# August Advocacy Recap

September 10, 2021

**Alec Bose:**

Hello and welcome to the CAP Advocacy Recap, a monthly podcast dedicated to catching you up on the top news for pathologists. I'm Alec Bose, a member of the advocacy communications team and your host. We hope you enjoy this podcast and find it useful in catching you up on policy news and CAP initiatives. To find details on everything we cover, be sure to subscribe to our weekly advocacy newsletter and follow us on Twitter, @CAPDCAdvocacy. Now, without further ado, let's jump into the August Advocacy Recap. The CAP and the American Medical Association opposed recent action taken by the Department of Veteran Affairs that would allow non-physicians to provide healthcare services outside their scope of practice. The VA would invoke the supremacy clause in Article 10 of the Constitution to override state and local scope of practice laws as it develops national standards.

This could enable non-physicians to administer care they aren't qualified to deliver, putting patients at risk. The CAP and the AMA voiced their opposition to the Federal Supremacy Project in a letter stating, "The VA has failed to consider that these health professionals do not operate in isolation, but rather as a team. Yet the VA is creating and moving standards forward independent of one another. To provide the best care for our veterans, the VA must engage in a systematic examination of how all these standards will fit together and affect the health professional team." We will keep an eye on this story as it develops. We bring our attention now to Congress where the Senate and the House of Representatives passed a budget reconciliation resolution in August that will begin the process of drafting legislation to address the healthcare priorities of the Biden administration.

The resolution in the Senate, passed along a 50 to 49 party line vote, instructs both chambers of Congress to draft a budget bill amounting to $3.5 trillion. Some of these measures include increases to healthcare coverage and benefits, plans to address equity and disparities in public health, and investments in graduate medical education to mitigate professional shortages. As Congress returns to session in September, both chambers are scheduled to draft reconciliation bills for consideration and final passage. While the legislation wouldn't be subject to a filibuster in the Senate, there is some opposition to the $3.5 trillion price tag from some moderate Democrats. Debate will continue on a final proposal and we'll keep you updated. We end today on the proposed 2021 Medicare Payment Regulations. On August 5th, the CAP hosted a webinar where experts broke down the proposed changes that could impact pathologists' pay, practice, and reporting in 2022. Here to go over some of the highlights of that webinar is Dr. Jonathan Myles, who sits on the CAP Board of Governors and serves as Chair of the Council on Government and Professional Affairs. Dr. Myles, thank you so much for joining us.

**Dr. Jonathon Myles:**

Good day. Pleasure to be here.

**Alec Bose:**

What are a few of the main changes proposed in the 2022 Medicare Physician Fee Schedule that pathologists should know about?

**Dr. Jonathon Myles:**

Overall, pathologists can expect a -5% payment in 2022 compared to 2021 if nothing is done to mitigate the proposed cut. Now, of that 5%, 3.75% of that is due to the reevaluation of the E&M or Evaluation and Management codes. Due to budget neutrality, if other codes go up in the Physician Fee Schedule in their value, the codes that don't go up have to go down to maintain budget neutrality. Because the E&M codes or outpatient office visits codes went up, our codes are going down in value if nothing is done. We're not unique in pathology. All specialties that don't perform many of these E&M services are slated for a decrease, 1.25% of the proposed decreases due to a redistribution of practice expense. What CMS is proposing to do for 2022 is they updated their labor practice expense.

Due to budget neutrality on the practice expense side, if you have a code that has a lot of labor associated with it, it's going to tend to go up in value. If you have a code which has a lot of equipment or supplies associated with it, that code will go down in value. Within the pathology family, there's a big range in change of practice expense associated with the various codes. One thing I do want to say, we do have some good news in the 2022 Physician Fee Schedule, and that is we will be having some new pathology clinical consultation codes. These codes will replace the 80500 and the 80502 codes. These codes will be time-based, as well as complexity based, and will better enable us to capture the work that we provide in providing clinical consultation services. These codes will not just be limited to clinical pathology, but they can also be used in anatomic pathology. To use these codes, there will be a need for a request from the clinician at the same institution for the consultation to be performed.

**Alec Bose:**

What's the legislative ask from the CAP here?

**Dr. Jonathon Myles:**

Last year, we were successful in mitigating the proposed 9% cut in our services. Through the efforts of our members, we were successful in advocating to Congress to mitigate those cuts. This year, we are asking for $3 billion to be allocated to the Physician Fee Schedule to mitigate the proposed cuts to our services. The $3 billion is not just for pathology, but will cover all specialties and codes that are affected by the revaluation of the E&M codes. The $3 billion will give us an additional year to try to find a long-term solution to this problem. We will be having several of our members meet with key members of Congress to advocate for us. Also, there will be action alerts going out and we would ask all our members to respond to the action alert. If your member of Congress does not hear from you, they will think that this issue does not affect their district.

**Alec Bose:**

What can pathologists do in the meantime while they're waiting for this policy to take effect?

**Dr. Jonathon Myles:**

In terms of the E&M issue, pathologists can respond to any action alerts that come out. I would also encourage pathologists to look for updates in the advocacy update, which comes out on Tuesdays. Also, with the new pathology clinical consultation services, we, at the CAP, will be providing more detailed information on how to use these codes as more information comes available. We will have additional educational materials later this year for our members to review.

**Alec Bose:**

Be sure to check out the webinar on our website. That's all for this edition of the CAP Advocacy Recap. Be sure to read our weekly advocacy newsletter and follow us on Twitter, @CAPDCAdvocacy. I'm your host, Alec Bose. Thanks for listening and we'll see you next month.