

THE LEGISLATIVE BULLETIN

A PUBLICATION OF THE VERMONT MEDICAL SOCIETY

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PHYSICIANS ENCOURAGED TO USE THEIR VOICES TO IMPACT 2010 LEGISLATIVE SESSION

Once again in 2010, many issues of importance to physicians and the patients they treat will be debated during the year's legislative session. While the staff and volunteer leadership of the Vermont Medical Society work hard to ensure that physicians' interests are well represented in the statehouse, the effectiveness of their efforts is greatly enhanced when physicians involve themselves in the legislative process.

Nothing impacts a legislator as much as hearing from the subject-matter experts who are involved in the day-to-day workings of the issues they are debating. To that end, VMS members are encouraged to play an active role this session by:

- Writing, calling, e-mailing or visiting their local representatives and senators (the contact information for key committee members is listed on page 4);
- Informing VMS of which legislators members have close relationships with and/or would be willing to contact;
- Keeping VMS abreast of any important regulatory or legislative issues as they develop;
- Volunteering to testify in committee hearings;
- Writing letters to the editor of their local newspaper; and,
- Sharing VMS's Legislative Bulletins with colleagues and staff.

By engaging in one or more of the activities above, members can help make sure that the concerns of the state's physicians are well known by the state legislators who greatly influence how health care is delivered in Vermont.

PROPOSED RULE, INTERIM FINAL RULE RELEASED FOR 'MEANINGFUL USE' OF E-HEALTH RECORDS

The Centers for Medicare & Medicaid Services (CMS) issued a notice of proposed rulemaking on Dec. 30th for "meaningful use" criteria for electronic health records. Aligned with the recommendations from ONC's HIT Policy Committee, achieving meaningful use would require a phased approach from hospitals and eligible physicians between 2011 and 2015, referred to as stages one, two, and three. Under this phased approach to meaningful use, CMS intends to update the criteria through future rulemaking. CMS currently anticipates two additional updates, which would specifically address stages two and three. Public comment on the notice of proposed rulemaking is due 60 days after the Jan. 13 publication of the rule in the Federal Register.

On Feb. 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (ARRA). A portion of the law creates the Health Information Technology for Economic and Clinical Health Act or the HITECH Act. Under the HITECH Act, physicians can receive Medicare or Medicaid incentives for the adoption of certified EHRs that are engaged in "meaningful use."

The amount of Medicare incentives a physician can expect to receive will vary depending on how soon they are able to demonstrate they are "meaningful users" of electronic health records. Physicians demonstrating "meaningful use" by 2011 or 2012 may collect a maximum of \$44,000 over a five-year period. No incentives are available to those adopting after 2014.

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'MEANINGFUL USE' OF E-HEALTH RECORDS

(cont'd from pg. 1) Physicians who have not adopted EHR by 2015 will receive a 1 percent payment reduction, followed by 2 percent in 2016 and 3 percent in 2017.

Medicaid Incentive payments will be available under Medicaid for providers with a qualifying percentage of Medicaid patient volume (30 percent for acute care clinics, 20 percent for pediatricians). Physicians must elect to receive either Medicare or Medicaid incentive payments. They may not receive both.

Staged Approach - The Stage 1 meaningful use criteria predominately focuses on electronically capturing health information in a coded format; using that information to track key clinical conditions and communicating that information for care coordination purposes; implementing clinical decision support tools to facilitate disease and medication management; and reporting clinical quality measures and public health information, according to the notice of proposed rulemaking.

The goals for the Stage 2 criteria expand upon the stage one criteria by encouraging the use of health IT for continuous quality improvement at the point of care, and the exchange of information in the most structured format possible, such as the electronic transmission of orders entered using computerized provider order entry (CPOE). Additionally, stage two criteria could potentially apply more broadly to both the inpatient and outpatient hospital settings.

For the third stage of the meaningful use criteria, the proposed rulemaking focuses on promoting improvements in quality, safety and efficiency, decision support for national high priority conditions, patient access to self management tools, access to comprehensive patient data, and population health.

Medicare and Medicaid - According to the proposed rule, CMS created a common definition of meaningful use that would serve as the definition for providers participating in the Medicare Fee for Service and the minimum standard for eligible professionals and eligible hospitals participating in the Medicaid EHR incentive program. CMS stated that hospitals are entitled to participate in both programs, while eligible professionals will be able to switch between the Medicare and Medicaid EHR incentive programs. Under Medicaid, however, this common definition would be the minimum standard.

Fact sheets from CMS on the proposed rule are available at http://www.cms.hhs.gov/apps/media/fact_sheets.asp.

TAMPER RESISTANT PRESCRIPTIONS NOW REQUIRED

On January 1st, a new rule took effect that requires that all prescriptions are to be filled out on tamper-resistant prescription pads and paper.

Written and electronic prescriptions must:

1. Prevent unauthorized copying of a completed or blank prescription form;
2. Prevent erasure or modification of information written on the prescription by the prescriber; and,
3. Prevent the use of counterfeit prescription forms.

Handwritten prescriptions must be written on a tamper resistant pad. Computer-generated printed prescriptions

must be printed on tamper resistant paper or other tamper proof methods as defined by the Centers for Medicaid and Medicare Services, including micro-printing and/or printing a "void" pantograph accompanied by a reverse "Rx," which causes a word such as "Void," "Illegal," or "Copy" to appear when the prescription is photocopied. Prescriptions which comply with Medicaid rules will satisfy this rule.

For more information about the new requirement, including a list of tamper-resistant prescription pad vendors, visit the "For Providers" section of the OVHA Web site, <http://ovha.vermont.gov>.

SGR CUTS POSTPONED FOR 2 MONTHS, CMS TO HOLD CLAIMS FOR 10 BUSINESS DAYS

In late December Congress acted to avert the 21.2 percent Medicare physician payment cut, and on December 19th, President Obama signed into law the Department of Defense Appropriations Bill (H.R. 3326), which will stop the cuts until March 1, 2010. Other changes reflected in the 2010 Medicare Physician Fee Schedule final rule still took effect on January 1st, and may have a slight impact on the conversion factor used for the first two months of 2010.

As in other years, since Congress acted so late in the year to avert the cut, the Center for Medicare and Medicaid Services (CMS) will hold claims for the first 10 business days of January (Jan. 1 through Jan. 15) for 2010 dates of service to allow its contractors time to update their systems and pay claims based on the updated rates. CMS does not anticipate any cash flow problems for physicians since, by law, no claims are paid prior to 14 days after receipt.

PQRI'S REPORTING UPDATED FOR 2010

In 2006, federal law established a physician quality reporting system, including an incentive payment for physicians who satisfactorily report data on quality measures for services furnished to Medicare beneficiaries.

While participation in the Physician Quality Reporting Initiative (PQRI) program is designed to improve the care for patients, participating in PQRI is also a way to prepare for future Medicare pay-for-performance programs. Again this year a financial incentive of two percent of total Medicare charges is available to reward participating physicians.

In 2010, physicians may report individually or as group practices. They may report individual measures or measures groups, and individual physicians may choose one of three methods to report quality measures.

2010 PQRI

Individual Physician Reporting - To participate in the 2010 PQRI, individual physicians may choose one of three methods to report information on individual PQRI quality measures:

- (1) to CMS on their Medicare Part B claims,
- (2) to a qualified PQRI registry, or
- (3) to CMS via a qualified electronic health record (EHR) product.

More information about the three reporting alternatives is available at: http://www.cms.hhs.gov/PQRI/20_AlternativeReportingMechanisms.asp#TopOfPage

Individual physicians who meet the criteria for satisfactory submission of PQRI quality measures data via one of the three reporting mechanisms for services furnished during the 2010 PQRI reporting period will qualify to earn a PQRI incentive payment equal to 2.0 percent of their total estimated Medicare Physician Fee Schedule allowed charges for services furnished during that reporting period.

The 2010 PQRI Measures List, is available on the CMS website at: http://www.cms.hhs.gov/PQRI/Downloads/2010_PQRI_MeasuresList_111309.pdf

Physicians may report on either individual measures or measures groups. Measures groups include reporting on a group of clinically-related measures identified by CMS for use in PQRI, either through claims-based or registry-based submission. In 2010 use of an EHR product is not an option for reporting PQRI measures groups. The thirteen measures groups for 2010 include diabetes, chronic kidney disease, preventative care, coronary artery bypass graft (CABG), rheumatoid arthritis, preoperative care, back pain, hepatitis C, heart failure, coronary artery disease (CAD), ischemic vascular disease (IVD), HIV/AIDS, and community acquired pneumonia. More information about the measures groups is available at:

http://www.cms.hhs.gov/PQRI/Downloads/2010_GettingStartedwithPQRIReportingofMeasureGroups_111309.pdf

Physicians who choose to report on individual measures need to select at least three measures to report on to be able to qualify to earn a PQRI incentive payment. Physicians who choose to report measures groups need to select at least one measures group to report to be able to qualify to earn a PQRI incentive payment for 2010.

If members have already been participating in PQRI, there is no requirement to select new/different measures for PQRI 2010. Please note that all PQRI measure specifications are updated and posted prior to the beginning of each program year, so physicians need to review them for any revisions.

Group Practice Reporting - Beginning with the 2010 PQRI, a group practice may also potentially qualify to earn PQRI incentive payment equal to 2 percent of the group practice's total estimated Medicare allowed charges for services furnished during the 2010 PQRI reporting period if the group practice meets the reporting criteria specified by CMS. Click on the "Group Practice Reporting Option" link below to learn more about this reporting option and to obtain instructions on how a group practice can sign up to participate in this reporting option.

http://www.cms.hhs.gov/PQRI/22_Group_Practice_Reporting_Option.asp#TopOfPage

SAVE THE DATE

Vermont Medical Society 197th Annual Meeting

Saturday, November 6, 2010 - Equinox, Manchester, Vermont

Make your reservations today! Call 1-877-854-7625.

Room Block Deadline is October 6, 2010 - Make sure you tell them you are with the VMS

KEY COMMITTEE LEGISLATIVE ASSIGNMENTS

VMS will need your help in the legislature this year. If you have not already sent in information about legislators who you would be willing to contact, please contact the VMS office at 802-223-7898 or email at swinters@vtmd.org.

To contact members of the General Assembly call 802-2231, write to 115 State Street, Montpelier, VT 05633 or visit online at <http://www.leg.state.vt.us/legdir/legdir2.htm>.

SENATE LEADERSHIP

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Senator Claire Ayer

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Representative Floyd Nease

House Assistant Majority Leader:

Representative Lucy Leriche

House Minority Leader:

Representative Patti Komline

House Assistant Minority Leader:

Representative John Morley

Key Legislative Committees are listed on the VMS website including committee members and their home contact information - <http://www.vtmd.org/Advocacy/Key%20Leg%20Contacts%20Home.html>.

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