, the Federal Trade Commission (FTC) responded to an inquiry from state Rep. Jeanne Kirkton. The agency commented on pending legislation (HB 633) to modify the collaborative practice arrangements with Advanced Practice Registered Nurses (APRNs) in Missouri. The FTC encouraged the legislature to review carefully whether such collaboration requirements are necessary. Current law in Missouri requires APRNs to have a collaborative practice arrangement with a specific physician in order to diagnose and treat patients. The FTC has increasingly commented in on state scope of practice through its antitrust perspective.

## 11. REGULATORY BRIEFS

- On April 23, CMS released the 2013 Physician Quality Reporting System (PQRS) and Electronic Prescribing (eRx) Incentive Program Experience [report](#), which provides data and trends on participation, incentive eligibility, incentive payments, and payment adjustments. In 2013, 641,654 eligible professionals (out of 1.25 million) participated either as individuals or as part of a group practice in PQRS, which was a 47 percent increase from the 435,931 professionals who participated in 2012. The total 2013 PQRS incentive payments were \$214,551,741. In addition, based on 2013 PQRS reporting, 469,755 eligible professionals are subject to a 2015 PQRS payment reduction of 1.5 percent, which is applied to payment for services furnished under the Part B Medicare physician fee schedule. In 2013, 377,004 eligible professionals (out of 808,697) participated in the 2013 eRx and incentive payments totaled \$168,298,019. In addition, CMS announced the publication of the Physician Quality Reporting Programs [strategic vision](#) which describes a long-term vision for CMS quality measurement and public reporting programs for physicians and professionals.
- On April 24 the VA [announced](#) it will determine eligibility for the Veterans Choice Program based on the distance between a Veteran's place of residence and the nearest VA medical facility using driving distance rather than straight-line distance. This change is effective immediately.
- CMS will host the following free educational calls, [registration](#) is required:
  - Medicare Acute Care Quality and Reporting Programs, May 12, 1:30 PM ET
  - National Partnership to Improve Dementia Care and QAPI, June 16, 1:30 PM ET