June 22, 2010

A Message from ACOG President
Richard N. Waldman, MD

In my inaugural address at last month’s ACM, I promised to take a hard look at birth issues and at how to improve maternity care into the next decade and beyond. ACOG has the ability and a responsibility to play a strong role in guiding maternity care across the nation.

ACOG’s Making Obstetrics and Maternity Safer (MOMS) Initiative provides a broad legislative framework to help reduce U.S. maternal and infant mortality and preterm birth rates. I’m pleased to let you know that our Initiative is already gaining traction in the US Congress. This edition of ACOG’s Legislative News focuses on two of our Congressional allies, Representatives Michael Burgess, MD, FACOG, and Frank Pallone, and the legislation they’ve introduced with our advice and support.

ACOG Fellow and U.S. Representative Michael Burgess, MD (R-TX), shows why it’s so important to have ob-gyns in Congress.

Rep. Burgess’ bill would increase research on birth defects and on the impact of environmental hazards during pregnancy and breast feeding. I’ve long believed that the gap is too wide between research on pre- and post-natal exposures to chemicals and medicines and their link to birth defects or other conditions. The Burgess bill would help shrink that gap.

Rep. Frank Pallone (D-NJ) has a strong commitment to eliminating Sudden Unexplained Infant Death (SUID). I’ve thanked him for introducing H.R. 3212, the Stillbirth and SUID Prevention, Education, and Awareness Act. The legislation would create comprehensive death reviews and expand surveillance efforts to gain better data on the circumstances surrounding these deaths, using a definition of stillbirth consistent with ACOG policy.

The problems of maternal and infant mortality require massive efforts in the research lab, the examining room, and in the halls of Congress. Together, we can make major strides in improving pregnancy and birth outcomes across the nation.
ACOG is pushing Congress to adopt our MOMS (Making Obstetrics and Maternity Safer) Initiative that includes:

* NIH research to reduce premature births and focus on obesity;
* CDC surveillance and research to assist state maternal mortality reviews; modernize state birth and death records systems; and improve the Safe Motherhood Program;
* HRSA Fetal and Infant Mortality Review that brings together local ob-gyns and health departments to reduce infant mortality rates; and improve the Maternal Child Health Block grant;
* Comparative effectiveness research into preterm birth interventions and efficacy;
* Disparities research;
* Testing the obstetric medical home to address the unique issues of pregnancy; and
* Supporting quality improvement measures.

1. **ACOG President Waldman Thanks Rep. Burgess, FACOG, for Birth Defects Research Bill**

ACOG Fellow and U.S. Representative Michael Burgess, MD (R-TX), along with Rep. Rosa DeLauro (D-CT), has introduced H.R. 5462, the Birth Defects, Prevention, Risk Reduction, and Awareness Act of 2010. The measure, introduced in the Senate by Sen. Kay Hagan (D-NC), would strengthen much-needed research on birth defects and breast-feeding, and help educate women on ways to have healthy babies. ACOG President Richard N. Waldman, MD, thanked Rep. Burgess and the other lawmakers, noting the “alarming gap in research on exposures to chemicals, medicines, and everyday behaviors and their link to birth defects, both during pregnancy and breast-feeding.”


ACOG President Waldman also thanked Rep. Frank Pallone (D-NJ) for introducing H.R. 3212, the Stillbirth and SUID Prevention, Education, and Awareness Act. The bill would help increase understanding of the causes of stillbirth and Sudden Unexplained Infant Death (SUID) and Sudden Unexplained Death in Childhood (SUDC), potentially reducing the number of these deaths in the U.S.

Over the last 20 years, public education campaigns like the NIH Back to Sleep initiative helped educate parents on proper sleep positions, reducing the SUID rate in the U.S. by over 50%. But there are still infants and young children dying from no explainable cause, and the causes of stillbirth are still poorly understood. H.R. 3212 would allow more comprehensive death reviews; expand surveillance efforts to get better data, including use of a stillbirth definition consistent with ACOG policy; and provide support services including autopsy reimbursement to families experiencing a stillbirth or SUID or SUDC.
3. ACOG-Supported Partnership Calls for Extension of Medicaid Assistance to the States

ACOG and 16 other organizations in the Partnership for Medicaid are urging Congress to extend a temporary increase in federal support for state Medicaid programs passed as part of the 2009 stimulus act, the American Recovery and Reinvestment Act of 2009 (ARRA). This helped minimize cuts to state Medicaid programs serving 42 million enrollees during the recession.

Our call for a 6-month extension has the support of 47 state governors, 219 House Members and 39 Senators. Medicaid covers 41% of all U.S. births and plays a critical role in pregnancy-related care. Read more here.

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**Senate Passes 6-Month Medicare Physician Payment Fix; CMS Begins Processing 21.3% Pay Cut, Until House Adopts the Measure**

**Speaker Pelosi Says No Fix without Jobs Bill**

Friday afternoon, the Senate passed by unanimous consent H.R. 3962, a 6-month delay to the 21.3% Medicare physician pay cut that went into effect on June 1, replacing the cut with a 2.2% pay increase through November 30, 2010.

The measure must go to the House, which had adjourned for the weekend by the time of the Senate vote. As a result, on Friday, June 18, CMS began to retroactively process the 21.3% pay cut that officially went into effect on June 1, 2010. CMS will retroactively fix payment rates if the House approves the 6-month fix.

The compromise measure was proposed by Sens. Max Baucus (D-MT) and Chuck Grassley (R-IA) of the Senate Finance Committee, and won support in part because the cost of the fix would be offset by changes in employer pension fund rules and restrictions in hospital billing, changes that the hospital industry strongly opposes.
Compromise after Rejection of a 19-Month Fix

On June 17, the Senate failed to pass a broader House tax-extender bill that included a 19-month physician payment fix as well as extensions of jobless benefits and Medicaid assistance for the states.

The House bill hit controversy in the Senate over the mounting federal deficit. Senate Democratic leaders fell 4 votes short of the 60 votes needed on a cloture vote, 56-40, with Democratic Sen. Ben Nelson (NE) and Independent Sen. Joseph Lieberman (CT) voting with all Republicans against the measure.

The Senate bill, approved in a fast-track, unanimous consent process that avoided a roll-call vote, only addressed Medicare physician payment. The House-bill provisions on employment compensation and Medicaid funding were not included, and the two chambers must negotiate those issues.

House Speaker Nancy Pelosi (D-CA) warned on Friday that negotiations could be tough. Speaking of the shorter Senate payment fix, she announced, “I see no reason to pass this inadequate bill until we see jobs legislation coming out of the Senate.”

Now More Than Ever: The SGR Repeal Campaign Continues

The uncertainty over even temporary fixes continues to wreak havoc on your practices and patient care. ACOG is working hard to repeal the SGR, the flawed Medicare physician payment formula that just doesn’t work. Here’s how you can help.

1. Click on our Legislative Action Center to send an email message to your legislator; or
2. Call the Toll Free hotline set up by the American College of Surgeons and available to ACOG at 1-877-996-4464; and
3. Use our SGR Fact Sheet;

No time to write? Your contribution supports Ob-GynPAC’s SGR Repeal Campaign.
1. HHS Announces Grants for Patient Safety and Medical Liability Projects

Four of Twenty Projects are Ob-Related, in MN, MO, NY, and OH

The Department of Health and Human Services (HHS) has announced grants to support the HHS Patient Safety and Medical Liability Initiative, which President Obama outlined during his September 2009 address to a joint session of Congress.

The overall funding for the Administration initiative is $25 million, with $23 million allocated to 20 grants for States and health care systems to evaluate patient safety approaches and alternative methods of medical liability reform. Patient safety was clearly a top priority. The grants include seven three-year demonstration grants with funding of up to $3 million, and one-year planning grants of up to $300,000.

Four of those grants were specific to obstetrics:

Demonstration Grants

Stanley Davis, MD, Fairview Health Services, Minneapolis, MN -- $2,982,690

This project builds on the institution’s prior efforts in a national collaborative to eliminate preventable perinatal harm. The project will evaluate the use of perinatal best practices in 16 hospitals, to assess the impact on patient safety and whether the level of medical liability activity is reduced.

Ann Hendrich, MS, RN, Ascension Health System, St. Louis, MO -- $2,990,612

The demonstration project will focus on ways to improve the quality of perinatal patient care delivery and how adverse perinatal events are managed in five geographically disbursed hospitals. The project will establish a uniform, evidence-based obstetrics practice model.

Judy Kluger, JD, New York State Unified Court System, New York, NY -- $2,999,787

The project’s stated aim is to protect obstetric and/or surgery patients from injury by provider mistakes and to reduce the costs of medical liability through use of an expanded Judge-Directed Negotiation Program currently used in New York courts. This would be coupled with a new hospital early disclosure and settlement model.

[NOTE: For now, ACOG District II (New York) is not taking a position on the project pending further information on the types of cases and methodology to be used in the program.]
MLR in the News — Cont’d

Planning Grants:

Cynthia Shellhaas, MD, MPH, Ohio State University, Columbus, OH -- $186,214

To address maternal mortality and disparities, the project plans include a statewide pregnancy-associated mortality review (PAMR) system in Ohio, and development of comprehensive statewide recommendations with short- and long-term, evidence-based interventions focusing on patient safety and prevention of adverse events. The goal is to improve health care system operations and clinical care, with potential for decreasing medical liability claims.

Read more about all grants here and a description of the Initiative here.

ACOG members who attended the 2010 Congressional Leadership Conference will remember a popular session on ACOG Section proposals for state liability reform. Two states considering grant applications for innovative birth-injury fund projects were Colorado and New Mexico ACOG. In upcoming editions, we’ll take a look at their ideas and proposals for change.

A Separate Matter: MLR Provisions in the Health Reform Law

The grants provided under the Obama Administration’s 2009 Initiative, above, are in addition to a separate MLR program under this year’s new health reform law, the Patient Protection and Affordable Care Act. As discussed here on page 6, the new law authorizes HHS to award $50 million over a period of five years, up to $500,000 per state, for states to develop and evaluate alternative medical liability reform initiatives that meet specific criteria. Watch for more details in the weeks ahead.

2. New Jersey ACOG Urges Reactivation of MLR Assistance Fund

This month New Jersey ACOG urged members of the state Assembly Health and Senior Services Committee to reactivate New Jersey’s medical malpractice liability insurance premium assistance fund (MMLIPA). Set-up as a temporary measure in 2004 during the height of the last premium crisis, but discontinued in 2007 after three years of operation, the fund helped New Jersey ob-gyns and physicians in other high-risk specialties pay exorbitant premiums.

A bill before the Committee, AB 2807, would re-start the premium stabilization fund and extend it for another five years.
MLR in the News — Cont’d

Under the MMLIPA rules, 65% of the monies collected helped high-risk physicians pay their premiums, with the balance going to forms of charity care in hospitals and to help ob-gyns repay medical school loans. Subsidy payments to physicians were calculated based on the average expenditures for medical malpractice liability insurance among physicians in the eligible specialties. For the 2005 year, for example, 745 ob-gyns each received a subsidy of $16,006.

In June 17 testimony, Sharon Mass, MD, Vice Chair of ACOG’s New Jersey Section, acknowledged that the fund is not a permanent solution to the medical liability insurance problem, but it proved to be a “vital safety net” for ob-gyns during its three years of operation. Ob-gyns still need relief, said Dr. Mass, particularly as reimbursement rates keep decreasing while practice costs are rising:

“Rates for liability insurance for ob-gyns in this state have consistently been well above the average. In 2009, NJ ob-gyns paid the seventh highest premium of all states in the nation; on average, NJ ob-gyns paid $110,439 or higher while the national average was $81,353. This has climbed significantly since 2002, when the national average was $59,809.”

AB 2807 now heads to the Assembly Speaker, who decides if and when to post it for a floor vote.

The Health Reform Law:
A Round-Up of the Latest Announcements on Grants and Programs

1. HHS Announces $250 Million for Prevention and Public Health Programs

Last week U.S. Department of Health and Human Services Secretary Kathleen Sebelius announced that under the reform law, $250 million will be made available to support prevention and develop the nation’s public health infrastructure.

The funding is intended to reduce the incidence of chronic diseases including heart disease, cancer, stroke, and diabetes, and to reduce destructive behaviors including tobacco use, poor diet, physical inactivity, and alcohol abuse.

The $250 million investment will go to:
**The Health Reform Law: A Round-Up of the Latest Announcements on Grants and Programs — Cont’d**

*Community and Clinical Prevention: $126 million will support federal, state and community prevention initiatives; the integration of primary care services into publicly funded community-based behavioral health settings; obesity prevention and fitness; and tobacco cessation.*

*Public Health Infrastructure: $70 million will support state, local, and tribal public health infrastructure and build state and local capacity to prevent, detect, and respond to infectious disease outbreaks.*

*Research and Tracking: $31 million for data collection and analysis; to strengthen CDC’s Community Guide by supporting the Task Force on Community Preventive Services; and to improve transparency and public involvement in the Clinical Preventive Services Task Force.*

*Public Health Training: $23 million to expand CDC’s public health workforce programs and public health training centers.*

This is the second allocation for fiscal year 2010 from the new $500 million Prevention and Public Health fund created by the reform law. Earlier in the week, Secretary Sebelius announced the allocation of the first half of the Prevention and Public Health fund, to increase the number of clinicians and strengthen the primary care workforce, by training more than 16,000 new primary care providers over the next five years.

Following these announcements on the availability of program funds, Administration officials will be rolling out more information and announcements in the weeks ahead, on how to apply for grants. If interested, be sure to check the HRSA website regularly at http://www.hrsa.gov/grants/index.html: HRSA is already providing some information there on the primary care workforce programs. Also check the federal grant website regularly, at http://www.grants.gov/. Grant recipients will be determined by September 30, 2010.

2. IRS Offers Tax Benefit for Health Professionals in Underserved Areas

The IRS announced that health care professionals may qualify for a 2009 federal income tax refund and annual tax cut going forward if they receive student loan relief from their state for working in underserved communities.

The health reform law expanded eligibility for the federal tax exclusion to health professionals in any state program that repays or forgives loans to increase health care services in underserved areas. Previously, only participants in the National Health Service Corps loan repayment program and certain state programs funded under the Public Health Service Act qualified for the tax exclusion.
The Health Reform Law: A Round-Up of the Latest Announcements on Grants and Programs — Cont’d

Health professionals who have not yet filed their 2009 tax returns need not report eligible loan repayment or forgiveness amounts when they file; those who have already filed may exclude eligible amounts by filing Form 1040X. Health professionals and their employers also may be entitled to a refund of taxes paid under the Federal Insurance Contributions Act on payments covered under the new exclusion. For details, see the IRS news release.

3. CMS Offers June 24 Conference Call on ACOs

The Centers for Medicare & Medicaid Services (CMS) will offer an Open Door Forum conference call for providers on Thursday, June 24, addressing how to use accountable care organizations (ACOs) to enhance the quality of physician services. CMS will also solicit comments on the implementation of the reform law’s Medicare Shared Savings Program. Click here for more information.

4. Also from CMS: Electronic Health Record Incentive Program Website

The Centers for Medicare & Medicaid Services (CMS) has launched the official website for the Medicare & Medicaid Electronic Health Record (EHR) Incentive Programs, which will provide incentive payments to eligible professionals and hospitals as they adopt or demonstrate meaningful use of certified EHR technology.

Visit http://www.cms.gov/EHRIncentivePrograms/ to learn about program eligibility, registration, meaningful use, and upcoming EHR training and events.

5. News from the NIH Director:
Calls for Science-Based Research Priorities;
NIH to Fund Study on Oil Spill Health Effects

NIH Director Francis Collins, MD, PhD, says that members of the Patient Centered Outcomes Research Institute (PCORI), established under the health reform law, need to foster innovation but have science-based research priorities. The PCORI will help allocate the $1.1 billion for comparative effectiveness research (CER) under the federal stimulus bill, the American Recovery and Reinvestment Act.

NIH will serve on the Board of Governors of the PCORI, which is projected to have an eventual annual budget of approximately $600 million. The Board is expected to establish priorities for CER.
Collins also announced that the NIH will undertake a $10 million study of the human health effects of the BP oil spill in the Gulf of Mexico. At a hearing of the Health Subcommittee of the House Energy and Commerce Committee, he said that researchers will recruit 15,000 to 20,000 exposed cleanup workers to study their health and work history and levels of exposure. Watch for updates in coming editions of ACOG’s Legislative News.

AMA Adopts ACOG Resolution to Ban Shackling Inmates in Labor

ACOG Delegates Urge Action Against ‘Dehumanizing’ Practice

At its House of Delegates meeting last week, the American Medical Association (AMA) adopted a resolution introduced by ACOG to prohibit the shackling of women inmates during labor. Shackling is used in some prisons, detention centers, and hospitals for inmates who are giving birth, although it has been prohibited by seven states (CA, IL, NM, NY, TX, VT, and CO).

The AMA’s full House of Delegates adopted the resolution, also supported by several state medical societies, on June 15 by a voice vote. The AMA will draft model legislation that other states could use to prohibit shackling, a term that applies to several restraint methods, including cuffing a woman’s hand to a waist chain or her ankle to a hospital bed.

ACOG delegate Erin Tracy, MD, MPH, who is Fellow Vice Chair of ACOG’s Massachusetts Section, called the practice “dehumanizing” and running “counter to our values.” Tracy urged the AMA to help ensure that female inmates are treated with compassionate care.

The resolution puts the AMA on record as supporting state laws mandating that no restraints of any kind should be used on an inmate who is in labor, delivering her baby, or during recuperation unless there is a compelling reason to believe she poses serious harm to herself or others, is a flight risk, and she cannot be constrained by other methods. When an inmate is in the second or third trimester of pregnancy, facilities should use the "least restrictive restraints necessary."