

Know the Facts About the Audiology Patient Choice Act

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Introduction

Recently, the American Academy of Otolaryngology-Head Neck Surgery (AAO-HNS) issued a statement¹ to its members, opposing the Audiology Patient Choice Act, H.R. 2276², which, if enacted, will:

- Improve access to qualified, licensed Medicare providers, by allowing seniors with a suspected hearing or balance disorder to seek evaluation and rehabilitation directly from audiologists, eliminating archaic medical doctor order requirements.
- Allow patients to choose among qualified providers for Medicare-covered audiology services by authorizing Medicare to reimburse audiologists for the medically reasonable and necessary Medicare-covered services that they are licensed to provide within their current state defined scopes of practice. These services are already covered by Medicare when delivered by other providers, including non-physician practitioners.
- Address the medical doctor workforce shortage confronting our country, while helping to meet the increasing demand for health care services by the growing Medicare population, through the inclusion of audiologists in the list of Medicare-recognized limited license physicians (i.e. chiropractors,

dentists, doctors of osteopathy, medical doctors, optometrists, and podiatrists).

Several of the comments contained in the recent statement by AAO-HNS have already been refuted by individual AAO-HNS otolaryngologist members as incorrect, false, and misleading. Previous statements by AAO-HNS proffer similar and familiar rhetoric against the direct access-only legislation that has been introduced repeatedly in Congress.

The Academy of Doctors of Audiology (ADA) believes that discussions regarding improving access to audiology care for seniors should be based on fact, not fear-mongering, and we welcome the opportunity to have a continued open and transparent dialogue on the issue of allowing patients their choice of qualified provider for audiological and vestibular care.

To that end, we'd like to share key facts with members of Congress and members of the public at large, in response to statements made by AAO-HNS.

AAO-HNS Statement

If Medicare recipients are allowed to seek treatment directly from an audiologist it will pose a threat to patient safety. "Bypassing a physician evaluation and referral can lead to a misdiagnosis and inappropriate treatment that could cause lasting, and expensive, harm to patients."

¹ www.entnet.org/sites/default/files/the_ent_advocate_5-5-17.pdf

² www.audiologist.org/advocacy/audiology-patient-choice-act

Statements of Fact

- There is no law that prohibits Medicare recipients from seeking evaluation and treatment directly from an audiologist today. In fact, they have been doing so for decades, without a threat to their safety. The issue addressed in the Audiology Patient Choice Act is merely a Medicare coverage issue, which has no impact on patient safety. Audiologic care can be provided to Medicare beneficiaries now. The issue is, that without the physician order, the patient is responsible for the cost of the services provided, even though the services are covered if delivered by another, often less convenient provider. Medicare law does not address scope of practice or licensure requirements for the provision of audiology services to older Americans.
- Audiologists are licensed in all 50 states, the District of Columbia, Guam and Puerto Rico to provide non-medical audiology evaluation and treatment to patients of all ages, including senior citizens.³ Most private insurers, including many Medicare Advantage plans, already allow for patients to have “direct access” to audiologists for the provision of covered services. Other federal programs, including, but not limited to, the Veteran’s Administration, the Federal Health Benefit Plan and some Medicaid programs also allow for patients to seek treatment directly from audiologists, without a physician order.
- There is no action in any state, of which ADA is aware, whereby otolaryngologists or other M.D./D.O. physicians have attempted to restrict audiologists from providing evaluation and rehabilitative services to any patient population, including adults

over 65 years of age due to patient safety concerns.

- The rate of reported malpractice by audiologists is very much lower than the rate for medical doctors.⁴ Professional and medical liability insurance rates for audiologists are among the lowest of any professional doctoring profession. Rates are determined by the level of risk associated with a particular health care discipline (including frequency and severity of claims).
- Audiologists are specifically trained to identify medical conditions that warrant a referral to an M.D./D.O. physician. More than 90 percent of hearing disorders are not medically treatable and require only audiology care.⁵

On December 7, 2016, the U.S. Food & Drug Administration (FDA) announced that it will cease enforcement and take action to remove the medical clearance requirement for adults over 18 years of age, because it offers little to no clinical benefit. The ADA agrees with the FDA that there is no evidence to support the need for a medical evaluation prior to purchase of hearing aid. As such, there is no legitimate patient safety concern related to the requirement for a physician referral for Medicare Part B patients, seeking an assessment or treatment from an audiologist.⁶

- The scope of audiology services as dictated by state licensure is extremely consistent across the 50 states, the District of Columbia and U.S. territories for each patient population. There is no provision in H.R. 2276 that will in any way increase or modify an audiologist’s current scope of practice, which is defined at the state level.

³ www.audiologist.org/resources/audiologists/state-licensure

⁴ 2003 Annual Report, National Practitioner Data Bank, US DHHS

⁵ www.betterhearing.org/hearingpedia/myths-about-hearing-loss

⁶ <https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm532005.htm> and

<http://www.hearingreview.com/2016/12/fda-eliminates-waiver-system-patients-obtain-hearing-aids/>

AAO-HNS Statement

“While audiologists play a critical role in providing quality hearing healthcare, aspirations of some audiologists to independently diagnose hearing disorders transcends their level of training and expertise.”

Statements of Fact

Audiologists are licensed in all 50 states, the District of Columbia, Guam and Puerto Rico, specifically to independently evaluate and rehabilitate, treat hearing and balance disorders. In fact, audiologists are health care professionals who are doctoral level, university-educated and licensed to *specifically identify, evaluate, and rehabilitate hearing and balance disorders, and to identify medical-related conditions that require a referral to a medical doctor.* Since January 1, 2007, a Doctor of Audiology (Au.D.) degree is the entry level degree to become a licensed audiologist in the United States.

In the vast majority of otolaryngology practices in the United States, it is the audiologist, not the otolaryngologist, who performs and interprets all audiologic and vestibular testing and who provides the necessary rehabilitative services, such as hearing aids, cochlear implants, tinnitus management, and vestibular care.

Audiologists are trained and licensed to manage many areas of audiology health care including providing the following services:

- Comprehensive audiology evaluations including tests of hearing sensitivity, speech understanding, middle ear function, inner ear, brainstem and auditory nerve function.
- Diagnostic assessments to identify balance/dizziness disorders.
- Comprehensive auditory processing evaluations.
- Design, select and fit hearing instruments and assistive listening devices.

- Design, select, install and monitor classroom amplification systems.
- Rehabilitation therapy for hearing disorders which might include strategies to improve aided and unaided hearing, speech-reading and sign language.
- Provide rehabilitation for auditory processing disorders.
- Provide rehabilitation for vestibular (balance) disorders.
- Complete cerumen (earwax) management.
- Evaluate and manage tinnitus (ringing in the ears).
- Provide patient and family counseling related to diagnosis and treatment.
- Develop and implement hearing conservation programs to prevent hearing loss.
- Increase awareness about and prevention of the ingestion of ototoxic substances.
- Research and development of new evaluation techniques and rehabilitation strategies.

AAO-HNS Statement

“Audiologists are not physicians and should not be considered as such under the Medicare program. Broadening the term “physician” to include non-physician healthcare providers confuses patients and encroaches on the “expert” status achieved by MD/DO physicians.”

Statements of Fact

- Medicare has already successfully and purposefully broadened the term physician, to include several other non M.D./D.O. providers including podiatrists, dentists, optometrists and chiropractors to improve patient

access and streamline the provision of quality care.⁷ These “limited license physicians” are practicing solely within the limits of their state defined scopes of care.

- Adding audiologists to the list of non-M.D./D.O. physicians will not infringe upon the scope of practice or expertise of any other provider. It will provide a long-overdue update to Medicare to recognize audiologists in a consistent manner with other non-M.D./D.O. doctoring professionals for the purposes of reimbursement of Medicare-covered audiology services as consistent with audiologists’ clinical expertise and licensure.

AAO-HNS Statement

“The Centers for Medicare and Medicaid Services (CMS) declared that referrals from physicians are the “key means by which the Medicare program assures that beneficiaries are receiving medically necessary services, and avoids potential payment for asymptomatic screening tests that are not covered by Medicare...”

Statements of Fact

- The Centers for Medicare and Medicaid Services (CMS) report actually stated, “The physician and (non-physician) practitioner referral policy is a key means by which the Medicare program assures that beneficiaries are receiving medically necessary services, and avoids potential payment of asymptomatic screening tests that are not covered by Medicare...”⁸

- Audiologists are already responsible for determining medical necessity under Medicare, regardless of receipt of a referral from a physician or non-physician practitioner.⁹ Therefore, one should expect no change in occurrences of billing for unnecessary testing through this legislation.
- Referrals to audiologists may currently come from physicians and other non-physician practitioners with absolutely no training or experience in identifying hearing and balance issues for referral. For example, a podiatrist can order a hearing test but an audiologist cannot.¹⁰
- Evidence shows that when Medicare recipients have direct access to all qualified providers, they choose the most efficient provider, streamlining service and saving money. A specific study on outcomes from the inclusion of optometrists as Medicare-recognized physicians demonstrated that when Medicare recipients are able to choose among qualified providers, they consistently choose the most efficient provider from whom to receive care.¹¹
- Audiologists are trained extensively to identify potential medical conditions and to refer those patients to an M.D./D.O. physician as needed. Studies indicate that audiologists consistently and uniformly refer appropriately.¹² Most state audiology and hearing aid dispensing laws, as well as the Food and Drug Administration, legally require an audiologist to refer a patient to a medical doctor if the patient presents or is diagnosed with a condition that is

⁷ www.ssa.gov/OP_Home/ssact/title18/1861.htm, section (r)

⁸ www.audiology.org/advocacy/federal/congressionalissues/Documents/CMSDirectAccessReporttoCongress2.pdf

⁹ www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/bp102c15.pdf

¹⁰ www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/MedEnroll_OrderReferProv_FactSheet_ICN906223.pdf

¹¹ Demand and Substitution Effects of Expanding Medicare to Optometrists, Barry Barresi, 1993

¹² Safety of Audiology Direct Access for Medicare Patients complaining of Impaired Hearing, *Journal of the American Academy of Audiology*, Volume 21, Number 6, 2010, David Zapala et al. Screening for Vestibular Disorders: A Study of Clinicians’ Compliance with Recommended Practices, Sharon Polensek, Claire Sterk, Ronald Tusa, 2008

medically or surgically treatable. This legislation would do nothing to negate those regulations.

Conclusion

The Audiology Patient Choice Act will update Medicare to keep pace with best practices in the delivery of hearing and balance health care services. This common-sense legislation will make needed corrections to an archaic system so that patients can have their choice of qualified provider for audiology services and so that Medicare can deploy practitioners

more efficiently to achieve patient-centered care. H.R. 2276 will streamline the provision of audiology services, and increase efficiency within the Medicare system without sacrificing quality or efficacy. Finally, it will reimburse audiologists in a consistent fashion with other non-M.D./D.O. doctoring practitioners to achieve desired outcomes across the continuum of care.

We look forward to a continued discussion on the merits of the Audiology Patient Choice Act, and we invite informed discussion on the issue of patient choice and access to care.