

March 24, 2017

### **On the Horizon ...**

- \* On March 29, the House Labor, Health and Human Services, Education Appropriations Subcommittee will hold a budget hearing with HHS Secretary Tom Price, MD.
- \* Also on March 29, the Senate Aging Committee will hold a hearing on Alzheimer's, focusing on preventing cognitive decline in Americans to assuring quality care for those living with the disease.

## **U.S. CONGRESS**

### **1. AHCA Pulled From House Floor**

Late Friday, the American Health Care Act (AHCA, [HR 1628](#)) was pulled from the floor – indefinitely postponing the vote on leading legislation to repeal and replace the Affordable Care Act. The Congressional Budget Office (CBO) [cost estimate](#) for the revised legislation projected it would cost billions more than the original bill did, reducing the deficit by \$150 billion over 10 years rather than the \$337 billion initially projected. CBO forecasts that revised AHCA would still leave 24 million more Americans without insurance by 2026.

On March 20, the AAFP [wrote](#) to the House leadership in opposition to the AHCA and encouraging all Members of the House of Representatives to vote no. The AAFP then followed up on March 21 and March 23 with a personalized version of that letter to each House member detailing the reasons for AAFP's opposition to the AHCA.

### **2. AAFP Supports House Medical Liability Reform Legislation**

AAFP sent a letter this week to [Rep. Steve King \(R-IA\)](#) in support of his bill, the *Protecting Access to Care Act* ([HR 1215](#)). The [House Judiciary Committee](#) advanced the bill to the full House on March 2. The measure would establish a national standard on health care liability claims such as medical malpractice or negligence lawsuits when the health care costs are covered by a federal program. The bill proposes a \$250,000 cap on claims for non-economic damages, a three-year statute of limitations on plaintiffs seeking to sue medical practitioners for damages, and would prevent health care providers who prescribe an approved medical product from being liable as part of a class action against a manufacturer or seller of the product. The [letter](#) is available on the AAFP web site.

### **3. McCarran-Ferguson Repeal Bill Clears House**

The House passed legislation on March 22 that repeals a 70-year old law exempting health insurance businesses from federal antitrust law. The bill, the *Competitive Health Insurance Reform Act* ([HR 372](#)), restores competition in the health care market by allowing Congress to apply federal interstate trade regulations to the health insurance industry. The legislation was approved by a vote of [416-7](#). The CBO [cost estimate](#) concluded that the effect of HR 372 on the size and costs of premiums charged by private health insurance companies would “probably be

quite small.” The legislation now proceeds to the Senate for action. The Administration issued a [Statement of Administration Policy](#) in support of HR 372.

#### **4. House Passes Bill to Permit Association Health Plans**

On March 22 by a vote of [236-175](#), the House passed the *Small Business Health Fairness Act* ([HR 1101](#)) to allow small businesses to pool together and purchase plans as association health plans (AHPs) to increase their purchasing power. A [Statement of Administration Policy](#) released on March 21 noted that if HR 1101 were presented to the President in its current form, his advisors would recommend that he sign the bill.

#### **5. Family Physicians Use AAFP Tool to Impact the American Health Care Act**

Since the March 15 release of a [Speak Out](#) campaign urging legislators to reconsider their approach on health care reform, over 1,780 family physicians shared their perspectives directly to their Members of Congress. And Congress listened. Then, as the vote count narrowed during the past week, nearly 100 physicians picked up the phone, and confirmed to us they had [called](#) those very same offices. Though the call in campaign includes a proposed script, the AAFP also released [guidance](#) for anyone advocating over the phone on the Family Physician Action Network site.

#### **6. Health Committees Review Prescription Drug User Fee Reauthorization**

The House Energy and Commerce Health Subcommittee held a [hearing](#) on March 22 to review the upcoming reauthorization process for the U.S. Food and Drug Administration’s Prescription Drug User Fee Agreement (PDUFA). The law expires on September 20, 2017. The Senate Health, Education, Labor, and Pensions Committee also held a March 21 [hearing](#). Chairman Lamar Alexander (R-TN) commented about the need to continue funding for the FDA and to build on the progress approved as part of the 21<sup>st</sup> Century Cures Act. Some speculate that drug price legislation may be considered as part of the process. The HELP Committee is currently scheduled to hold another hearing April 4 and will begin considering legislation soon afterwards.

#### **7. Oversight Committee Reviews Policies that Impact Generic Drug Access**

On March 22, the House Government Oversight Committee, Subcommittee on Healthcare, Benefits, and Administrative Rules held a [hearing](#) entitled *Examining the Impact of Voluntary Restricted Distribution Systems in the Pharmaceutical Supply Chain*. The hearing was planned to discuss the purpose of using voluntary restricted distribution systems in the pharmaceutical supply chain. These practices, known as Risk Evaluation and Mitigation Strategies (REMS), include multiple strategies to manage safe drug usage or other strategies to ensure conditions are met before a medication can be accessed. Pharmaceutical companies are required to put safety standards in place for drugs or classes of drugs to limit patients’ health risks such as infection, allergic reactions, or birth defects. REMS can also be used as a way of restricting competition by delaying generic drug manufacturing. The hearing also addressed concerns that the practices may create patient access barriers.

### **CENTERING ON THE STATES**

#### **1. Bills of Interest**

Following are a few bills that may be of interest:

- **E-Prescribing** – Currently, 5 states ([Connecticut](#), [Illinois](#), [Massachusetts](#), [North Carolina](#), [Pennsylvania](#)) have introduced legislation that would mandate electronic prescribing. [Virginia](#) passed legislation this year and now 4 states (ME, MN, NY, and VA) require e-prescribing.
- **Medical Malpractice** – Last week, Governor Matt Bevin(R) signed into law [SB 4](#), which establishes a medical review panel system for use in civil litigation relating to health care providers.
- **Scope of Practice** – [Utah](#) has passed legislation which would create a new provider level called associate physicians. This designation would allow someone who has

successfully graduated from an accredited medical school, has successfully completed Step 1 and Step 2, but has not engaged in a postgraduate medical internship or training program to practice under certain conditions. This measure now awaits consideration by Governor Gary Herbert (R). Similar legislation was introduced and defeated in [Virginia](#) this year and [Missouri](#), who was the first to create such designation, has introduced legislation to allow assistant physicians to prescribe certain Schedule II medications.

- **Step Therapy** – Ohio has introduced [legislation](#) which imposes requirements on health plan issuers that implement a step therapy protocol with regard to prescription drugs and requires health plan issuers to provide a process by which an individual can request a step therapy exemption. This is an OH-AFP priority bill and similar legislation is pending in 12 other states (FL, GA, IA, MA, ME, MN, NM, OR, TX, UT, VA, and WV).

## **2. Conservative Governors Send Letter to Congress in Support of the AHCA**

On March 23, 8 Governors (AL, ID, IN, KS, ME, MI, MO, and UT) sent Congress a [letter](#) in support of the American Health Care Act. They specifically cited approval of the changes to the legislation that were announced this week. They wrote, “the move to a more flexible Medicaid program that empowers states with options to utilize per-capita caps or block grants; providing a workable timeframe for transition out of Obamacare; advancing work requirements to encourage able-bodied Americans to find jobs; and providing states with funds to help stabilize our insurance markets and provide assistance to low-income Americans, are all positive improvements to the bill.”

## **3. Summary of Governors’ View on Federal Health Care Reform Available**

The Kaiser Family Foundation has released a new [brief](#) which summarizes the 35 responses from Governors and Insurance Commissioners to House Majority Leader Kevin McCarthy’s (R) request for state input on new healthcare legislation. The brief notes that the responses were not fully aligned with federal Republican proposals.

## **EXECUTIVE BRANCH**

### **1. Sign on Letter Sent to CMS on PQRS, MU, VBM Penalties**

On March 21, national and state physician organizations signed onto a [letter](#) that was sent to the Centers for Medicare & Medicaid Services that urged the Administration to take a series of steps to address challenges in MU, PQRS, and VM and minimize the penalties assessed for physicians who tried to participate in these programs.

### **2. Regulatory Briefs**

- On March 20, CMS [delayed](#) the applicable date for the expansion of the Comprehensive Care for Joint Replacement model, the bundled payment program for heart attack and cardiac bypass surgery services, and the cardiac rehabilitation incentive program from July 1 to October 1.
- On March 20, HHS launched a [webpage](#) on recent efforts to empower patients.
- CMS will host the following free educational calls; [registration](#) is required:
  - IMPACT Act: Standardized Patient Assessment Data Activities March 29 1:30 pm ET
  - Medicare Shared Savings Program ACO: Preparing to Apply for the 2018 Program Year April 6 1:30p ET.
  - Open Payments: Prepare to Review Reported Data April 13 12:30 pm ET
  - Medicare Shared Savings Program ACO: Completing the 2018 Application Process April 19 1:30p ET
  - Global Surgery: Required Data Reporting for Post-Operative Care April 25 1:30pm ET
  - Emergency Preparedness Requirements Final Rule Training April 27 1:30pm ET

## **TAKE ACTION**

### **1. Register for the 2017 Family Medicine Advocacy Summit in Washington, DC!**

The AAFP's Family Medicine Advocacy Summit (formerly FMCC) will be held May 22 and 23 in Washington DC. The FMA Summit will inform participants about family medicine's legislative priorities and how to lobby and then put these skills to use as part of the "Day of Action" on the second day of the Summit. This year, the Day of Action will include a virtual component for AAFP members who are unable to be in DC. Please [register](#) online for the Summit at and make your hotel [reservations](#) by April 7 for the early bird discount.

### **2. Help FamMedPAC Today!**

As Congress continues to debate the fate of the Affordable Care Act, AAFP must ramp up its engagement to champion the fundamental issues that allow us to provide the highest quality care to our patients. FamMedPAC is a key component of our efforts to remain the prominent voice for primary care in Washington. Over 700 AAFP members have made their FamMedPAC contribution this year. Have you? Please help us to fight for you and your patients. Visit the [FamMedPAC Donation Page](#) and join this important effort.