



2020 Pennsylvania Legislative Session Begins

The Pennsylvania General Assembly is scheduled to reconvene this month with the House of Representatives returning to Harrisburg on Monday, January 13th and the Senate starting business on Monday, January 27th.

While 2020 is an election year, we fully expect the General Assembly to active on legislative issues that could impact surgeons and patient care such as on out of network surprise billing, provider taxes, and many others. Legislation that did not receive votes or were left partially finished in 2019 can be carried over into 2020 for consideration. A list of state legislation being tracked by the ACS can be found clicking the following link, <https://www.quorum.us/spreadsheet/external/yqRKqIWpORQiZDqjjMCY/>.

A RE-CAP OF 2019 LEGISLATIVE ISSUES

Legislative activity during 2019 focused on many major healthcare issues both of the state and federal levels. Here is a re-cap of legislative issues related to surgery and patient care that ACS and the local state chapters (Keystone and Metropolitan Philadelphia Chapters) supported.

Pennsylvania State Legislation:

The State Legislative session in 2019 saw numerous healthcare-related bills moving through the legislature. ACS and the local chapters (Keystone and Metropolitan Philadelphia Chapters) actively tracked 40 bills including HB 1862, HB 130, and SB 822 relative to out-of-network surprise medical billing, SB 909 on limitations to indoor tanning, and SB 761 and HB 1580 dealing with medical professional liability and informed consent. For additional information on

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these bills or other legislative issues, visit the Commonwealth's website (<https://www.legis.state.pa.us/>).

Legislation Enacted During 2019

- **HB 97 – Sale of Vaping Products to Minors.** HB 97 was signed by Governor Wolf as Act 93-3019 and takes effect on January 26, 2020. This legislation will amend the current Crimes Code to make it illegal to sell electronic nicotine delivery systems (ENDS), as well as other tobacco products to minors and make it illegal for students to use such ENDS products on school grounds. ENDS include e-cigarettes and vape pens.
- **SB 473 – Tobacco 21 Legislation.** SB 473 signed into law by Governor Wolf raises the minimum legal age for sale of tobacco products from 18 years to 21 years of age. Act 111-2019 goes into effect on July 1, 2020. Members of the military and veterans who were honorably discharged from any branch or unit of the active or reserve armed forces would be exempt from the provisions of the Act.
- **SB 572 – Opioid Treatment Agreements.** SB 572 was signed into law by Governor Wolf (Act 112-2019) took effect immediately and will require patients who require an opioid prescription regime enter into a treatment agreement to ensure the patient understands the risks of addiction and dangers of overdose. Patients will be required to undergo baseline drug testing to establish a general assessment and periodic testing in order to monitor adherence to the patient treatment plan established by the prescriber. Prescribers who violate the act may face possible sanctions by the prescriber's licensing board.

Bills Passing One Legislative Chamber in 2019. The following bills were introduced and passed through one chamber during 2019. We will continue to monitor the status of these bills and keep you updated.

- ✓ **Credentialing (HB 533).** This legislation was previously introduced in the 2017-2018 legislative session (HB 125) and would standardize credentialing processes for health care practitioners and provide timeframes for rendering credentialing decisions.
- ✓ **Pharmacy Benefit Manager (PBM) Pricing Transparency in Medicaid (HB 941).** HB 941 would address reimbursement rates for pharmacies and require transparency in pricing practices in Medicaid by PBMs.
- ✓ **Prohibition of Gag Clauses by PBMs (HB 943).** Prohibiting the use of gag clauses in PBM contracts with pharmacies, this bill would cover entities that are not currently covered by federal legislation recently enacted banning gag clauses. Gag clauses in contracts prohibit pharmacies from advising customers on options to save money on prescriptions by paying out-of-pocket rather than using their insurance coverage.
- ✓ **Photo ID Badges in Health Care Facilities (HB 1880 & SB 842).** Both bills would remove the requirement of displaying health care employees' last names on identification badges.

- ✓ **Aggravated Assault on a Healthcare Practitioner (SB 351).** This bill would amend assaults on healthcare practitioners, resulting in bodily injury, while performing their duties from a misdemeanor to a felony. The bill would add healthcare practitioners to a protected class of individuals in the event of assault. This legislation was previously introduced in the 2017-2018 legislative session as HB 646.
- ✓ **Telemedicine (SB 857).** SB 857 would establish guidelines outlining telemedicine service provider requirements as well as establish clarity regarding insurance reimbursement for telemedicine services. This bill was previously introduced during the 2017-2018 legislative session as SB 780.

FEDERAL LEGISLATION:

ACS introduced or reintroduced multiple pieces of legislation during the 116th Congress, as well as supported legislation that were health policy priorities and activities for the College. For additional information on the legislative issues visit the ACS Government Advocacy website (<https://www.facs.org/advocacy/federal>).

- ✓ **Improving Seniors' Timely Access to Care Act** – Would increase transparency and oversight of Medicare Advantage plan prior authorization requirements.
- ✓ **Medicare Care Coordination Improvement Act** – Would create exceptions under physician self-referral law (Stark Law) and anti-kickback statutes to promote development and operation of alternative payment models.
- ✓ **Keep Physicians Serving Patients Act** – Would update geographic practice cost indices (GPCIs), which are currently calculated using inaccurate and outdated numbers that underestimate the cost of practicing in non-urban areas.
- ✓ **Ensuring Access to General Surgery Act** – Would direct the Health Resources and Services Administration to conduct a study to define a general surgery workforce shortage area and collect data on the adequacy of access to surgical services. Additionally, it would grant the Secretary of HHS the authority to provide a general surgery shortage area designation.
- ✓ **Resident Physician Shortage Reduction Act** – Would increase the number of residency positions eligible for graduate medical education payments under Medicare by 3,000 each year through 2025.
- ✓ **Critical Access Hospital Relief Act** – Would repeal the 96-hour physician-certification requirement for inpatient critical access hospital services under Medicare.
- ✓ **PAHPAI and Mission Zero Act** – Congress passed, and the President signed into law, the Pandemic and All-Hazards Preparedness and Advancing Innovation Act (PAHPAI). The ACS-supported Mission Zero Act, which creates a grant program to assist civilian trauma centers in partnering with military trauma professionals, was included in this legislation.
- ✓ **Health Care Safety Net Enhancement Act** – Would extend the Federal Tort Claims Act liability protection to physicians providing EMTALA-related care.

- ✓ **Prevent Bleeding Loss with Emergency Devices (BLEEDing) Act** – Created as a direct result of a 2018 Stop the Bleed® (STB) training, this legislation would provide grant funding for bleeding control kits and training.
- ✓ **End the Cycle of Violence Act** – Would provide grant funding to Hospital Based Intervention Programs to conduct research on best practices. This research will play a critical role in documenting the success of these programs and will create a road map for hospitals to follow.
- ✓ **Firearm Injury Prevention Research** – The U.S. House of Representatives passed ACS-supported language providing \$50 million for firearm morbidity and mortality prevention research.
- ✓ **Background Checks Act** – The U.S. House of Representatives passed ACS-supported Bipartisan Background Checks Act. This bill requires all firearm sales to go through the National Instant Background Check System (NICS).
- ✓ **Removing Barriers to Colorectal Cancer Screening Act** – Would waive Medicare’s cost-sharing requirement for preventative colonoscopies, even if a polyp or tissue is removed.
- ✓ **Palliative Care Hospice Education and Training Act** – Would improve and further the training of health professionals in palliative care.
- ✓ **Breast Cancer Research Stamp Reauthorization** – Would reauthorize the Breast Cancer Research Stamp for eight years. Recently added to the House version of the National Defense Authorization Act.

ACS Leads the Way on Examination of Physician Payment

- ✓ **Feedback on Increasing Price Transparency** – ACS provided feedback to the U.S. Senate on how Congress can lower health care costs, incentivize care that improves the health and outcomes of patients, and increase the ability for patients to access information about their care to make informed decisions.
- ✓ **Addressing Medicare Physician Payment Reimbursement Shortfalls** – The ACS testified before the Senate Finance Committee on improving MACRA implementation and concerns with the future of Medicare physician payment. This opportunity was the direct result of the 2019 Leadership and Advocacy Summit asks around Medicare physician reimbursement.
- ✓ **Congressional Sign-on Letter on Measurement of Surgical Quality** - Key members of Congress led a congressional sign-on letter to CMS encouraging the agency to work with stakeholders on the development and implementation of meaningful quality measurement.
- ✓ **Congressional Sign-on Letter on E/M Global Surgery Codes** – The health care professional members of Congress sent a letter to CMS opposing the CY 2020 Medicare Physician Fee Schedule proposed rule provision which would increase payment values for standalone office visit E/M codes, but not the E/M portion of the global surgical code.

Federal Surprise Billing Leads to Significant Advocacy Efforts.

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- ✓ **Educated through a Congressional Briefing on Capitol Hill** – In addition to a massive hand-to-hand lobbying effort and making the issue of surprise billing front and center at the 2019 Leadership and Advocacy Summit, ACS hosted a standing room only briefing for members of Congress and staff on the physician perspective on solutions to the issue of surprise billing.
- ✓ **Proposed Solutions**
 - **Statements for the Record** – At every opportunity, ACS submitted statements for the record to the Senate Committee on Health, Education, Labor and Pensions and the House Committees on Energy and Commerce and Ways and Means in opposition to insurer-dictated federal payment rate setting as a solution to surprise medical bills.
 - **Provided Specific Feedback on Legislative Proposals** – ACS provided constructive feedback as key Senators, Representatives, and Committees sought input on surprise billing proposals.
- ✓ **Opposed Federal Rate Setting as a Solution to Surprise Medical Bills** – Formally and publicly opposed legislation which set payment for out-of-network care at the median in-network rate.

ACS Supports Efforts to Address Matching Patients to their Health Information

- ✓ **Congressional Briefing on Patient Matching** – The ACS provided the physician perspective as part of an expert panel that examined the challenges associated with matching patients to their health information. The ACS supports solutions to patient matching such as adopting a Unique Patient Identifier (UPI). A twenty-year ban that prevented HHS from spending federal dollars to develop and adopt a UPI was repealed by the U.S. House earlier this year.

Tradition of Robust Trauma Agenda Continues

- ✓ **Firearms Testimony** – The ACS testified before powerful House Committees to discuss ACS recommendations on how to reduce firearm injury. ✓
- ✓ **Support of Stop the Bleed**
 - **Stop the Bleed Month** - Several members of Congress participated in STB Month through social media. Members shared the importance of STB and provided information on where to get trained in their districts.
 - **Stop the Bleed Trainings** – ACS helped to facilitate four Stop the Bleed trainings for Senate staff with two more scheduled for the end of the year.