ASTRO supports “Promoting Integrity in Medicare Act of 2013” to stop self-referral abuse, protect patients and save billions in Medicare dollars

Fairfax, Va., August 1, 2013 – ASTRO Chairman Michael L. Steinberg, MD, FASTRO, joined radiation oncologists nationwide hailing today’s introduction on Capitol Hill of federal legislation that would protect patients and reduce Medicare costs by closing the costly loophole in the physician self-referral law. Dr. Steinberg called on Congress to act upon the mounting independent evidence of self-referral abuse and pass the “Promoting Integrity in Medicare Act of 2013” (PIMA), introduced today by Rep. Jackie Speier (D-Calif.), as well as Ways and Means Health Subcommittee Ranking Member Jim McDermott (D-Wash.), that would result in better care for patients and save billions of dollars in Medicare that could offset the costs of repealing the Medicare physician payment formula (sustainable growth rate—SGR).

The federal “Ethics in Patient Referrals Act,” also known as the self-referral law, prohibits physicians from referring a patient to a medical facility in which he or she has a financial interest in order to ensure that medical decisions are made in the best interest of the patient without consideration of any financial gain that could be realized by the treating physician. However, the law includes an exception that allows physicians to self-refer for so-called “ancillary services,” including radiation therapy. Over the years, abuse of the in-office ancillary services (IOAS) exception has diluted the self-referral law and its policy objectives, making it simple for physicians to avoid the law’s prohibitions by structuring arrangements that meet the technical requirements of the law,
thereby circumventing the intent of the exception. Numerous studies, including two recent GAO reports, have shown that physician self-referral leads to increased utilization of services that may not be medically necessary, poses a potential risk of harm to patients and costs the health care system millions of dollars each year.

ASTRO expects the release of a Government Accountability Office (GAO) report today, requested by bipartisan leaders in Congress. The report is expected to detail dramatic differences in the intensity modulated radiation therapy (IMRT) utilization rates of self-referring urology practices compared to non-self-referring practices.

The GAO’s report on self-referral in radiation therapy will be the third in a groundbreaking, four-part series that consistently has found that self-referral results in unnecessary health care services and added costs to the health care system in advanced imaging and anatomic pathology services as well.

Contrary to the claims of self-referring practices, these practices are not truly integrated health care centers, but that they are moneymaking schemes intended to increase volume and achieve high profits. Effective and efficient integrated care is rendered every day by clinicians who do not take financial advantage of the IOAS. The overwhelming majority of physicians treat patients based on the best interest of the patient without engaging in self-referral schemes, while also providing coordinated care.

Rep. Speier’s PIMA legislation would restore the original intent of the self-referral law by prohibiting self-referral for four complex services—advanced imaging, anatomic pathology, radiation therapy and physical therapy, which are not typically performed at the time of the patient’s initial office visit. This will ensure that incentives driving medical decisions are solely in the patients’ best interest, thereby reducing unnecessary and inappropriate services and costs to the Medicare program. The bill also enhances enforcement of the self-referral law by increasing penalties for improper referrals and creating new compliance review procedures involving Medicare and the HHS Office of Inspector General. Finally, the bill clarifies that physician groups participating in Accountable Care Organizations in the Medicare Shared Savings Program can continue to provide
integrated services and maintains access to care for rural beneficiaries.

The PIMA legislation answers the call of numerous influential bipartisan groups who have examined self-referral abuse and recommended changes to the law. In September 2012, a New England Journal of Medicine article, authored by leading health policy experts including former CMS administrator Donald Berwick, MD, MPP, called for closing the self-referral loophole for radiation therapy and other so-called “ancillary services.” The Center for American Progress agreed with narrowing the IOAS exception, as well as several notable bipartisan groups, including the Bipartisan Policy Center, under the leadership of former Senate Majority Leaders Tom Daschle (D-S.D.) and Bill Frist (R-Tenn.), and the Moment of Truth Project, headed by Erskine Bowles and former Senator Alan Simpson (R-Wyo.). President Obama’s proposed FY 2014 Budget also recommended closing the self-referral loophole, which could save the Medicare program more than more than $6 billion during the standard 10-year budget window.

“Self-referral undermines ASTRO-supported efforts to move Medicare toward quality- and value-based payment. Closing the self-referral loophole will help stabilize the fee-for-service system today, while we charge ahead on the long, challenging path to developing a fair, high-functioning payment system,” said Dr. Steinberg.

The legislation also responds to self-referral abuse highlighted in the mainstream media. In November 2012, a Bloomberg News investigative report scrutinized ordeals faced by California prostate cancer patients treated by a urology clinic that owns radiation therapy equipment and found that physician self-referral led to mistreated patients and higher health care costs. The Wall Street Journal, The Washington Post and The Baltimore Sun also published similar critical reports in the last three years illustrating that urology groups owning radiation therapy machines have utilization rates that rise quickly and are well above national norms for radiation treatment of prostate cancer.

“We applaud Rep. Speier and PIMA’s champions for their courage in introducing legislation that would finally remove radiation therapy services from the IOAS exception. This targeted legislation closes the self-referral loophole in a responsible way that roots out abuse, while ensuring that truly integrated multispecialty groups and high-performing health systems can continue to
provide high-quality and efficient care,” said Anthony L. Zietman, MD, FASTRO, the Jenot W. and William U. Shipley Professor of Radiation Oncology at Harvard Medical School and Massachusetts General Hospital and a former chairman of ASTRO. Dr. Zietman is one of the world’s premier experts on prostate cancer, and he represented ASTRO today at Rep. Speier’s Capitol Hill news conference introducing PIMA.

ASTRO is a partner in the Alliance for Integrity in Medicare (AIM), a broad coalition of medical societies committed to ending the practice of inappropriate physician self-referral and focused on improving patient care and preserving valuable Medicare resources. In addition to ASTRO, AIM partners include the American Clinical Laboratory Association, the American College of Radiology, the American Physical Therapy Association, the American Society for Clinical Pathology, the Association for Quality Imaging, the College of American Pathologists and the Radiology Business Management Association.

ABOUT ASTRO

ASTRO is the premier radiation oncology society in the world, with more than 10,000 members who are physicians, nurses, biologists, physicists, radiation therapists, dosimetrists and other health care professionals that specialize in treating patients with radiation therapies. As the leading organization in radiation oncology, the Society is dedicated to improving patient care through professional education and training, support for clinical practice and health policy standards, advancement of science and research, and advocacy. ASTRO publishes two medical journals, International Journal of Radiation Oncology • Biology • Physics (www.redjournal.org) and Practical Radiation Oncology (www.practicalradonc.org); developed and maintains an extensive patient website, www.rtanswers.org; and created the Radiation Oncology Institute (www.roinstitute.org), a non-profit foundation to support research and education efforts around the world that enhance and confirm the critical role of radiation therapy in improving cancer treatment. To learn more about ASTRO, visit www.astro.org.

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