American Society of Transplantation Opposes the ''Bringing Enhanced Treatments and Therapies to End Stage Renal Disease (ESRD) Recipients (BETTER) Kidney Care Act''

Compromises Patient Access & Referral to Organ Transplantation and Limits Patient-Physician Healthcare Decision-Making

As currently proposed, the BETTER Kidney Care Act seeks to foster integrative care for patients with End Stage Renal Disease (ESRD) (more recently referred to as End Stage Kidney Disease (ESKD)). Stakeholders in support of the legislation have stated they believe patient care will be improved through the fostering of greater integrative and coordinated care for the ESKD population.

The stated goals and spirit of the BETTER Kidney Care Act are laudable and of interest to most stakeholders within the kidney care community. However, as introduced, the BETTER Kidney Care Act is indeed not "better" for patient autonomy, and ***is poised to significantly compromise patient access and referral to organ transplantation, in addition to limiting patient-physician decision-making.***

Kidney transplantation is the preferred treatment for ESRD as it is associated with better survival, quality of life and cost savings compared to dialysis. Many patients with advanced kidney disease are potential candidates for kidney transplantation. If passed and enacted, this proposed legislation would serve ***to overtly establish financial and public policy disincentives for ESKD patients who would otherwise benefit from kidney transplantation***.

Goals of Legislation Already Being Tested by HHS & CMS

The goals of the BETTER Kidney Care Act are nearly identical to those of existing ESKD models developed by the Center for Medicare and Medicaid Innovation (CMMI), including ESKD Seamless Care Organizations (ESCOs). In 2015, CMMI introduced the Comprehensive ESKD Care (CEC) model to allow providers of various sizes to participate, while placing geographic limitations on ESCOs to avoid fostering market advantages of large dialysis organizations. Early results from these models have been impressive, yet the long-term implications for kidney patients remain unknown.

The 21st Century Cures legislation, which will make ESKD patients eligible for Medicare Advantage Programs, will also help determine the viability of capitated care of the ESKD population.

Why Is the BETTER Kidney Care Act Being Aggressively Advanced?

The BETTER Kidney Care Act allows for-profit dialysis organizations to bear full risk and control of the care of the ESKD population. It will allow dialysis providers to acquire or create insurance companies with little or no effort, allowing them to be the at-risk entity (Medicare Advantage Plans). Given the substantial capital and regulatory requirements required to assume these risks, this unique opportunity will be afforded almost exclusively to the largest dialysis providers. This is unfair to smaller providers and would allow large providers to control future market share and expand their scope into the inpatient component of ESKD care. Accordingly, the BETTER Kidney Care Act allows the largest, for-profit dialysis organizations to assume control of the care of ESKD population while bearing full risk. These for profit organizations inherently are incentivized to prolong dialysis over offering transplantation as an alternative therapy to ESKD.

BETTER Kidney Care Act Restricts Access & Choice

Provisions within the proposed legislation allow for patients residing in the service area of an "Integrated Care Organization" to be involuntarily enrolled in the program. An opt-out provision exists, but must be enacted within 75 days of initial enrollment or once annually. Hence, all Medicare covered services, including transplantation (Part A and B are covered), will be covered by an insurance product not actively selected by the patient.

Restricting the freedom of patients to choose their dialysis provider could be viewed as an intrusion on the rights of a vulnerable population. The ability to choose providers serves as an incentive for innovation and improvement in the quality of care. This patient choice must be preserved and not relinquished to for-profit entities that are focused largely and primarily on the business of administering dialysis.

Legislation Diminishes Patient Voice & Input into Care

Consider the following: Patients should be able to promote quality and innovation with their own voice and experience.

Do patients, physicians and the nephrology community wish to entrust the identification, referral and approval/access for kidney transplantation to for-profit dialysis organizations?

How do dialysis organizations disentangle themselves from the strong financial incentives to maintain patients on dialysis rather than proceed to transplantation? Even though kidney transplantation is the preferred treatment for ESKD, the BETTER Kidney Care Act commitment to promoting transplantation is limited to transplant education, evaluation and transition support. The Act provides no support for management of patients on the waiting list, championing living kidney donation, or post-transplant care.

Finally, the transplant community is excluded from the multi-disciplinary oversight committees proposed in the BETTER Kidney Care Act.

Alternative Payment Models Must Be Thoughtful and Patient-Centered

Alternative payment models (hospital ACOs) are the future of medicine, including the care of ESKD patients. These models are based on caring for a population, cradle to grave.

However, as currently proposed, the BETTER Kidney Care Act relinquishes this care to for-profit private sector companies.

The American Society of Transplantation opposes the ‘‘Bringing Enhanced Treatments and Therapies to ESRD Recipients (BETTER) Kidney Care Act.’’ This legislation is indeed not “better” for patients, and compromises access and referral for life-saving kidney transplantation and limits patient-physician healthcare decision-making.

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