POLICY & PRACTICE

2006 Outlook

This year, officials at the American College of Obstetricians and Gynecologists say that they plan to continue work on a number of the society's top priorities from last year. These ongoing issues include medical liability reform, in particular caps on noneconomic damage; Medicare physician payment and pay for performance; imaging; and preserving access to reproductive health services. ACOG officials said that the organization will formally decide on its 2006 legislative and regulatory agenda in February.

Medical Liability Reform

Passage of medical liability reform legislation, particularly caps on noneconomic damages, once again failed to gain traction in the Senate in 2005 despite passage of a bill (H.R. 5) in the House. Shifting priorities in the wake of Hurricane Katrina may have contributed to the lack of attention paid to the issue, said an ACOG government affairs spokesperson. But ACOG officials expect to see a Senate vote this year. The college also will continue to support alternative remedies that don't deal directly with caps such as the Fair and Reliable Medical Justice Act (S. 1337), which was introduced this summer. That bill proposes to fund state demonstration programs to evaluate alternatives to the current medical tort system.

Physician Pay and P4P

At press time, physicians were anticipating a 4.3% cut in Medicare payments in 2006. ACOG officials said the college remains opposed to the pay cut and supports a permanent change to the Sustainable Growth Rate (SGR) formula used to pay physicians under Medicare. If no changes are made to the current formula, physicians can expect to see their Medicare payments cut by about 25% by 2011 while seeing their office expenses increase by 19% over the same time period, according to ACOG. This means that physicians won't have any capital to make investments in information technology and other changes that could improve care. ACOG also opposes pay-for-performance proposals that are tied to the SGR formula, which they consider inadequate. ACOG supports a reasonable pay-for-performance plan but it must be based on a payment formula that reflects the actual cost of medical care, an ACOG government affairs spokesperson said.

Imaging

Another hot topic carrying on into 2006 is who can perform and be paid for imaging. ACOG plans to push for ob.gyns. to continue to provide imaging to patients and to be paid for that service. Some radiology organizations want to restrict who can provide imaging services.

Reproductive Health Access

Access to reproductive health services—in particular, providing information on and access to emergency contraception—also continues to be a top priority at ACOG. Most notably, ACOG continues to support over-the-counter status for the emergency contraceptive Plan B and has condemned the Food and Drug Administration for delaying its decision on the product. The college also is continuing to support access to emergency contraception for rape victims. The Compassionate Assistance for Rape Emergencies Act (H.R. 2928/S. 1264), which was introduced last summer, directs hospitals to provide information on emergency contraception to all sexual assault victims and to offer emergency contraception regardless of the patient's ability to pay.

FDA's Unusual Plan B Review

The FDA's decision in 2004 not to approve the emergency contraception product Plan B for over-the-counter sale was not typical of the 67 other prescription-to-OTC switch decisions made by the agency between 1994 and 2004, according to a report from the Government Accountability Office (GAO). The FDA denied an application to approve Plan B for OTC sale in May 2004 saying that officials had safety concerns about the use of the product in women aged under 16 years. Among the differences is that FDA officials took the rare step of not approving the Rx-to-OTC switch against the advice of its agency's own advisory committee, which had voted to recommend approval of the application. GAO's review also found that the FDA has placed no age-related marketing restrictions for safety reasons on any prescription or OTC contraceptive. But the FDA questioned the integrity of the GAO's investigative process. "The report mischaracterizes facts and does not appear to take into consideration the input provided by the FDA," an FDA spokesperson said in a statement. "We stand by the original decision to issue a Not Approvable letter to Barr Labs for OTC Plan B." The FDA is still considering an application by the Plan B manufacturer, Barr Pharmaceuticals Inc., to market Plan B OTC only for women aged 16 and older.

—Mary Ellen Schneider