



Dear ENT Advocacy Network Member:

December 4, 2020

Legislative and political activity directly affects our practices and our patients. As a leading advocate for otolaryngology-head and neck surgery, we hope you enjoy reading this edition of *The ENT Advocate*, your premier source of advocacy information for the specialty!

## Lead Story

### CMS Releases 2021 Physician Fee Schedule Final Rule

On December 1, the Centers for Medicare & Medicaid Services (CMS) [released the 2021 Final Rule for the Medicare Physician Fee Schedule and Quality Payment Program \(QPP\)](#). Key provisions impacting the specialty include revisions to payment and documentation for evaluation and management (E/M) services, valuation of new codes commonly performed by otolaryngologist-head and neck surgeons, expansion of covered telehealth services, and changes to the QPP, including those impacting qualified clinical data registries like Reg-ent. The AAO-HNS has prepared a [preliminary summary](#) of the rule and its impact on otolaryngologist-head and neck surgeons.

Even though overall otolaryngologists are predicted to receive a 7% increase, the final rule implements significant reimbursement reductions to procedures resulting from budget neutrality requirements. The AAO-HNS has vigorously opposed these reductions since they were first introduced. The Academy is advocating for immediate Congressional action to prevent these reductions through enactment of HR 8702, which includes a two-year freeze on the payment cuts, before the end of the year.

## Legislative and Political Reports

### 116<sup>th</sup> Congress Wraps up with “Lame-Duck” Session

Following the general elections, the U.S. Congress reconvened on November 10, 2020, with limited legislative days remaining to address outstanding priorities during the “lame-duck” session. In these few remaining weeks, the Academy will continue to advance AAO-HNS legislative priorities, including:

- Ensuring audiologists are not granted inappropriate access to Medicare patients without a physician referral;
- Defeating scheduled cuts to Medicare physician payments
- Securing enhanced medical liability protections
- Ensuring expanded relief for otolaryngology-head and neck surgeons and their practices in COVID-19 response legislation
- Obtaining necessary insurer reimbursement for Personal Protective Equipment

The Academy stands ready to continue our advocacy efforts on behalf of the specialty as soon as the 117th Congress convenes on January 3, 2021.

### **AAO-HNS Continues Congressional Advocacy Opposing Scheduled 2021 Medicare Payment Cuts**

Following months of targeted Congressional advocacy efforts, [the AAO-HNS has both directly endorsed](#), as well as joined over 70 other medical organizations, in support of H.R. 8702, the “Holding Providers Harmless From Medicare Cuts During COVID-19 Act of 2020.” This critical legislation would provide stability for otolaryngologists, their practices, and their patients by holding physicians harmless from planned Medicare payment cuts, scheduled to take effect January 1, 2021. The Academy will continue to work with the bill’s sponsors and colleagues throughout the house of medicine to advocate for passage of H.R. 8702 prior to the end of the year or its inclusion in a broader legislative package.

### **AAO-HNS Issue Brief: The Audiology and Speech-Language Pathology Interstate Compact**

Not all interstate compacts are the same. Learn about the Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC), the seven reasons the Academy objects to the legislation and what can be done to improve and balance these proposals. Read the Brief [here](#).

## **Regulatory Reports**

### **New HHS Regulations: Implication for Otolaryngologist and Patients**

On November 20, the U.S. Department of Health and Human Services released two Final Rules and one Interim Final Rule with Comment Period that have broad-reaching implications for otolaryngologists and our patients. The Final Rules from the Centers for Medicare & Medicaid Services (CMS) and Office of the Inspector General address changes to the Stark law and the Anti-Kickback Statute and Civil Monetary Penalty Rules, respectively. The Academy has been actively advocating for required changes to the Stark law for many years and applauds the agency’s release of this Final Rule. Through an Interim Final Rule with Comment Period, CMS seeks to implement a new payment model, the Most Favored Nation Model, for Medicare Part B drugs. AAO-HNS physician leaders and staff will conduct a thorough analysis of each of these rules. Click [here](#) to read a review of how each affect the specialty.

### **AMA Approves Eight New and Revised CPT Codes for Otolaryngology Procedures**

At the October American Medical Association (AMA) Current Procedural Terminology (CPT) Editorial Panel meeting, the AAO-HNS CPT team and related clinical experts presented [four new code applications](#) to address procedures commonly performed by otolaryngologist-head and neck surgeons. The newly created CPT codes will more accurately describe hypoglossal nerve stimulation, drug-induced sleep endoscopy, and transcutaneous passive implant-temporal bone procedures. These codes, which are effective January 1, 2022, are currently undergoing survey for upcoming valuation by the AMA/Specialty Society RVS Update Committee (RUC) in January 2021. Thank you to the members of the Academy who participated in our RUC surveys for the new codes so these procedures can be fairly and appropriately valued.

### **FDA Heeds AAO-HNS Recommendations in Final Drug Compounding Guidance**

On November 6, the U.S. Food and Drug Administration (FDA) [finalized a guidance document](#) impacting physicians’ ability to prepare sterile drug products in their offices. In joint comments on the draft guidance submitted by the AAO-HNS and 20 other medical organizations last year, the groups urged the agency to avoid regulatory overreach and consider the impact of restrictive policies on a physician’s ability to provide critical in-office treatments to patients. The final guidance document represents a victory for physicians in-office preparation of compounding products by stating that the FDA generally does not intend to regulate physicians

as long as physicians are preparing drug products in the office setting for administration to their own patients within the same office.

### **AAO-HNS Opposes Humana's New Imaging and Interpretation Criteria**

On November 2, the Academy sent a comprehensive [comment letter](#) to Humana opposing their new Imaging and Interpretation Criteria for Diagnostic Imaging Authorizations. The Academy expressed strong opposition to Humana's position not to reimburse otolaryngologists for either the technical or professional component of imaging studies including CT, MRI, and ultrasound. Additionally, the AAO-HNS asked Humana to revisit and amend these criteria as otolaryngologists are trained and board-certified in the interpretation of imaging studies performed on their patients.

### **AMA Releases New CPT Codes for COVID-19 Vaccines**

On November 5, the AMA CPT Editorial Panel, working closely with the Centers for Disease Control and Prevention, [approved unique CPT codes](#) for two novel coronavirus vaccines as well as administration codes specific to each vaccine. The new CPT codes clinically distinguish each coronavirus vaccine for better tracking, reporting, and analysis to support data-driven planning and allocation. The new vaccine-specific CPT codes will be effective upon each new coronavirus vaccine receiving Emergency Use Authorization or approval from the Food and Drug Administration. Importantly, these CPT codes were established prior to the public availability of the vaccines to facilitate updating of healthcare electronic systems.

### **Academy Continues Advocacy Efforts to Prohibit Menthol Cigarettes**

On November 9, the AAO-HNS and dozens of other medical professional societies and public health organizations [submitted a letter to the U.S. Food and Drug Administration \(FDA\)](#) urging the agency to prohibit menthol as a characterizing flavor in cigarettes. The group letter highlights growing scientific evidence that the availability of menthol cigarettes both increases the level of smoking initiation and decreases the level of smoking cessation. Additionally, the letter notes that since the 2011 FDA Tobacco Products Scientific Advisory Committee Report recommended removal of menthol cigarettes from the marketplace, the FDA "...has consistently found that the scientific evidence establishes that menthol as a characterizing flavor in cigarettes is harmful to public health."

### **AAO-HNS Advocates for Payment of CPT Code 99072**

On November 10, the [Academy joined more than 100 physician organizations and medical societies](#) in urging the Centers for Medicare & Medicaid Services to immediately implement and reimburse CPT code 99072. Similar letters were sent to America's Health Insurance Plans, the Blue Cross Blue Shield Association, and major commercial health plans, including Aetna, Anthem, and Cigna. On September 8, the American Medical Association published CPT code 99072 to report the cost of additional supplies and clinical staff time required to reduce the transmission risk of respiratory infectious disease while providing evaluation, treatment, or procedural services during a public health emergency (PHE). The AAO-HNS will continue to advocate for full payer reimbursement of 99072 to mitigate the significant fiscal pressures placed on physician practices during the COVID-19 PHE.

### **CMS Expands Automatic Extreme and Uncontrollable Circumstances Policy for MIPS**

On November 19, the Centers for Medicare & Medicaid Services [announced](#) that additional Merit-based Incentive Payment System (MIPS) eligible clinicians will be automatically identified to receive a neutral payment adjustment for the MIPS 2022 payment year. For impacted clinicians living in Federal Emergency Management Agency identified areas affected by Hurricane Laura or the California and Oregon wildfires, all four performance categories for will be weighted at 0%. If MIPS eligible clinicians in these areas choose to submit data on two or more performance categories, they will be scored on submission for those categories.

**Action Requested**

## ENT PAC "First 50" Campaign Kicks Off January 1, 2021!

Don't miss the start of ENT PAC's annual "First 50" campaign! The "First 50" campaign is a fundraising effort to garner at least 50 contributions of \$1,000+ (Chairman's Club or Leadership Club) during the month of January. "First 50" investors will have exclusive access to a 2021 conference call series with high-ranking individuals from Congress and the Administration. If you have questions or would like additional information, visit [www.entpac.org](http://www.entpac.org) or contact ENT PAC staff at [entpac@entnet.org](mailto:entpac@entnet.org).\*

## Preparation for the 2021 State Legislatures

"Experimentation" has been the byword for the 2020 state legislative sessions under COVID. Carrying these experiments forward into 2021, advocates are likely to find legislatures meeting in unusual places such as stadiums. The rules of operation and committee processes changed are abbreviated, as no surprise, technology will dominate. How do we operate in this new paradigm and what are the top state issues for otolaryngologists in the new year? Volunteer for AAO-HNS State Trackers program (email [legstate@entnet.org](mailto:legstate@entnet.org)) and join us on **December 16, 8 pm (ET)** as we strategize for another pivotal year.

Sincerely,

Jeffrey S. Brown, MD  
BOG Legislative Affairs Committee Chair  
and the AAO-HNS Advocacy Team

For more information, contact [govaffairs@entnet.org](mailto:govaffairs@entnet.org). Don't forget to bookmark [The ENT Advocate!](#)

If you no longer wish to receive important legislative and political updates via The ENT Advocate, please reply to this email with CANCEL ADVOCATE in the subject line.

\*Contributions to ENT PAC are not deductible as charitable contributions for federal income tax purposes. Contributions are voluntary, and all members of the American Academy of Otolaryngology-Head and Neck Surgery have the right to refuse to contribute without reprisal. Federal law prohibits ENT PAC from accepting contributions from foreign nationals. By law, if your contributions are made using a personal check or credit card, ENT PAC may use your contribution only to support candidates in federal elections. All corporate contributions to ENT PAC will be used for educational and administrative fees of ENT PAC, and other activities permissible under federal law. Federal law requires ENT PAC to use its best efforts to collect and report the name, mailing address, occupation, and the name of the employer of individuals whose contributions exceed \$200 in a calendar year.

American Academy of Otolaryngology- Head and Neck Surgery  
1650 Diagonal Road, Alexandria, VA 22314-2857  
Phone: 1-703-836-8444 | Fax: 1-703-683-5100