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Check out the Latest ACEP Capital Minute - Click below for the July 27 edition.



### **House Approves Defense Authorization Bill with ACEP Provision**

The House of Representatives overwhelmingly approved the compromise fiscal 2019 National Defense Authorization Act by a vote of 359 to 54 this week. This bill annually provides guidance to the Department of Defense on program initiatives and spending. **Of particular interest to emergency physicians, the bill includes a provision sought by ACEP that requires the DOD to share controlled substance prescribing information of TRICARE beneficiaries with State Prescription Drug Monitoring Programs.** Up to this point, prescribing data for military members and their families has not been available to emergency and other physicians when they seek care at non-military facilities. ACEP members and staff worked closely with Representative Mike Turner (D-OH) to create this program and ensure its inclusion in this year's Defense authorization bill. The Senate is likely to take up the measure as early as next week and send it to President Trump, who is expected to sign it into law.

### **ACEP Participates in Roundtable Discussion About Health Care Costs**

On Thursday, ACEP participated in a roundtable discussion on health care price transparency initiated by Senators Bill Cassidy (R-LA), Michael Bennet (D-CO), Chuck Grassley (R-IA), Tom Carper (D-DE), Todd Young (R-IN), and Claire McCaskill (D-MO). Among the other organizations in attendance were the AMA, the American College of Surgeons, the American Hospital Association, insurers and brokers, and patient advocates.

This effort is one aspect of an increasing interest on the part of Congress to identify ways to help consumers better understand their cost-sharing obligations before receiving treatment.

### **Sickle Cell Disease Legislation Advances in Senate**

On Wednesday, the Senate Health, Education, Labor, & Pensions (HELP) Committee approved the ACEP-supported "Sickle Cell Disease Research, Surveillance, Prevention and Treatment Act of 2018" (S. 2465), sponsored by Sens. Tim Scott (R-SC) and Cory Booker (D-NJ). The bill authorizes a national Sickle Cell Disease (SCD) surveillance program and reauthorizes the existing HRSA SCD Treatment Demonstration Program.

Last week, ACEP joined numerous other medical and consumer groups in expressing [support](#) for the bill and urged HELP Committee Chairman Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) to advance the legislation in their committee before the end of the month so that it may have a chance to become law by the end of the year.

### **ACEP Endorses Student Loan Bill**

This week, ACEP joined with other medical specialties in endorsing the "Resident Education Deferred Interest (REDI) Act" (H.R. 5734), sponsored by Rep. Bruce Babin (R-TX). The bill would halt accrual of interest on loans that qualify for deferment while a physician or dentist is in an internship or residency.

### **House Committee Reviews 21CC, MACRA, and MIPS**

The House Energy and Commerce Health Subcommittee held two hearings this week on issues of interest to ACEP. During the first [hearing](#), the Subcommittee heard from NIH and FDA about their ongoing efforts to implement the 21st Century Cures Act. While members were questioning the witnesses, Representatives Brett Guthrie (R-KY) and Larry Bucshon (R-IN) engaged FDA Commissioner Scott Gottlieb about drug shortages. ACEP worked with Congressman Guthrie recently to obtain the signatures of more than 100 House members on a letter to Commissioner Gottlieb urging him to establish a task force to examine the root causes of drug shortages and seek solutions, which he announced he would do.

The second [hearing](#) focused on MACRA and MIPS. Several representatives of physician organizations and medical groups discussed the status of these programs and some of the continuing challenges providers and groups face in complying with the programs in order to be eligible for reimbursement bonus payments. ACEP worked with the subcommittee chair to inquire about the impediment to accessing hospital data and how that has negatively impacted our ability to participate fully in MIPS.

### **CMS Releases Medicare Outpatient Hospital Proposed Rule**

On Wednesday, July 27, the Centers for Medicare & Medicaid Services (CMS) released a [proposed rule](#) outlining changes to how Medicare pays for outpatient services provided hospitals and ambulatory surgical centers. In this nearly 800-page rule, CMS is proposing the following major policies:

- Expanding CMS' "site-neutral policy" by paying the same rate for office visits no matter whether they are provided in doctor's offices or off-campus provider-based departments. While this policy would not impact services delivered in emergency departments, it demonstrates CMS' commitment

to, in their words, “control unnecessary increases” in the number of hospital outpatient department services.

- Modifying the current Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) patient experience of care survey by removing the three pain communication questions starting in 2022. These pain communication questions had been recently revised by CMS to avoid penalizing hospitals based on their patients’ perception of how their pain was managed. However, due to feedback on these revised measures, CMS is proposing to remove them all together.
- Paying separately for non-opioid pain management drugs when used in a surgical procedure performed in an ambulatory surgical center.
- Expanding the number of procedures payable at ambulatory surgical centers to include additional procedures that can safely be performed in that setting.
- Reducing payment for 340B drugs for all hospital-owned off-campus provider-based departments. Previously some off-campus hospital departments were exempted from these payment reductions.
- Streamlining reporting requirements for the Ambulatory Surgical Center Quality Reporting and Hospital Outpatient Quality Reporting Programs.
- Establishing a new data collection requirement to track services delivered in a hospital-owned off-campus provider-based emergency department. CMS is creating a modifier that must be reported any time these services are delivered. The modifier will not affect payment but will be used by CMS to assess the extent to which outpatient services are being shifted to off-campus provider-based emergency departments. As rationale for establishing this new modifier, CMS cites a recent Medicare Payment Advisory Commission (MedPAC) report, which states that, in recent years, there has been “significant growth in the number of health care facilities located apart from hospitals that are devoted primarily to emergency department services.”
- Requesting input on price transparency initiatives under consideration by CMS.
- Requesting comments on a potential Center for Medicare & Medicaid Innovation (CMMI) model that would leverage authority under the Competitive Acquisition Program (CAP) to test different payment arrangements for certain Medicare Part B drugs and biologicals.

## **Congressional**

## **Recess**

While the House of Representatives has begun its August recess and won’t return until September 4th, the Senate will remain in session for most of that time to continue working on Brett Kavanaugh’s Supreme Court nomination, other judicial nominations, and annual appropriations bills, among other items. The Capital Minute will return in September with the Congress.



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