American Geriatrics Society

ON THE GROUND IN WASHINGTON, DC: ADVOCACY IN ACTION

April 2024 Update

OPPORTUNITIES FOR AGS MEMBERS TO TAKE ACTION

Visit our Health in Aging Advocacy Center where you can quickly and easily take action on variety of issues impacting geriatrics healthcare professionals and the patients you care for.

OUR ADVOCACY FOCUS

The AGS believes in a just society where all people are full members of our communities and entitled to equal protection and treatment, and advocates for federal policies that will improve the health and well-being of all older adults. We look for opportunities to draw attention to discrimination—with a focus on the intersection of structural racism and ageism—across AGS statements, recommendations, and in comment letters as appropriate. We leverage our relatively modest resources by working in coalition with other organizations and leading on the issues central to our mission and support our members. We are supported by Arnold & Porter (a DC-based firm), Kristine Blackwood LLC, and Paul Rudolf LLC, for our regulatory and advocacy work. Below we highlight several key updates and efforts from November 2023 through April 2024.

Workforce

GWEP and GACA Related Efforts

The AGS continues to engage in ongoing conversations, both individually and in coalition, around bolstering the work and reach of the Geriatrics Workforce Enhancement Programs (GWEPs) and Geriatrics Academic Career Awards (GACAs) beyond the status quo. The AGS has been collaborating with the Eldercare Workforce Alliance (EWA) and the National Association for Geriatric Education (NAGE) to secure increased funding for Fiscal Year (FY) 2025. Most recently, we collaborated to urge House members to sign on to a FY 2025 Dear Colleague Letter that was being circulated by Reps. Jan Schakowsky and Doris Matsui, co-chairs of the House Democratic Caucus Task Force on Aging and Families, seeking adequate funding for geriatrics workforce programs and family caregiver support programs. We have also developed grasstops messaging for leaders in the geriatrics community to use for outreach to their members of Congress.

Responding to Policies that Aim to Eliminate Diversity in Medical Education

In April 2024, the AGS reaffirmed commitment to achieving a just healthcare system where the care a person receives is responsive to their individual need and offered with cultural humility. The AGS statement follows recent federal and state efforts to eliminate diversity, equity, and inclusion policies in health care and medical education. Given the increasing diversity among older people and rapid growth of the older population, the healthcare workforce must both reflect and be better prepared to care for the populations that it serves. We will continue to oppose discriminatory policies—especially when they are perpetuated across the healthspan and lifespan—that can have a negative impact on public health for us all.

Appropriations

The AGS is currently developing written testimonies (due in May) for House and Senate Appropriations Committees requesting increased funding in FY 2025 for the geriatrics education and training programs, the GWEP and GACA Program, and aging research within the National Institutes of Health (NIH) and the Veterans Affairs (VA) Office of Research and Development. On March 11, 2024, the President released his budget request,

which serves as a blueprint for Congress, detailing the Administration's proposals to advance the agenda for FY 2025. As Congress starts work on its appropriations bills, the AGS will continue its advocacy in support of these initiatives, emphasizing the increasing need for training in geriatrics and gerontology and fostering groundbreaking medical research on aging.

Payment and Coding

Senate Finance Committee Hearing on Bolstering Chronic Care through Medicare Payment
In April 2024, the AGS submitted a statement for the record to the Senate Committee on Finance Hearing "Bolstering Chronic Care through Medicare Physician Payment." In our comments, we noted that a high-quality, cost-effective healthcare system results from care that is person-centered, team-based, and grounded in strong primary care and that the payment system must reflect, reinforce, and incentivize this type of care. We urged the Committee to take steps to foster performance-based care that values and supports geriatrics care teams for complex and high-cost patients, such as Comprehensive Primary Care Plus. We also asked the Committee to reinstate the primary care bonus payment, expand telehealth, and adopt a more holistic approach to quality measurement in older adults with multiple chronic conditions.

Medicare Physician Fee Schedule
The AGS continues to update members on new policies stemming from the updated 2024 fee schedule, which took effect on January 1st. In January, the AGS hosted a live webinar (now available on demand), which reviewed changes finalized for 2024 including implementation of a separate add-on code for visit complexity, new codes for caregiver training services, coding and payment changes for services addressing health-related social needs, changes to billing for split (or shared) E/M visits, and updates to telehealth services furnished to Medicare beneficiaries.

In February 2024, the AGS submitted extensive comments in an effort to influence policies that will be part of the Calendar Year (CY) 2025 Medicare fee schedule proposed rule, which will come out in July of 2024. In our letter, we urged the Centers for Medicare and Medicaid Services (CMS) to allow the visit complexity add-on code (G2211) to be used in the home/residence setting and maintain payment parity for telemedicine visits in 2025 and beyond. AGS also urged CMS to remove the requirement to use modifier -25 for E/M services furnished on the same day as the administration of a Part B vaccine, which would allow clinicians to report G2211 and have the additional complexity of the E/M visit recognized by Medicare. As part of this effort, AGS had a meeting with CMS to discuss these same issues. We also participated in a multispecialty meeting with CMS, which was focused solely on telemedicine services where we reiterated the importance of payment parity for these visits. We also collaborated on a joint letter to CMS on the same topic (see Appendix B).

Finally, the AGS continues to support the American Medical Association (AMA) on its physician practice information survey to collect representative data on practice expense and hours spent in direct patient care. The survey launched June 2023 and will go through April 2024. The data will be collected at the specialty level and shared with CMS to update the Medicare Economic Index (MEI) and the Resource Based Relative Value Scale (RBRVS).

Recommendations to CMS on the Geriatrics Specialty Measure Set for MIPS
In February 2024, AGS submitted comments to CMS on revising the existing geriatrics specialty measure set for the 2025 Performance Year (PY) of the Merit-based Incentive Payment System (MIPS) to ensure that the proposed geriatrics measure set for PY 2025 best addresses the unique healthcare needs of older adults and reflects the quality metrics that that we believe are most important for measuring care for all of us as we age.

Addressing the High-Cost of Prescription Drugs

The AGS has reviewed and signed onto eight amicus briefs as amici in support of the Centers for Medicare and Medicaid Services (CMS), the defendant in these cases, citing the benefits of the Inflation Reduction Act's Medicare prescription drug price negotiation program. This effort is being led by Democracy Forward on a pro bono basis. The plaintiffs are the drug companies arguing that this program, which will allow Medicare authority to negotiate lower drug prices for Americans, will threaten public health and drug innovation. AGS, along with the other amici (American Public Health Association, American College of Physicians, Society of General Internal Medicine, American Society of Hematology), believes that allowing CMS to negotiate drug prices for Medicare it vital to maintaining and strengthening patient care and the Medicare program and that the drug companies assertions regarding the negative effects of these new rules on public health are exaggerated. See recent press release from Democracy Forward for more.

Additional Comment Letters

Comment Letter on FDA Draft Guidance on Race and Ethnicity Data in Clinical Trials

In April 2024, the AGS provided feedback to the Food and Drug Administration (FDA) in response to its draft guidance for the Collection of Race and Ethnicity Data in Clinical Trials and Clinical Studies for FDA-Regulated Medical Products. As part of our letter, we recommended that FDA require greater granularity in sociodemographic factors for subpopulations, particularly in race and ethnicity as well as age. We emphasized the critical importance of collecting detailed data where possible to ensure representative inclusion in clinical trials and studies to support generalizability to target populations for which products are being developed and the safety and efficacy of all products in all populations.

Comment Letter on Discrimination on the Basis of Disability in the Health and Human Services Programs Proposed Rule

In November 2023, the AGS submitted comments to the Department of Health and Human Services (HHS) Office for Civil Rights (OCR) in response to its proposal to address discrimination on the basis of disability in HHS programs or activities. Our primary concern with this rule was that it could cause unintentional harm for anyone who is living with a disability and a concurrent medical condition for which treatment is available but where that treatment may not align with a person's wishes, does not reflect consideration of prognosis, have greater risks than benefits, and potentially cause more harm than good. In general, we believe it is crucial that therapy or treatment options are discussed and offered in line with what matters most to the patient and supports people making shared decisions with their clinicians.

Comment Letter on Minimum Staffing Standards for Long-Term Care Facilities

In early November 2023, AGS submitted comments to CMS in response to its proposal to revise minimum staffing standards for long-term care (LTC) facilities. In our letter, we noted our appreciation for CMS' proposal to set minimum staffing standards, which we believe are an important, incremental first step to ensure safe, reliable, and quality nursing home care. Our letter offers comments and recommendations on several CMS proposals including proposed minimum nursing staffing standards, hardship exemptions, registered nurse onsite requirement, facility assessment requirements, and implementation deadlines.

Comments on American College of Physicians Statements

The American College of Physicians (ACP) frequently shares draft position or policy statements for organizations to comment on a confidential basis before publication and AGS often reviews and submits feedback. Most recently, we provided comments on four draft papers, "Augmented Intelligence in the Provision of Health Care: An American College of Physicians Policy Position Paper," "Lesbian, Gay, Bisexual, Transgender, and Queer

Health Disparities: A Position Paper from the American College of Physicians," "Excessive Alcohol Use and Alcohol Use Disorders: A Policy Brief of the American College of Physicians," and "Regulatory Framework for Cannabis: A Policy Paper from the American College of Physicians."

Work Related to Alzheimer's Disease and Anti-Amyloid Monoclonal Antibodies
Since the Food and Drug Administration (FDA) approval of aducanumab in June 2021 and lecanemab in January 2023, the AGS has been engaged in numerous activities including professional and public education work that has been in parallel to our policy comments outlined below.

Comments on FDA Draft Guidance for Developing Drugs for Early AD Treatment
In March 2024, the FDA Draft Guidance for Developing Drugs for Early AD Treatment was released for public comment. The purpose of this guidance is to assist sponsors in the clinical development of drugs for the treatment of the stages of sporadic Alzheimer's disease (AD) that occur before the onset of overt dementia. This guidance is a revision of draft guidance for industry *Early Alzheimer's Disease: Developing Drugs for Treatment* (February 2018). When finalized, this revision will represent FDA's current thinking regarding the selection of subjects with early AD for enrollment in clinical trials and the selection of endpoints for clinical trials in this population. The AGS is in the process of reviewing the guidance with a small group of AGS experts and plans to submit feedback by the June 10, 2024 deadline.

Comments on Criteria for Diagnosis and Staging of Alzheimer's Disease: Alzheimer's Association Workgroup
In November 2023, AGS submitted comments on the third draft of the Revised Criteria for Diagnosis and Staging of Alzheimer's Disease: Alzheimer's Association Workgroup, an update of the 2018 NIA-AA Revised Clinical Guidelines for Alzheimer's. Among other items, we recommended that the Alzheimer's Association (AA) Workgroup carefully reconsider whether the available evidence warrants moving from a research framework to the proposed use of the revised criteria to inform clinical care, including the proposed shift to use biomarkers to diagnose Alzheimer's disease (AD). Given that practitioners, patients, and society have not been sufficiently prepared for a shift in AD diagnosis, and there is no current evidence to support use of the revised criteria in routine clinical care, AGS remains concerned that this proposed expansion will place many older and multimorbid people at risk of overdiagnosis, which in turn could lead to high potential of harm and initiation of treatments with as yet unproven clinical benefit, particularly in an asymptomatic population.

Legislation We Support

- *Better Care Better Jobs Act (H.R. 547 / S. 100)* – would provide funds for CMS to award planning grants, develop quality measures, and provide technical assistance to states regarding specified home and community-based services (HCBS) improvements as well as increase the Federal Medical Assistance Percentage for HCBS in states that develop plans and meet specified benchmarks.

- *Chronic Care Management (CCM) Improvement Act (H.R. 2829)* – would eliminate cost-sharing for chronic care management services under Medicare.

- *Conrad State 30 and Physician Access Reauthorization Act (S. 665)* - would extend the authorization of the Conrad 30 program that allows international doctors to remain in the United States upon completing their residencies under the condition that they practice in areas experiencing doctor shortages.

- *Credit for Caring Act (H.R. 7165 / S. 3702)* - would provide an up to $5,000 non-refundable federal tax credit for eligible working family caregivers to help offset a portion of their out-of-pocket caregiving expenses.

- *Disability and Age in Jury Service Nondiscrimination Act (H.R. 2442 / S. 1086)* – would ensure that disabled jurors who are over the age of 18 are able to perform their duties with reasonable accommodations.

- *Fair Access in Residency (FAIR) Act (H.R. 751)*- would address unfair exclusion and burdensome testing requirements faced by Doctors of Osteopathic Medicine (DOs) applying to residency by bringing transparency to the residency application process and requiring programs to affirm that they accept DO and MD applicants as well as scores from the Comprehensive Osteopathic Medical Licensing Examination (COMLEX) and the United States Medical Licensing Exam (USMLE).

- *Healthcare Workforce Resilience Act (H.R. 6205 / S. 3211)* **–** would enhance our nurse and physician workforce by recapturing unused immigrant visas.

- *Home and Community-Based Services (HCBS) Access Act (S. 762 / H.R. 1493)* – would make HCBS a mandatory benefit within Medicaid and strengthen supports for family caregivers, providing respite, creating jobs and revenue, and increasing wages for home care providers.

- *Improving Access to Medicare Act (H.R. 5138 / S. 4137)* – would deem an individual receiving outpatient observation services in a hospital as an inpatient for purposes of satisfying the three-day inpatient hospital-stay requirement with respect to Medicare coverage of skilled nursing facility (SNF) services.

- *Improving Access to Mental Health Act (H.R. 1638 / S. 838)* – would allow allowing clinical social workers (CSWs) to bill Medicare Part B independently for services provided in skilled nursing facilities (SNFs), allowing CSWs to bill Part B for Health and Behavior Assessment and Intervention (HBAI) services, and improving Part B reimbursement for CSWs.

- *Long-Term Care Workforce Support Act (H.R. 7994 / S. 4120)* – aims to stabilize, grow, and support the direct care professional workforce.

- *Palliative Care and Hospice Education and Training Act (PCHETA) (S. 2243)* – would require HHS to support Palliative Care and Hospice Education Centers, AHRQ to provide a national education and awareness campaign, and NIH to expand national research programs in palliative care.

- *Resident Physician Shortage Reduction Act of 2023 (H.R. 2389)* – would increase the number of residency positions eligible for graduate medical education payments under Medicare providing an additional 2,000 positions per fiscal year from FY 2025 to FY 2031.

- *Strategic Plan for Aging Act (S. 3827)* – would create a new national grant program under the Older Americans Act (OAA) to incentivize and support states' efforts to create strategic plans for aging (MPAs).

- *Strengthening Medicare for Patients and Providers Act (H.R. 2474)* – would provide for an update to a single conversion factor under the Medicare physician fee schedule that is based on the Medicare economic index.

- *Substance Use Disorder Workforce Act (H.R. 7050)* – would make available 1,000 new Medicare-supported residency positions to hospitals that have—or are in the process of establishing—approved residency programs in addiction medicine, addiction psychiatry, or pain medicine and their prerequisite programs.

- *The Nursing Home Disclosure Act (H.R. 177)* – would authorize CMS to include information about every nursing home medical director, a position required by statute, on Nursing Home Compare.

- *Welcome Back to the Health Care Workforce Act (H.R. 7907/S. 4088) -* would assist internationally educated health care professionals overcome common barriers to entering the health care workforce.

SUPPORTING OTHER ORGANIZATIONS

The AGS participates in multiple coalitions through sign-on letters, campaigns, and other relevant public policy efforts to support key legislation affecting older adults. The 118th Congress legislation that we support can be found on the AGS Health in Aging Advocacy Center webpage. Additionally, AGS has signed on to 24 letters since our last report on a wide range of issues, including Medicare payment updates, hospital observation status, diversity in medical education, public health workforce, and FY 2025 funding recommendations.

MEMBERS TAKING ACTION

AGS frequently updates our Health in Aging Advocacy Center allowing members to take action on key issues as they arise, including funding for key workforce and research programs in FY 2025 and advocating for a more stable Medicare payment system.

COMMUNICATING WITH MEMBERS

We have worked with the communications team to continue promoting AGS policy briefs, position statements, and comment letters to our members and the geriatrics community at large via the AGS listserv, the MyAGSOnline member-forum, the "Where We Stand" section of the AGS website, and social media. Over the past year, we have highlighted AGS' concerns around the healthcare workforce and our support for such ongoing policy priorities as the need for increased funding for the Title VII Geriatrics Health Professions Programs. We have achieved this by showcasing existing AGS resources—like video interviews, data sets, and infographics—and coordinating with Congressional champions on press releases, editorials, and other updates.

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