

The ASA Legislative Conference



“Step Up to the Plate”

By *Linda J. Mason, M.D., ASA Director*

The ASA Legislative Conference was held June 9-11, 2008, in Washington, D.C. The CSA delegation included 20 members:

Barbara Baldwin, CEO
Michael W. Champeau, President
Paul B. Coleman, District 5 Director
Christine A. Doyle, Asst. Secretary
James Futrell, ASA Delegate
Linda Hertzberg, President-Elect
Robert Hertzka, AMA Delegate
Norman Levin, Past President
Linda J. Mason, ASA Director
Jack Moore, Past President

James Moore, Vice-Speaker
Kenneth Y. Pauker, LPAD Chair
Mark Singleton, ASA Alt. Director
Stanley Stead, ASA Delegate
Earl Strum, Secretary
Larry Sullivan, Past President
Jeffrey Uppington, District 8 Director
Paul Yost, District 13 Director
Elizabeth Bales, USC Resident
Katie Polhemus, Stanford Resident

The major issues discussed with over 50 members of Congress were:

Rebuilding the Medicare Update Formula—Creating a fair payment system. Medicare’s Sustainable Growth Rate formula has proven unworkable and unfair as a payment mechanism for services under Medicare Part B. While Congress recently enacted a temporary six-month 0.5 percent increase in payment rates, which averted a cut scheduled to take effect on January 1, 2008, a permanent fix is needed. Without Congressional action, physicians face a 10.6 percent across-the-board reduction in payment rates beginning July 1, 2008. Further, under the current formula, physicians will face negative reimbursement adjustments averaging 5 percent per year. The ASA urged Congress to provide multiyear positive updates in Medicare physician payment and to replace the SGR formula with an update mechanism based on medical cost inflation. Congress must work to enact meaningful legislation that will:

- Stop the Medicare payment cuts for 18 months
- Extend the positive 0.5 percent update through the rest of 2008
- Provide a positive 2009 update that accurately reflects increases in the cost of providing medical care

Medicare Teaching Anesthesiology Funding Restoration Act—H.R. 2053/S. 2056. 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. Because of a rule change effective in 1994, however, Medicare carriers reduce payment by 50 percent per case if a teaching anesthesiologist works with two residents on cases that overlap for even a single minute. This unfair and inflexible Medicare payment policy is adversely affecting teaching programs. 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 million to \$40 million per year.

Without this crucial funding, anesthesiology residency programs are struggling to fill vacant faculty positions and to meet their mission to advance medical research. This situation is not sustainable. Due in part to the 50 percent payment penalty, 28 programs are closed and six more are on probation. Unless Congress restores full payment for anesthesiology residency programs, the programs will continue to close, creating underserved communities throughout the country.

Nurse anesthetists' practice expansion initiative—H.R. 1932. ASA cautions against H.R. 1932, legislation that seeks to expand the scope of practice for nurse anesthetists, creating new and untested practice authority. H.R. 1932 was introduced under the guise of fixing widely recognized problems with payments to teaching anesthesiologists in residency programs; however, it includes controversial and nonconsensus provisions, blurring the distinction between anesthesiology residents and student nurses. Instead, ASA supports H.R. 2053, which includes bipartisan consensus language that addresses the anesthesiology teaching payment rule for physicians, while omitting the additional unstudied and untried expansion of nurse practice provisions.

Rural "pass-through." Legislation H.R. 1866—Medicare Access to Rural Anesthesiology Act. In the 1980s, a rural provider incentive was enacted that would allow certain rural hospitals to use a more generous Medicare Part A pass-through arrangement to pay for the services of anesthesiologist assistants (AAs) and nurse anesthetists only. However, current law does not permit rural hospitals to use "pass-through" funds to employ or contract with anesthesiologists. H.R. 1866 would broaden the policy and allow rural hospitals to use pass-through funds for anesthesiologists.

Healthcare Truth and Transparency Act—H.R. 2260. According to a recent survey, the vast majority of Americans—90 percent—want to know in advance

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of treatment if their provider is not a physician. Because of misleading statements and advertisements by some allied health professionals, however, patients are often confused about their providers' qualifications. H.R. 2260 would ultimately protect patients by strengthening the FTC's authority to challenge misleading marketing by healthcare providers who are not physicians, and deterring them from making deceptive misrepresentations as to their education, skills and training. It would also make it unlawful for nonphysicians to hold themselves out as medical doctors (MD) or doctors of osteopathic medicine (DO).

National Pain Care Policy Act—H.R. 2994. H.R. 2994, introduced by Reps. Lois Capps (D-CA) and Mike Rogers (R-MI), would help by improving pain care research, education, training, access, and outreach. H.R. 2994 would address the problem of pain in four ways.

- Authorize an Institute of Medicine Conference on Pain Care
- Authorize a Pain Consortium at the National Institutes of Health
- Provide comprehensive pain care education and training for health care professionals
- Institute a public awareness campaign on pain management

Among members of Congress who addressed the attendees was Ben Cardin (D-MD), U.S. Senate Foreign Relations Committee and Co-Sponsor of the Medicare Anesthesiology Teaching Rule.

Two of the outstanding presentations by ASA members included: "The Long and Winding Road to a Medicare Payment Update," by Norman A. Cohen, M.D., Chair, ASA Section on Professional Practice—a comprehensive summary of the incredible journey taken to get CMS to improve the Medicare conversion factor for anesthesiologists; and "Balance Billing' in California: Politics, Spin and the Real Meaning of Health Insurance Coverage" by our own **Mark A. Singleton, M.D.**, ASA Alternate Director from California—an excellent presentation which was part of a panel on the State Issues Impacting the Medical Specialty of Anesthesiology.

For the ASA to advocate well for us at the national level, we must improve our participation in ASAPAC. More and larger contributions to ASAPAC from California members will help secure the future of anesthesiology as a specialty for us all and assure our issues are well represented at the congressional level.