

**American Nephrology Nurses Association**

**Weekly Capitol Hill Update - Thursday, February 11th, 2016**

**Congressional Schedule**

**House**

- **Monday:** "Met for a pro forma session at 2 p.m. No legislative business is expected." (CQ)
- **Week Ahead:** "On Tuesday, the House meets at 2 p.m. to consider 12 bills under suspension of the rules, including a measure (H.R. 677) to make permanent the annual cost-of-living adjustment (COLA) for veterans' service-connected disability compensation. Votes will be postponed until 6:30 p.m.

Also on Wednesday the House meets at noon to debate a bill (H.R. 3293) to limit National Science Foundation grants and to start in on a measure (H.R. 3442) to require the treasury secretary to appear before Congress in advance of the government reaching the debt limit and report on the drivers of increasing debt.

On Thursday the House meets at noon to complete consideration of the debt bill (H.R. 3442) and to deal with a bill (H.R. 2017) to require the Food and Drug Administration to modify its rules regarding nutrition information that restaurants must provide to customers." (CQ)

**Senate**

- **Monday:** "The Senate convened at 2 p.m. on Monday and will vote at 5:30 p.m. on the nomination of Rebecca Ebinger to be a judge for the Southern District of Iowa." (CQ)

**Legislative Updates**

- **Fiscal Year 2017 Funding for End Stage Renal Disease Networks:** "This proposal changes the withhold for the End Stage Renal Disease Networks from 50 cents to \$1.50 per treatment, to be updated annually by the consumer price index. The withhold is deducted from each End Stage Renal Disease Prospective Payment System per-treatment payment, and has not been increased since 1986 when it first took effect. The End Stage Renal Disease Networks are currently underfunded to meet statutory and regulatory obligations. In order for the End Stage Renal Disease Networks to effectively and efficiently administer the future

demands of the End Stage Renal Disease program, increased operational resources are required. [No budget impact].”

- Please see the following link for the full budget in brief for the Department of Health and Human Services: <http://www.hhs.gov/sites/default/files/fy2017-budget-in-brief.pdf>
- **Telemedicine Bill Introduced.** “A bipartisan bill that would expand telemedicine services and remote patient monitoring (RPM) through Medicare is making headway in Congress with a projected cost savings of \$1.8 billion over the next decade. The legislation could also help cut down the 7.88 billion miles home care workers traveled in 2013 for patient visits. With the goal of improving quality care and cost savings, the Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act will expand the use of telecommunications technologies to deliver health care, health information or health education over a distance. The bill is sponsored by both Democrats and Republicans from the House and Senate and was introduced February 3.” More than “50 health care and aging industry groups and associations have endorsed the bill, including the National Association for Home Care & Hospice (NAHC). ‘Telehealth and remote monitoring are important for achieving the goals of value-based care, providing more access to primary care and behavioral health, improving chronic care management and advancing patient engagement,’ NAHC and other organizations wrote in a letter of support for the legislation...”
  - For the full article, please see the following link: <http://homehealthcarenews.com/2016/02/new-bill-could-expand-home-health-telemedicine/>
- **“Congress to Snub Obama’s Last Budget.”** “President Obama is expected to release his final budget plan on Tuesday, but Republicans on Capitol Hill are indicating that they won’t give it much thought. The chairmen of the House and Senate Budget Committees issued a joint statement late last week announcing that, breaking with precedent, they wouldn’t invite the Office of Management and Budget director to testify before their respective panels to discuss the president’s budget. ‘Instead of hearing from an Administration unconcerned with our \$19 trillion in debt, we should focus on how to reform America’s broken budget process and restore the trust of hardworking taxpayers,’ Senate Budget Committee Chairman Mike Enzi (R-Wyo.) said in a joint press release with his House counterpart, Rep. Tom Price (R-Ga.). White House press secretary Josh Earnest compared the move to GOP presidential front-runner Donald Trump’s decision to skip a Fox News debate last month. ‘Maybe they’re taking the Donald Trump approach to debates about the budget — they’re just not going to show up,’ Earnest said. Republicans are still mulling their options for their own budget blueprint this year. The two-year budget deal brokered by former Speaker John Boehner (R-Ohio) in his final days in office already establishes an outline for spending in the next fiscal year that starts in October.”
  - For the full article, please see the following link: <http://thehill.com/blogs/floor-action/scheduling/268462-this-week-congress-ignores-obamas-last-budget>
- **“Blumenthal, Coats Introduce Bipartisan Bill to Expand Access to Prescription Drug Monitoring Programs.”** “Senators Richard Blumenthal (D-CT) and Dan Coats (R-IN)

introduced a bill to give physician assistants and nurse practitioners the ability to access state prescription drug monitoring programs (PDMPs). “Nurse practitioners and physician assistants are on the front lines in fighting the scourges of addiction and overdose, but in many states they are not fully empowered to succeed,” said Blumenthal. “Opioid abuse is a nationwide epidemic,” said Coats.””

- For the full press release, please see the following link:

<http://www.blumenthal.senate.gov/newsroom/press/release/bipartisan-bill-to-expand-access-to-prescription-drug-monitoring-programs>

### **Regulatory Updates**

- **Call for Comments on Measures.** “The Centers for Medicare & Medicaid Services (CMS) has contracted with the University of Michigan Kidney Epidemiology and Cost Center (UM-KECC) to evaluate the potential of including prevalent comorbidities in the SMR and SHR risk adjustment models.” Measure specifications for two measures have been posted on the CMS site for public comment. **The public comment period begins February 8, 2016 and closes on February 22, 2016.**

The following documents are posted on the CMS public comment page for comment:

- Standardized Mortality Ratio Measure Information Form
- Standardized Mortality Ratio Measure Justification Form
- Standardized Hospitalization Ratio Measure Information Form
- Standardized Hospitalization Ratio Measure Justification Form

The CMS public comment page is located here:

<https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/MMS/CallforPublicComment.html>

- **CMS Creates Rural Health Council.** “CMS has created a rural health council to improve health care access, support rural providers and make sure the agency’s innovation agenda fits rural markets, Acting Administrator Andy Slavitt said Tuesday. The council, which will include regional officers, will review CMS regulations for their impact on rural health and make policy recommendations. The council will seek input on its mission at the next Rural Health Open Door forum, later this winter.”
  - Please see the following link for Acting Administrator Slavitt’s full remarks:  
<https://blog.cms.gov/2016/02/02/acting-administrator-slavitt-speech-before-the-national-rural-health-association/>
- **New Data Rules for Temporary Employees.** Although a new proposal from the Obama administration would require employers with 100 or more employees to submit data on diversity and compensation to the Equal Employment Opportunity Commission (EEOC), data on compensation for temporary workers will be left out thanks to a legal loophole from the 1960s. The staffing industry at the time pushed for an exemption to reporting temp workers, which means temps are not counted in pay data, Will Evans writes for Reveal News. The EEOC is considering closing that loophole but would first need to conduct a study.”

- For details on the new proposal, please see the following link:  
<http://bit.ly/1JWvth0>
- **CMS Announces Medicare Evidence Development & Coverage Advisory Committee (MEDCAC) Meeting.** “On April 27, 2016, the Centers for Medicare & Medicaid Services (CMS) will convene a panel of MEDCAC. The purpose of this meeting is to obtain the MEDCAC's recommendations regarding the definition of treatment resistant depression (TRD) in clinical research as well as advise CMS on the use of the definition of TRD in the context of coverage with evidence development and treatment outcomes.”
  - For the full press release, please see the following link:  
<https://www.cms.gov/medicare-coverage-database/details/medcac-meeting-details.aspx?MEDCACId=71>
- **“Window on Obama Regulations is Closing.”** “President Obama’s window for issuing major regulations is beginning to close. While there is disagreement among experts about the drop-dead date, most say the administration has only until the spring or early summer to pursue additional environmental, health and labor protections before Obama leaves office. Sam Batkins, the director of regulatory policy at the conservative American Action Forum, estimated the president has until May 17 to issue regulations without fear that the next Congress or administration will reverse them.”
  - For the full article, please see the following link: <http://bit.ly/1UND2XB>
- **CMS Proposed Rule -Confidentiality of Substance Use Disorder Patient Records.** “The agency proposes modifying a key Code of Federal Regulations privacy rule covering patient records for drug and alcohol-abuse treatment, and by default, behavioral health. The proposed change to the rule, 42 CFR Part 2, would maintain the requirement that patient consent be obtained prior to disclosing or exchanging medical records that would identify, directly or indirectly, an individual who has been diagnosed or treated for a substance-abuse disorder. But the proposed rule also would allow ‘other health-related information shared by the Part 2 program to be disclosed,’ without consent, ‘if permissible, under other applicable laws.’... Under the rule, patients can provide a blanket viewing allowance to their providers as long as they first sign a consent form explicit about the information they are disclosing. Patients would have the right to subsequently learn who got the data.” (Modern Healthcare)
  - Please see the following link for the full proposed rule:  
<https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-01841.pdf>

### Hearings

- **Tuesday, February 9th**  
The Full Senate Health, Education, Labor and Pensions (HELP) Committee will hold a markup of the following bills: S. 1622, the *FDA Device Accountability Act of 2015*; S. 2030, the *Advancing Targeted Therapies for Rare Diseases Act of 2015*; S. 849, the *Advancing Research for Neurological Diseases Act of 2015*; S. 2014, the *Next Generation Researchers Act*; S. 800, the *Enhancing the Stature and Visibility of Medical Rehabilitation Research at the NIH*

Act; and legislation regarding Food and Drug Administration (FDA) regulation of duodenoscopes.

- For more information, please see the following link:  
[http://www.help.senate.gov/hearings/s2030-s1622-s2014-s800-s849-s\\_-preventing-superbugs-and-protecting-patients-act-and-s\\_-improving-health-information-technology-](http://www.help.senate.gov/hearings/s2030-s1622-s2014-s800-s849-s_-preventing-superbugs-and-protecting-patients-act-and-s_-improving-health-information-technology-)

- **Wednesday, February 10th**

The Full House Ways and Means Committee will hold a hearing on the Department of Health and Human Services' (HHS) Fiscal Year 2017 Budget Request. Testifying at the hearing will be HHS Secretary Sylvia Mathews Burwell.

- For more information, please see the following link:  
<http://waysandmeans.house.gov/event/chairman-brady-announces-hearing-on-the-department-of-health-and-human-services-fiscal-year-2017-budget-request/>

The House Energy and Commerce Committee Subcommittee on Health will hold a hearing entitled, *Examining Medicaid and CHIP's Federal Medical Assistance Percentage*.

- For more information, please see the following link:  
<https://energycommerce.house.gov/hearing/examining-medicaid-and-chips-federal-medical-assistance-percentage>

- **Thursday, February 11th**

The Full Senate Finance Committee will hold a hearing on *The President's FY2017 Budget*. Witnesses will include HHS Secretary Sylvia Mathews Burwell.

- For more information, please see the following link:  
<http://www.finance.senate.gov/hearings/the-presidents-fiscal-year-2017-budget1>

### Articles of Interest

- **Nursing Shortage in the U.S.** “The U.S. has been dealing with a nursing deficit of varying degrees for decades, but today – due to an aging population, the rising incidence of chronic disease, an aging nursing workforce, and the limited capacity of nursing schools – this shortage is on the cusp of becoming a crisis, one with worrying implications for patients and health-care providers alike. America’s 3 million nurses make up the largest segment of the health-care workforce in the U.S., and nursing is currently one of the fastest-growing occupations in the country. Despite that growth, demand is outpacing supply. By 2022, The Bureau of Labor Statistics projects, there will be more than a million job openings for nurses, a considerable shortfall.”
  - For the full article, please see the following link:  
<http://www.theatlantic.com/health/archive/2016/02/nursing-shortage/459741/>
- **Lawsuits Against Fresenius Regarding Dialysis Drug MDL.** Last week, Fresenius USA, “... urged a federal judge to throw out hundreds of Massachusetts and Mississippi cases consolidated in multidistrict litigation over alleged side effects from its dialysis drugs

GranuFlo and NaturaLyte, saying the claims were filed too late. The cases targeted in Fresenius' motion to dismiss include 269 in Massachusetts and 61 in Mississippi. The Massachusetts cases, the company argued, were filed more than three years after the May 25, 2012, discovery date, when the U.S. Food and Drug Administration published a safety message about the drugs. The Mississippi cases, meanwhile, alleged that Fresenius failed to warn them about the dangers of the drugs but were based on injuries that allegedly occurred after May 25, 2012, when the information went public, the company said."

- For the full article, please see the following link:  
<http://www.law360.com/articles/754254/fresenius-wants-over-300-cases-out-of-dialysis-drug-mdl>
- **"ESRD in Lupus: A Work in Progress?"** "The risk of end-stage renal disease (ESRD) declined among patients with lupus nephritis during the past several decades, although this appears to have plateaued recently, a meta-analysis found... 'Although there is a clinical impression that ESRD risks in lupus nephritis have decreased over the past 40 years, few studies have examined changes in this risk,' the researchers wrote...Some of the change in ESRD risk are likely to reflect the marked changes have occurred in the treatment of lupus nephritis during those decades."
  - Please see the following link for the full article:  
[http://www.medpagetoday.com/Rheumatology/Lupus/55978?xid=nl\\_mpt\\_DHE\\_2016-02-04&eun=g939522d0r](http://www.medpagetoday.com/Rheumatology/Lupus/55978?xid=nl_mpt_DHE_2016-02-04&eun=g939522d0r)
- **"As the ESRD QIP Gets Larger and More Complex, Questions Come from Dialysis Community."** "Is the QIP applicable to nephrologists?... The answer, of course, is no. Congress is working on a new physician-specific QIP to debut in 2019: a set of quality measures will be tied to payment in the Merit-Based Incentive Payment program. But there were plenty of other questions during that Jan. 19 session on the latest QIP requirements for dialysis providers. Every January, a new QIP cycle begins, and it is getting bigger and more complex. In fact, the process is getting complicated enough that CMS, upon the recommendations of the renal community, is developing an ESRD Measures Manual, to be released this year."
  - Please see the following link for the full article:  
<http://www.nephrologynews.com/as-the-esrd-qip-gets-larger-and-more-complex-questions-come-from-dialysis-community/>