Editor's Notes

Our Specialty's Survival Is in Your Hands

By Stephen Jackson, M.D., Editor, and Mark Singleton, M.D., President

This editorial page is shared with President Mark Singleton because the issue we address is critical to the *survival* of our specialty. His message urges each of you to contact your Congressional Representative to enlist support for the bipartisan effort to restore full funding for our teaching programs by correcting the Medicare academic anesthesiology teaching rule. This punishing rule, implemented over a decade ago, reduces Medicare payment by 50 percent for faculty supervision of overlapping resident teaching cases. Here we encounter an injustice suffered *only* by our specialty. For example, surgeons in an identical scenario are paid fully for both cases. This baleful and discriminatory Medicare regulation penalizes *only* anesthesiology teaching programs, its consequences being huge losses of income, in some institutions amounting to over a million dollars per year! Such an economic burden adversely affects the vitality and, ultimately, the viability of our academic programs. Continued financial injury to academic anesthesiology, the sole source of the scientific advances within our specialty and the education of future anesthesiologists, assuredly will have an indelibly adverse impact on the quality of anesthesia care in our country.

The American Association of Nurse Anesthetists' persistent lobbying of both Congress and CMS against ASA's attempts to rectify the teaching rule is a display of unfounded contempt for their specialty. The facts: Nurse anesthetists are dependent on anesthesiologists to teach nurse anesthetist students their trade as well as to advance the science of anesthesia. Most nurse anesthetists practice in the anesthesia care team mode, willingly working in a professionally cooperative manner with anesthesiologists to promote the best interests of patients. I do *not* believe that AANA leadership's irresponsible rhetoric and behavior in opposing a restoration of fairness in the teaching rule would reflect the overriding sentiment of the vast majority of an *impartially informed* constituency. I challenge AANA to prove me wrong!

Below you will find Dr. Singleton's message, as well as factual information supporting his position. I urge you, as citizens, to rally to his request: make the effort to learn how easy it is to participate in our federal legislative process, and write to your Congressman in support of H.R. 5246 and H.R. 5348 to restore full funding for anesthesiology teaching programs. His request is to write only one

letter! Truly, the *survival* of our specialty is at stake. Now is the critical time for *all* of us to step up and be counted!

Dear CSA Members,

Your help is needed urgently to correct an egregious Medicare rule that unfairly reduces anesthesia payments to all the academic anesthesiology programs in our state. A rule implemented in 1994 reduced the Medicare payment by 50 percent per case if a teaching anesthesiologist works with two residents. This is so when attending two cases that overlap for only one minute, even if the faculty is present for all the critical elements of the anesthesia and is available throughout. This means that Medicare is paying only $8-9 per unit! The payment rule for other teaching physicians in *all other specialties* with respect to concurrent supervision rightfully continues to allow a full Medicare fee for both cases.

Last year, CMS received comments from many organizations expressing overwhelming support for a return to parity. However, the American Association of Nurse Anesthetists lobbied heavily to maintain the 50 percent reduction for academic anesthesiology programs, claiming that restoration of full payment would harm nurse anesthesia programs.

House Resolution 5246 was introduced from the Republican side of the aisle by E. Clay Shaw, Jr., (Florida) and Pete Sessions (Texas) to correct the teaching rule. Following the ASA Legislative Conference, Democrat Pete Stark (California) committed to support the correction. He introduced his own legislation on the academic teaching rule, H.R. 5348. Although the language is identical to H.R. 5246, it gives Democrats an opportunity to express their support of correcting the anesthesia teaching rule while not having to support a Republican-sponsored bill.

Widespread support is needed to successfully carry this legislation to its fruition. In addition to academic anesthesiologists, the voices of anesthesiologists practicing in nonacademic settings are needed to advocate for bringing payments back to parity with other specialties' teaching physicians.

I urge each of you to contact your representative in Congress and ask him or her to support H.R. 5246 or H.R. 5348. You can identify your congressional representative and obtain contact information on the ASA Web Site at **http://www.asahq.org/news/hr5246.htm**. The ASA also provides a letter that can be edited to include your personal message and then e-mailed directly to your congressional representative. **Personal letters sent by fax or e-mail are very effective** (letters mailed to Congress are often delayed due to security reasons). Your fax-letter or e-mail should be followed by a personal phone call to your congressperson's local office for maximum impact.

Mark Singleton, M.D.
President

The following is a position paper on the anesthesia teaching rule from the ASA.

Restoring Full Funding for Anesthesiology Teaching Programs

ASA urges Congress to restore full funding for anesthesiology teaching programs by passing H.R. 5246 or H.R. 5348, so teaching anesthesiologists can continue training qualified resident physicians, now and in the future. Under current regulation, Medicare anesthesiology teaching programs are paid under the Medicare physician fee schedule for physicians' hands-on training and supervision of medical residents. In 1991, however, CMS singled out for change the teaching payment policy as it applied to anesthesiology teaching programs only. The 1991 rule, which became effective in 1994, directs Medicare carriers to reduce the Medicare payment by 50 percent per case if a teaching anesthesiologist works with two residents on cases that overlap for a single minute, even if the faculty is present for all key portions and available throughout. The payment rule for other teaching physicians rightfully continues to allow a full Medicare fee if these conditions are met.

CMS justifies the 50 percent payment penalty for teaching anesthesiologists using flawed arguments. They suggest that the policy is consistent with the Medicare "medical direction" payment policy used for anesthesiologists working with nonresident providers—anesthesiologist assistants (AAs) or nurse anesthetists. Under the medical direction rules, Medicare makes a full payment for the anesthesia services provided as part of a procedure. Ordinarily, that payment is then split. The anesthesiologist receives 50 percent for providing medical oversight and guidance to the nonphysician anesthesia provider and the nonphysician provider receives the other 50 percent.

Under the anesthesiology teaching payment policy, CMS does not make a full payment for a procedure. When a teaching anesthesiologist works with two residents in overlapping cases, the teaching anesthesiologist's program receives the 50 percent payment, similar to what the anesthesiologist would receive under the medical direction policy. Unlike the medical direction payment policy, however, CMS retains the remainder of the payment. This creates a situation in which anesthesiologists are forced to provide uncompensated care, to the detriment of the academic anesthesiology program and the teaching hospital as a whole.

On November 21, 2005, CMS affirmed continuation of the 50 percent payment penalty for academic anesthesiology programs, despite overwhelming support for a change to the policy. In the August 8, 2005, proposed rule for the FY 2006 Medicare Physician Fee Schedule, CMS had agreed to review the anesthesiology teaching rule and accept comments on revisions that would make the rule "more flexible for teaching anesthesia programs." During the comment period, teaching anesthesiologists from 120 academic anesthesiology

programs, private practice anesthesiologists, the American Medical Association, the Association of American Medical Colleges, the Medical Group Management Association, numerous House and Senate members, and other interested parties contacted CMS urging elimination of the 50 percent penalty.

A recent national survey found that the current Medicare policy is costing academic anesthesiology programs an average of $400,000 annually, with some programs losing in excess of $1 million. Nationwide, anesthesiology teaching programs are being shortchanged $30 to 40 million per year. Undoubtedly, this unfair and inflexible Medicare payment policy is adversely affecting teaching hospitals, anesthesiologists and the resident physicians that they seek to educate. Without this crucial funding, anesthesiology residency programs are struggling to fill vacant faculty positions and to meet their mission to advance medical research.

For further information, please contact Ronald Szabat, ASA Director of Governmental Affairs and General Counsel, or Manuel Bonilla, ASA Associate Director of Governmental Affairs, at (202) 289-2222.