

# TMA'S Health REFORM School

## Survive and Thrive in the New Health Care Landscape



News for  
independent or  
small-group  
practices

### Ten Things Physicians in Independent or Small-Group Practice Need to Know

Congress has passed and President Obama has signed the Patient Protection and Affordable Care Act to reform the nation's health care system. And while the legal and political wrangling will go on for years, Texas physicians cannot allow the new law to get in the way of what medicine is all about — *caring for patients*.

The new law is immense in size and scope, and many provisions are not yet fully understood. That is why the Texas Medical Association has begun a massive education campaign to help Texas physicians and their practices survive and thrive in this environment. Here are 10 important facets of the new health law that every physician in independent practice or in a small practice needs to know.

#### 1. More Patients Covered

Currently, 6.1 million Texans lack health insurance. However, over the next four years, an estimated 4.5 million Texans will gain health coverage through the new law. Some coverage increases begin this year, while others don't occur until 2014. Here are the five ways coverage will expand in Texas:

**High-risk pool.** Beginning in July 2010, a national high-risk pool will provide coverage for previously uninsured individuals with preexisting conditions. These federal high-risk pools will be phased out in 2014 as health care exchanges become available.

**Consumer protections/Insurance reform.** Beginning in September 2010, consumer protections go into effect. Some of the provisions apply to all health insurance products, including self-funded or ERISA plans, while others do not. Some of these protections will:

- Allow parents to keep their children up to age 26 on individual or group family policies;
- Eliminate lifetime dollar spending limits;
- Prohibit use of rescission for patients who get sick (except in cases of fraud);
- Restrict waiting periods to 90 days or less; and
- Prohibit exclusions based on preexisting conditions for children enrolled in group plans (for adults, the provision becomes effective in 2014 for group health plans).

**Preventive health care services.** Physicians may want to prepare for more patients who now have new insurance coverage for preventive services. A five year national outreach and education campaign on the importance of prevention is underway as well. While some provisions start in January 2011, a few that start in September 2010 do the following:

- Require new individual and group health plans to cover preventive health services without any copayment or deductible, including immunizations, preventive care for women and children, and services rated "A" or "B" by the U.S. Preventive Services Task Force (USPSTF);
- Remove cost sharing for USPSTF-recommended preventive services under Medicare;
- Provide for an annual personalized prevention care plan for Medicare patients; and
- Promote adult vaccination by authorizing states to purchase vaccines at federally negotiated rates, and conduct a study of barriers to vaccine among Medicare Part D beneficiaries.

**Health care exchange.** Beginning in 2014, an estimated 3.2 million Texans will qualify for health care coverage under the new health care exchange. The new law creates state-based health insurance



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## Important Effective Dates

March 2010	Increased scrutiny of the medical profession
July 2010	High-risk pool
Sept. 2010	Consumer protections Insurance reforms Preventive services
Dec. 2010	RAC contracts
Jan. 2011	Physician Compare website Business tax reporting
Jan. 2011-15	Increased Medicare payments for primary care physicians Surgeons in HPSAs eligible for 10-percent bonus
Jan. 2013-14	Increased Medicaid payments for primary care services
Jan. 2013	Physician performance measures on website
Jan. 2014	Health insurance exchange Medicaid expansion Individual mandates to purchase insurance Employer penalties relating to health coverage
Jan. 2015	PQRI penalties
Dec. 2015	IPAB
Jan. 2018	Cadillac plan tax



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exchanges for individuals and some small businesses. Patients with incomes up to 400 percent of poverty, or \$88,000 for a family of four by 2009 standards, will be eligible to receive federal tax subsidies to purchase certain qualified coverage in the exchange.

**Medicaid expansion.** The new law expands Medicaid in 2014. Children and adults, including childless adults under the age of 65 and earning up to 133 percent of poverty will be eligible for Medicaid. The income limits will be about \$14,404 for an individual and \$29,326 for a family of four. As a result, an estimated 1.2 million more Texans will become newly eligible for health care coverage.

## 2. Increased Medicaid Payments for Primary Care Services

In 2013 and 2014, Medicaid payments for primary care services will increase to Medicare parity for primary care services provided by family physicians, general internists, and pediatricians. Primary care services are defined as evaluation and management services and vaccine administration. The federal government will pay states the full costs of paying the higher fees.

## 3. Increased Medicare Payments for Primary Care

Primary care physicians (those specializing in family medicine, geriatrics, internal medicine, and pediatrics) who treat Medicare patients may receive a 10-percent bonus payment. To qualify, physicians' Medicare charges for office, home health, and nursing facility visits must make up at least 60 percent of their overall Medicare charges. This bonus is in addition to existing bonuses for physicians practicing in shortage areas. It begins in 2011 and lasts through 2015.

## 4. General Surgeons in Health Professional Shortage Areas

General surgeons practicing in health professional shortage areas will be eligible for a 10-percent bonus payment for major surgery services. The pay increase lasts from 2011 through 2015.

## 5. Penalty for Not Participating in Medicare PQRI

The Physician Quality Reporting Initiative (PQRI), a voluntary Medicare reporting initiative, will continue. Currently, physicians participating in PQRI receive a 2-percent bonus for reporting their quality measures. Beginning in 2015, physicians will be penalized 1.5 percent if they don't participate. The penalty increases to 2 percent in 2016.

## 6. Independent Payment Advisory Board

The law creates a 15-member Independent Payment Advisory Board (IPAB) that has the authority to control Medicare spending, starting in 2015. Recommendations must reduce Medicare spending but may not include provisions that would ration health care, raise revenues, increase beneficiary premiums, or increase cost sharing. The board may not reduce payment rates for certain providers prior to Dec. 31, 2018. IPAB recommendations on what Medicare should pay physicians automatically would become law unless Congress passes another law to reach the same budgetary savings.

## 7. Recovery Audit Contractors

The new law expands the Recovery Audit Contractors (RAC) program to Medicaid and Medicare parts C and D. Texas will be required to contract with at least one RAC by the end of this year. The sole purpose of the RACs is to identify underpayments and overpayments and to recoup any overpayments.

## 8. Physician Compare Website

The health system reform law creates a Physician Compare website that will contain information on physicians enrolled in Medicare. The website must be online by January 2011. At first, the website likely will have little comparative information but rather will have basic information regarding a physician's specialty and enrollment status.

By 2013, the website must contain physician performance information for the public that compares clinical quality and patient experience measures to the extent that the government develops "scientifically sound" measures. Some form of patient survey likely also will obtain feedback on specific physicians for comparison purposes. Measures to be considered include those developed under the Physician Quality Reporting Initiative, along with measures that will assess patient health outcomes, patients' functional status, and risk-adjusted resource use.

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We must take advantage of change. We cannot waste this opportunity to improve the access and care we provide to our patients. We must use the new health bill as a catalyst to make sure physicians have the autonomy to make decisions that are in our patients' best interests — and ensure patients have excellent care.

*Susan Rudd Bailey, MD,  
TMA President*



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Physicians will have an opportunity to review and correct performance ratings prior to their publication. The law does not spell out exactly what the review process will look like, nor whether physicians will be entitled to a formal review as Texas law requires of such systems.

## 9. Increased Scrutiny of the Medical Profession

Although medicine previously has been described as a hyperregulated system, reform adds many burdensome regulatory efforts to the existing scheme of fraud and abuse laws. For instance, the federal government is expanding its national database of physician "adverse actions." The National Practitioner Data Bank and the Health Care Integrity Data Bank will merge, and the types of activities that must be reported are expanded. Under the new law "any adverse action" taken against a physician by a state or fraud enforcement agency must be reported and listed. Health plans and hospitals are already required to report adverse actions of certain types.

## 10. Business Tax Implications

### *Small-Business Tax Credit*

The new law provides a tax credit for small employers with fewer than 25 full-time equivalent employees and average annual compensation levels not exceeding \$50,000 if the employer provides health care benefits and pays at least half of the premium cost. Credit phases out with more employees and higher compensation.

- The credit is in effect for tax years starting in 2009.
- Physician practices that are most likely to be eligible for the credit are those in which physicians' salaries are not reported as wages, such as some partnerships and S corporations.
- The largest tax credit of 35 percent is available to employers with 10 or fewer employees and average annual wages of less than \$26,000. This maximum credit amount increases to 50 percent in 2014.

### *Business Tax Reporting*

Starting in 2011, employers must disclose the value of all tax-excluded health benefits on employees' W-2 forms. Starting in 2012, all businesses must annually report all payments to any person or organization for purchased goods, property, or services in excess of \$600 on an IRS Form 1099.

### *Cadillac Plan Tax*

Beginning in 2018, high-cost plans above \$10,200 for individuals or \$27,500 for families are subject to a 40-percent tax. The plan costs include employer and employee premiums as well as contributions to health savings or reimbursement accounts. It does not include the cost of separate vision or dental plans. Taxability thresholds increase by inflation plus 1 percent for 2019 and are based on inflation after that.

### *Tax Penalty for Uninsured*

Beginning in 2014, individuals who do not maintain qualifying health insurance coverage are subject to tax penalties:

- 2014 — the greater of \$95 or 1 percent of income,
- 2015 — the greater of \$325 or 2 percent of income, and
- 2016 — the greater of \$625 or 2.5 percent of income.

After 2016, penalties increase annually depending on inflation.

**Please note:** The new law is very complex and will be considerably influenced by the many regulations that must be adopted under its provisions. Further, the law may be amended over time. This document is intended as a summary only. To read the act in its entirety, go to [www.texmed.org/hsr](http://www.texmed.org/hsr) (June 2010).