

Specialty Leadership Cabinet
Summary August 15, 2017

A. Out of Network Billing: Dr. John P. Gallagher, Chair

PAMED is following HB 1553 and SB 678 which propose to eliminate patient balance billing by out-of-network physicians providing services in in-network facilities.

PAMED supports the Principles related to Out-of-Network Care as approved by the AMA during the Annual Meeting in June 2017 (Policy No. H-285.904)

PAMED stands behind the Specialties in their legislative efforts to support physicians' ability to continue to bill patients for their services, and at the same time to support patient access to care, patient choice, patient billing transparency, and patient protections from financial hardship caused by business decisions of insurers narrowing their networks of providers and shifting more of the cost-sharing burden for in-and-out-of-network care to patients without their knowledge.

PAMED supports the Specialties' desire to engage in a media campaign to elicit change in the public perception that the cause of increased patient financial hardship related to medical costs stems primarily from gaps in insurance coverage, not physician bills and believes that the Specialties may want to consider contracting with a PR firm to craft appropriate messaging in their campaign efforts is an effective mechanism in effecting this. PAMED will support this effort by distributing the campaign components to its' media outlet contacts when/where appropriate as well as participating in other public relations efforts as needed.

B. Right to Try: Dr. Heine, PA Society of Oncology and Hematology

Re: SB 569, SB 572, HB 45

PAMED submitted a letter to the General Assembly in collaboration with PSOH and ASCO opposing the passage of legislation that would provide for the use of investigational drugs, biological products and medical devices by terminally ill patients without adequate oversight by the FDA.

PAMED is concerned that there is inadequate patient protection for adverse effects from treatments which are not under FDA oversight. In addition, this legislation may not meaningfully remove barriers for patient access to care.

C. Prescription Cost Disclosure- Anthony May (Neurology)

Request is for legislative action to compel insurers and pharmacy plans to provide a means for immediate determination of the full cost of medication at the time of office visits.

D. IBC Modifier policy change: Jennifer Swinnich, Director, Payer Relations

Effective date August 1, 2017: IBC reimbursement will be reduced by 50% when an E&M service is provided on the same day as a procedure with a 0-day or 10-day global period. IBC will also reduce reimbursement for the E&M when it is provided on the same day as a preventive service. Requiring the patient to return after a later date unless it is medically necessary is a violation of the contract with IBC. PAMED opposed the policy and sent several letters to IBC in early August.

PAMED asked IBC to provide:

- A list of other carriers who have implemented similar policies.

There are less than 10 carriers in the U.S. who have implemented similar policies, none are local.

- Various government reports that support this policy.

The reports are greater than 10 years old, pertain to New York, and are anecdotal instances of inappropriate use.

- Benchmark utilization data comparisons justifying the change in policy.

No data provided at this time.

PAMED requested that IBC meet one-on-one with 10 to 15 practices that will be affected by this policy to discuss the potential financial impact.

National and state medical organizations for the affected specialties are engaged. The PA Insurance Commissioner, CMS, and several legislators have responded to a physician complaint. They note that no law is being violated and that this represents a contractual arrangement between the physician and payer.

Note: "Immunizations, vaccines, pulmonary function tests and their associated administrative services are not considered minor procedures and are not part of the 50% reduction of the Modifier 25 policies." Independence Blue Cross: Modifier 25: Frequently asked questions. 8/2/2017

E. Prior Authorization Initiative: Richard Gibbons, Sr. Director, Government Relations House Bill 1293, introduced in April 2017 by Rep. Marguerite Quinn (R-Bucks), would create a standard definition for prior authorization, and significantly streamline the process by requiring insurers to make available an electronic communications network that permits prior authorization requests to be submitted electronically.

Patient and physician stories are needed for this to be effective. Physicians may contact House members through Voter Voice to support HB 1293; communicate through Thunderclap to their social media networks until September 26, 2017; and distribute flyers to their patients to invite them to share their prior authorization delays with PAMED.

F. Regulatory update: Michael Siget, Legislative & Regulatory Counsel
Sterile Compounding Regulations:

On March 11, 2017, The State Board of Pharmacy issued proposed regulations for compounding drugs. PAMED submitted comments to determine if these regulations would apply to physicians who compound drugs in the office setting. Final regulations are due by April 2019.

G. Joint Underwriting Association: Angela Boateng, General Counsel

Update on the legislature's continued efforts to transfer \$200 million from the Pennsylvania Professional Liability Joint Underwriting Association's unappropriated funds to the state's general fund.

JUA refused and filed a complaint. These funds are the fees assessed for policy premiums, administrative fees, and surcharges paid by health care providers who obtain their primary medical liability coverage from the JUA.

The Senate Rules and Executive Nominations Committee passed House Bill 118 which would:

- Require the JUA to pay \$200 million to the state treasury by November 1, 2017.

- Abolish the JUA
- Transfer the JUA's funds to the Department of Insurance who would use and administer the funds as previously directed by the MCARE Act.
- The Department of Insurance would be required to transfer \$200 million to the state treasury for deposit into the General Fund as soon as practicable.
- Annually, thereafter, the Insurance Department would be required to transfer any excess funds to the General Fund.

PAMED is supporting JUA and advocating on behalf of membership.

H. Informed Consent Survey: Angela Boateng, General Counsel

On June 20, 2017, The Pennsylvania Supreme Court issued a decision in the case of *Shinal v. Toms* which held that the physician performing the treatment or procedure must obtain a patient's informed consent. Under this regulation, only the physician who performs the procedure is permitted to answer questions related to the procedure. This decision specifies that colleague physicians are not permitted to obtain consent or address questions related to the procedure.

PAMED surveyed members to assess the impact of the recent decision on the physicians serve their patients. The results indicate that this places an untenable responsibility on physicians affecting not only surgical procedures but also nonsurgical procedures such as transfusion and chemotherapy. Survey responses noted a negative impact on team care, patient safety and quality of care. The overwhelming majority of members surveyed reported potential negative outcomes including confusion among practitioners and patients; delays and disruptions in patient care; and, a negative impact on resident and fellow training.

Several medical societies are planning a response to this regulation.

PAMED will have a discussion to decide the next legislative steps will be.

J. Legislative Update: Dave Thompson, Lobbyist

- CRNP Independent Practice

SB 25: Modernization of the Professional Nursing Law (Senator Bartolotta)

HB100: Re-introduction of the Modernization of the professional Nursing Law (Representative Topper)

PAMED leadership anticipates a meeting with the leadership of the PA Coalition of Nurse Practitioners to discuss SB 25 and HB 100.

- HB 1293: Prior Authorization: Prior Authorization of Medical Services in PA (Representative Quinn)

There are 38 bi-partisan co-sponsors. Meetings will be arranged with physicians, practice administrators and legislators. Testimonials are required from physicians and more importantly patients.

- Credentialing:

HB 125: Insurer Credentialing Legislation (Representative Baker)

An act providing for the use of certain credentialing applications and for credentialing requirements for health insurers; imposing penalties; and conferring penalties and imposing duties on the insurance Department

Passed the House Health Committee and awaits consideration of the full House. This is opposed by the insurance industry.

- Telemedicine: An act providing for telemedicine and for insurance coverage. Senator Elder Vogel introduced SB 780 and Representative Marguerite Quinn is expected to introduce a companion bill to address 1) guaranteed reimbursement of telemedicine services and 2) mandating the availability of video. PAMED is opposed to audio only.

Federal Medical Liability Legislation:

H.R. 1215: Protecting Access to Care Act of 2017 (Representative Steven King (R-IA) This bill establishes provisions governing health care lawsuits where coverage of the care was provided or subsidized but the federal government, including through a subsidy or tax benefit.

Defines statute of limitations, limits noneconomic damages, supervises payments of damages, restricts attorney contingent fees, excuses physicians from class action lawsuits against medical products/product liability lawsuits.

Passed the House and has been received in the Senate and referred to the Senate Judiciary Committee.

PAMED supports HR 1215.

Denise DiPrimio Kalman, DO
Pennsylvania Allergy and Asthma Association