Philadelphia Medicine

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Advocating for improvements to the Affordable Care Act

Changes the AMA supports

Medical liability reform

The ACA includes the following liability reforms: (1) authorizes grants to states to test alternative liability reform models (in addition to the administration's grant program already underway); (2) extends the Federal Tort Claims Act liability protections to officers, governing board members, employees and contractors of free clinics; and (3) calls for a federal government study to assess whether any new standards, quality, or payment initiatives under the ACA expose physicians to medical liability. In addition to these provisions, the AMA will advocate that Congress appropriate $50 million for additional grants to states to test alternative liability reform models and will work to remove the provision in the grant program that allows a patient to opt out of an alternative liability grant program at any time.

The AMA will also work to amend the ACA to indicate that any guideline or standard of care in the new law cannot be used against a physician in a liability claim or lawsuit. Importantly, the AMA will continue to actively pursue medical liability reforms at the federal and state levels that are already working in states such as California and Texas, including a $250,000 cap on noneconomic damages.

Independent Payment Advisory Board

The AMA is opposed to the current authority and framework for the Independent Payment Advisory Board (IPAB), and has advocated for recommended changes regarding double jeopardy for physicians, projection errors and appropriate spending growth not provided in the ACA. The AMA has and will continue to pursue changes in the IPAB authority prior to implementation of the first IPAB recommendations in 2015.

Workforce/graduate medical education

The AMA supports additional graduate medical education (GME) initiatives necessary to ensure an adequate physician workforce, including maintaining Medicare/Medicaid GME funding levels, seeking additional sources of GME funding (e.g., private payers), and increasing Medicare-supported GME positions in primary care, general surgery and other undersupplied specialties, as well as in underserved areas.

Cost/quality index scheduled for implementation in 2015

The ACA requires the development and application of a cost/quality index modifier, the implementation of which is premature due to the need for certain policy tools that currently do not exist. The AMA will work to modify this initiative in subsequent legislation.

Penalties for failure to report quality data

The AMA was able to postpone implementation of PQRS penalties in the ACA for two years (from 2013 to 2015), and will continue to advocate opposition to penalties.

Fraud and abuse

The ACA includes increased funding and authorities to combat fraud and abuse. The AMA is advocating for decreased administrative costs and burdens on honest physicians.

Antidiscrimination provisions for health plans

The ACA includes a provision stating that health plans may not discriminate against any healthcare provider—acting within its state scope-of-practice laws—that wants to participate in the plan. The AMA will seek clarification that this provision does not allow expansion of the scope of practice for nonphysician allied health practitioners.

Please see *Advocating on page 2*

PCMS NEWS

Upcoming events

Residents/Fellows and Interns

Topic: Understanding Your Employment Contract—A Legal Review

Speaker: Daniel F. Shay, Esquire, Alice G. Gosfield and Associates, P.C.

Date: Tuesday, March 15, 2011

Time: 6:00 PM - 8:00 PM (Dinner Provided)

Location: PCMS headquarters, 2100 Spring Garden Street

There is no fee to attend, but you must register.

RSVP by March 11, 2011

Phone: 215-563-5343, Ext. 113

The 6th Annual Tools for Success Conference

Thursday, April 14, 2011

2011 Practice Management Toolbox

Join our panel of specialists for a full day of learning, support, networking and, of course, a terrific lunch!

Presentations will include information and strategies for dealing with issues of HIPPA security, human resources, EMR, PQRI, Medicare cuts, meaningful use and more.

For more information, call 215-563-5343, Ext. 113

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Highlights of PAMED advocacy program

By John D. Cacciamani, Jr., MD, MBA

The PAMED board recently approved the legislative and regulatory agenda for the new 2-year session of the Pennsylvania General Assembly. It's an ambitious document, and it is unrealistic to expect that the entire package will be enacted.

Nevertheless, the State Medical Society is optimistic that the power shift at the capitol will make this one of the most productive sessions in recent years. Following are some of the highlights of the PAMED advocacy program.

Mcare plays a prominent role, as PAMED continues to seek the elimination of the Fund and retirement of its $1.34 billion unfunded liability (without cost to physicians). Additionally, PAMED wants a performance audit of the Mcare Fund and a requirement that year end surpluses be used to reduce the following year's assessments.

Tort reform is also a high priority in 2011. With the election of pro-tort reform Governor Corbett, hopes are high that meaningful improvements can be made to Pennsylvania's medical liability system. Key reforms include:

- enactment of an apology law,
- stronger certificate of merit and expert witness requirements,
- improved liability protections for physicians who provide uncompensated care and emergency room care.

This is a reasonable start but we need to keep pushing for caps on non-economic damages and other mechanisms legal that will truly protect us when we provide quality care that is supported by standard of care medicine.

The state's financial straits will require all of us to focus on the state budget to an unprecedented degree. Deep spending cuts are likely across the board, endangering important programs in the Department of Public Welfare, the Department of Health, and the PA Health Care Cost Containment Council. Other programs, including the Pennsylvania Health Information Exchange (PHIX) are also at risk.

We are hopeful that the PHIX cut will be spared given that it is an essential component of technology infrastructure that will help us provide quality care in the future. Stand-alone electronic medical records are a good first step but protected information between all providers is the key to helping our patients get the best care possible.

Improving the practice environment will also be an important goal for PAMED this year. High on the list of priorities are:

- fair contracting reform,
- credentialing legislation which will reduce the administrative burden of this process
- limits on retroactive denial and
- a host of other pro-physician proposals.

The proposals outlined above do not constitute PAMED's full legislative agenda and are merely intended to provide a representative sample of the bills we will be seeking to advance during the next two years. Let us all work together and apply pressure whereever possible on these issues many of which affect our daily lives.

Dr. Cacciamani is president of PCMS.

Advocating for improvements, from page 1

Form 1099 information reporting requirement

The ACA includes a provision that will require businesses, including physician offices, to file a Form 1099-MISC with the IRS if the total amount of payments made to another business in exchange for goods and services is $600 or more in a year. The AMA has urged the IRS to exempt physician practices from this requirement. While there were several attempts in the 111th Congress to repeal section 9006, these efforts did not succeed, in part due to the need to find a politically viable offset. The AMA will continue to seek repeal of this provision.

Health savings accounts in health exchanges

The ACA is silent on whether health savings accounts (HSA) will be deemed acceptable coverage under the individual insurance mandate. The administration has verbally indicated that HSAs will continue to be allowed as an option, and the yet-to-be issued proposed regulations on health exchanges and essential benefits may clarify this issue. The AMA supports clarifying language to ensure that high-deductible plans with HSAs will be an acceptable option.

MRSA guidelines

The Infectious Diseases Society of America on January 4 issued its first clinical practice guidelines for treating methicillin-resistant Staphylococcus Aureus infections in adults and children. The IDSA recommends incision and drainage alone for treating a simple abscess due to community-associated MRSA. An antibiotic should be prescribed after such treatment under these circumstances:

- There is severe or extensive disease, or a rapid progression in the presence of associated cellulitis.
- An individual has signs and symptoms of systemic illness.
- The patient has associated comorbidities or immunosuppression, such as diabetes.
- The individual is either very young or very old.
- The abscess is in an area difficult to drain.
- A patient has associated septic phlebitis.
- There is a lack of response to incision and drainage alone.

Source: "Clinical Practice Guidelines by the Infectious Diseases Society of America for the Treatment of Methicillin-Resistant Staphylococcus Aureus Infections in Adults and Children,"Clinical Infectious Diseases, published online Jan. 4 (www.ncbi.nlm.nih.gov/pubmed/21208910).

American Academy of Neurology recommends dementia screening tools

The American Academy of Neurology recommends that physicians screen patients for dementia if cognitive impairment is suspected.

The academy recommends that physicians consider using the following screening tools:

- Mini Mental Status Exam: A short, untimed test that quantifies cognitive function and screens for cognitive loss by testing a person's orientation, attention, calculation, recall, language and motor skills. There are 11 sections in the test, including naming common objects, writing a sentence and copying a design of two intersecting shapes. Patients receive one point for each correct answer.
- Memory Impairment Screen: A four-item recall test that assesses memory impairment. Patients are given the names of one item in each of the following categories: animal, city, vegetable and musical instrument. After a short delay, the individuals are asked to recite the four items in any order. If the patient misses an item, the physician cues the individual by telling him or her the category.

Source: "AAN Guideline Summary for Clinicians: Detection, Diagnosis and Management of Dementia," American Academy of Neurology (www.aan.com/professionals/practice/pdfs/dementia_guideline.pdf)

Practice-vendor alliance should be put in writing

How do you protect yourself and your practice to ensure that technology meets your needs, remains current and can be fixed if it breaks even if the vendor you hire goes out of business?

The answer is to prepare for these challenges at the beginning of the relationship —through your contract.

When engaging a technology vendor, it is imperative to define what the vendor is agreeing to provide. The contract should spell out the details, such as the software to be provided or the functions the software will have. The contract should include the goals for the technology being purchased, including milestones that must be reached for payment.

If the vendor is providing hardware (servers, computers, etc.), descriptions of those should be spelled out, together with a recognition of who owns the equipment. Is the practice buying the equipment, or is it for the practice to use for the life of the contract only? The contract also should spell out who needs to maintain the hardware and what happens to it when the contract ends.

If customized software is being developed, the contract should set forth who owns the software and any related copyrights. Is the practice merely licensing the software, or is the vendor providing a "work for hire," in which case the practice owns the software and the related intellectual property? If the software is licensed, what are the limitations on the practice's ability to use, copy or modify the software if necessary?

Once the software and other items the vendor will provide are described in the contract, you should set a time frame for those items to be developed (if necessary), provided, installed and proven to work. Though some payment can be paid up front, payment should be withheld until promised items are received, installed and proved to be operable. Making payment earlier, or a larger payment up front, can leave the practice with little leverage over the vendor to correct any problems other than expensive litigation.

The contract should set forth clear dates for delivery, proof of operability (including defined minimums for the technology to be considered operable) and time periods for the vendor to fix any problems. It should provide for the consequences in the event the vendor fails to meet these deadlines. You should consider setting deadlines and milestones —tied to further payments—for appropriate progress in integration, migration of information to the new technology and other relevant goals, milestones and metrics.

Source: American Medical News.
Reprinted with permission.

pcms people

Norman N. Cohen, MD, was recently honored for his 50 years of service to the patients and medical community at Mercy Fitzgerald Hospital (MFH). The hospital re-named the auditorium in its Medical Science Building the Norman N. Cohen Auditorium. The multi-purpose auditorium is used for medical education conferences, administrative and community meetings and celebratory gatherings. Dr. Cohen held various positions at MFH including Chairman of Medicine, Chief of Gastroenterology, President of the Medical Staff and Founder of the Gastroenterology Fellowship Program. He spent many days in the auditorium, lecturing to the medical students and residents and attending numerous events throughout the years.

Richard Goldberg, MD, will moderate the 7th Annual Creative Spirit Symposium on April 3 at the Michener Art Museum, Doylestown, PA. The program will explore the interaction between art and music and will introduce attendees and those with visual or hearing impairments to this unique relationship.

Attention: Physician Artists

PCMS is looking for physicians who are interested in displaying their art works—paintings, clay sculptures, artistic photos, glass works, etc.—during the Annual PCMS President's Installation on Saturday, June 11.

This is a one-day exhibit and there is no fee.

Contact Mark Austerberry at 215-563-5343, Ext. 101 for additional information and exhibit details.

SAVE THE DATE

Saturday, June 11, 2011
PCMS President's Ball
and Awards Night
Celebrating the Inauguration of
Lynn A. Lucas-Fehm, MD, JD
as the 150th President of
The Philadelphia County
Medical Society
Details to follow

Change of address?
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