



NEW JERSEY STATE SOCIETY OF ANESTHESIOLOGISTS

# The NJSSA Pulse

April 2015



## FROM THE PRESIDENT PETER GOLDZWEIG, DO

Finally winter is over. We had a very successful annual meeting. I would like to thank John Azzariti, Jr., Lynn Haynes, Amanda Cortez and the rest of the AMG staff.

Our On The Road Dinner Series continues this month on April 22, 2015 at the Highlawn Pavilion in West Orange at 6:30 pm. Please register with Amanda Cortez at [Amanda@amg101.com](mailto:Amanda@amg101.com) and come out to meet and greet members of your society and enjoy a complimentary dinner.

Many members are still having questions on the Novitas MAC policy. I have included my email from a few weeks ago below:

A update on the Novitas MAC LCD was given at the annual meeting. For those of you who might have missed it, we have included the PowerPoint presentation [Here](#).

We also sent the following CAC letter to Novitas: [Click Here to View It](#)

Here is the letter from the ASA to Novitas: [Click Here to View It](#)

To view the policy as well as the various comments and Novitas' responses you can click here: <http://www.novitas-solutions.com>

If you receive a denial you believe is incorrect and have appealed it, please contact us and provide as much information as you can. Please remember HIPPA. The email address to send the denials to is: [info@njssameeting.com](mailto:info@njssameeting.com).

**FROM THE STATEHOUSE**  
**ADVOCACY & MANAGEMENT GROUP**  
**LYNN HAYNES AND AJ SABATH**



**Prescription Monitoring Program (PMP)/ Opioid Abuse Legislation**

We have been very involved in the Prescription Monitoring Program (PMP) legislation (S-1998/ A-3129) introduced by Senator Weinberg, Assemblyman Conaway and Assemblyman Lagana. The measure recently passed both houses and now heads to Governor Christie's Desk for further consideration. There was last-minute activity between the bill's sponsors, the Attorney General's Office and Governor's Counsels Office before it was released with amendments from the Assembly Budget Committee on March 23rd.

We were able to successfully thwart attempts by the Attorney General's Office and Governor's Counsel's Office to remove some important provisions and exemptions we fought for to include in the bill, such as the post-operative exemption for prescriptions under 30 days. Emergency departments are still exempted from checking the PMP when prescribing less than a five day supply of pain medicine. And Health care professionals, other than physicians are able to check the PMP. We remained neutral in committee once we learned many of the important provisions of the bill would not be changed.

**Out of Network**

There has been a recent uptick in the number of news stories on Out-of-Network (OON) most of which have been driven by the insurance industry. As we have previously reported, we are expecting to see OON legislation emerge very soon. A group of legislators in support of OON legislation have been meeting behind the scenes in response to the three out of network hearings that took place in the Assembly Financial Institutions and Insurance Committee in fall 2014.

The Legislature is particularly concerned with protecting patients from extreme billing. We will continue to be engaged on this issue. We have also been working in conjunction with many of the other members of the house of medicine, including the Medical Society of New Jersey, the New Jersey Hospital Association, and numerous physician specialties. Out of network legislation will continue to be a top priority throughout the early part of 2015.

**Vaccines**

The Senate and Assembly Health Committees recently passed a bill that would limit current exemptions allowed for childhood vaccines. The measure would permit an exemption from immunizations in either of the following: a written statement to the school by a licensed physician with the reason why the vaccine is medically unnecessary; or a statement by the student or parent explaining that a vaccine conflicts with their religious practices. The measure awaits further action in the Senate and Assembly.

**Drug Abuse Treatment Prevention**

The Assembly unanimously passed A.622 which prohibits the sale of certain products containing dextromethorphan to minors under 18 years of age. The measure now awaits further action in the Senate.

The Assembly Human Services Committee passed A.226, which requires posting of information about availability of services from substance abuse treatment facilities on county and DHS websites. Under the bill, the county health department is to display and maintain the information on its Internet website, and share the information with the Department of Human Services (DHS), which would also display and maintain the information on its website, arranged by county.

## **Epinephrine**

The Assembly Health Committee passed A.4094, which would allow an individual to carry, administer and dispose of an epinephrine auto-injector device after receiving a prescription and training. Though there is already a requirement for schools to have epinephrine available for students without prescription, there is no requirement for businesses and other entities. This bill would allow them to provide epinephrine to the public.

## **End of Life**

The Senate Health Committee has passed S.2435, which would require Medicaid coverage for advance care planning services. Under the bill, advance care planning is the practice of making explicit written instructions to caregivers, family, and friends on measures for delivering health care and preserving a person's dignity in the event that the person is unable, because of incapacity, to make those instructions known when needed at a later time. This includes the use of advance health care directives, health care powers of attorney, and medical orders for life-sustaining treatment that can be administered effectively within the health care system. The measure now awaits further consideration in the Senate.

## **Physician Licenses**

The Senate has passed S.1533, which requires the BME to conduct international background checks and contact past employers for physician license applicants. As previously reported, MSNJ opposes this bill. The measure was approved by the Senate on March 16, 2015 (38-1), and was received in the Assembly and referred to the Assembly Health and Senior Services Committee where it awaits further consideration.

## **APN Scope of Practice**

The Assembly has passed S.1152, which would allow APNs to diagnose cause of death if the APN is the patient's primary caregiver and the physician is unavailable. A host of physician specialties and the Medical Society of NJ opposed this bill, which has been pocket vetoed twice before. The measure recently passed both houses and now heads to Governor Christie's desk for further consideration.

The measure passed the full Senate and the Assembly Human Services Committee and now awaits final action by the full Assembly.

## **LEGAL REPORT**

**JOHN FANBURG, ESQ.**

**PARTNER, BRACH EICHLER LLC**

## **FEDERAL UPDATE**



### ***House Passes Legislation to Fix the SGR Formula but Senate Delays***

In a strong bipartisan showing, the House voted (392 to 37) on March 26, 2015 to approve a bill to repeal the much-maligned sustainable growth rate formula (SGR) and replace it with a physician payment formula that better aligns the Medicare payment system with the goal of pay-for-performance instead of fee-for service. However, Senate Majority Leader Mitch McConnell announced on March 27, 2015 that the Senate would not vote on the bill until after it returns from spring recess on April 13, 2015.

Passed into law in 1997, the SGR formula is a cap on aggregate spending on physician services where exceeding the cap results in punitive recoupments. Because of flaws in the SGR design, Congress has spent almost \$150 billion on 17 short term patches since 1997 to avoid unsustainable cuts to physician reimbursement. The deadline for the latest fix to the SGR is March 31, 2015, after which physicians who treat Medicare patients

could see a 21% cut in reimbursements if a new patch or new legislation is not passed. Due to how the Centers for Medicare & Medicaid Services pays Medicare claims, physicians will not experience this reduction if the Senate approves the bill and the President signs by April 14, 2015.

The proposed legislation (H.R. 1470) would eliminate the SGR and align payments to physicians with the quality of care provided rather than the quantity of procedures performed. Physicians would see annual reimbursement increases of .5% over the next five years as the transition is made to the new payment system. The programs that reward physicians for meeting performance thresholds and improving care for seniors would be streamlined and improved. Payment accuracy to physicians would be improved and providers would be incentivized to undertake care coordination efforts for patients with chronic care needs. Physician developed clinical care guidelines would be introduced to reduce inappropriate care that is harmful to patients and results in wasteful spending. Bonuses would be instituted for providers who receive a significant portion of their Medicare revenue through alternative payment models.

### ***CMS Releases Proposed Rule for Stage 3 of Meaningful Use Program***

The Centers for Medicare & Medicaid Services (CMS) released Stage 3 of the Electronic Health Record Incentive Program. The proposed rule would specify the meaningful use criteria that must be met to qualify for CMS's electronic health record incentive payments or avoid payment penalties, beginning in 2017.

The proposed rule addresses meaningful use objectives and measures in the following eight areas:

- Protecting electronic patient health information

- Generating and transmitting permissible prescriptions electronically

- Implementing clinical decision support focused on improving performance on high-priority health conditions

- Using computerized provider order entry for medication, laboratory and diagnostic imaging orders

- Providing patients with electronic access to health information within 24 hours of availability

- Coordinating patient care by engaging patients and their authorized representatives

- Exchanging a summary of the care record when transitioning or referring patients

- Engaging with the Public Health & Clinical Data Registry to submit electronic public health data in a meaningful way in accordance with applicable law.

With Stage 3, CMS seeks to increase simplicity and flexibility, enhance interoperability and focus on patient outcomes.

The comment period for Stage 3 ends on May 29, 2015.

### ***Legislative Update***

On March 16, 2015, Senate Bill S1152 (A1319) was passed by the Senate, which, if passed into law, would authorize an attending APN to determine and certify the cause of death of a patient and execute the death certification if no collaborating physician is available to do so and the APN is the patient's primary caregiver.