

Dateline Washington

prepared by the Division of Advocacy and Health Policy

Senate votes mixed on liability issues

With a 48-45 vote on February 24, the Senate failed to achieve the 60 votes necessary to allow further debate and passage of legislation that would provide medical liability relief for obstetrical services. Known as S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act provided the first of what is expected to be a series of Senate votes on medical liability reform this year.

Interestingly, the Senate voted 75-22 the following day to move legislation that would have prohibited civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products. That legislation, which was ultimately withdrawn from consideration, gained support from 26 senators who declined to support similar liability protections for physicians and pregnant women.

Further education of these senators about the effect of the liability crisis on surgeons and patients clearly is needed. Surgeons are encouraged to participate in this effort through the College's Legislative Action Center at http://capwiz.com/facs/mail/oneclick_compose/?alertid=2814386.

ACS testifies on payment

On February 23, Hugh Trout III, MD, FACS, testified before the Practicing Physicians' Advisory Council, an advisory panel to the Centers for Medicare & Medicaid Services (CMS), on changes that should be included in the proposed Medicare fee schedule for 2005. Of particular note, the College proposed making two changes in calculating the sustainable growth rate—an expenditure target that is intended to control the growth in Medicare physician spending. Dr. Trout also spoke about the importance of the five-year review of malpractice relative value units, which will be undertaken this year. The full text of Dr. Trout's testimony can be viewed at <http://www.facs.org/ahp/testimony/ppac.html>.

College hosts trauma briefing

The College, together with Reps. James Greenwood (R-PA) and Sherrod Brown (D-OH), hosted a March 3 briefing on Capitol Hill for members of Congress and their staff titled, "Saving Lives When Minutes Count: Preparing for Terrorism, Natural Disasters and Everyday Injuries." The briefing was designed to educate legislators about trauma systems and why they are important, what role they can play in terrorism preparedness, and how they are lacking in many areas of the U.S.

Moderated by ACS Committee on Trauma Chair J. Wayne Meredith, MD, FACS, the briefing featured presentations by Kurt Newman, MD, FACS, of Children's National Medical Center, Washington, DC; David Hoyt, MD, FACS, of the University of California-San Diego and ACS Trauma Medical Director; and N. Clay Mann, PhD, of the University of Utah School of Medicine and the Inter-mountain Injury Control Research Center.

The Coalition for American Trauma Care, the National Foundation for Trauma Care, the American Trauma Society, and the American Association for the Surgery of Trauma co-sponsored the event.

Health spending grows

CMS published an analysis in the January/February issue of *Health Affairs* that described health care spending in 2002. The report contains the following highlights:

- Health care spending totaled \$1.6 trillion. The rate of growth in total health care spending was 9.3 percent, in contrast to an overall economic growth rate of 3.6 percent.
- Per capita health expenditures increased by \$419 in 2002, to \$5,440.
- Hospital spending was up 9.5 percent to \$486.5 billion.
- The spending growth rate for physician services was 7.7 percent, down from 8.6 percent in 2001. Medicare physician spending growth was down from 9.6 percent in 2001 to 5.8 percent in 2002.
- Spending for prescription drugs was down slightly from 15.9 percent of all health care spending in 2001 to 15.3 percent in 2002.

MedPACs proposes 2.6 percent payment increase

On March 1, the Medicare Payment Advisory Commission (MedPAC) issued its *2004 Annual Report to Congress: Medicare Payment Policy*. The report includes the commission's recommendations on payment updates and policy improvements for physicians, hospitals, and other health care providers and systems. Of particular interest, MedPAC recommended that Congress update physician payments in 2005 by the projected Medicare inflation rate less a productivity factor of 0.9 percent. Under current cost estimates, that would produce a 2005 Medicare fee schedule update of approximately 2.6 percent. The full text of MedPAC's annual report can be viewed at http://www.medpac.gov/publications/congressional_reports/Mar04_Entire_report.pdf.

Bar codes required on drugs and blood

Department of Health and Human Services Secretary Tommy Thompson recently announced that the Food and Drug Administration is issuing a final rule requiring bar codes on human drugs and biological products. Each bar code must include the medication's national drug code number and may include the lot number and product expiration date. The rule also requires each blood product to contain symbols identifying the collecting facility, the lot number relating to the donor, the product code, and the donor's blood group and type. These labels are already used in most blood establishments.

Identification information from the patient's bracelet, information from the patient's drug regimen, and the drug's bar code are all compared by a computer to ensure the patient gets the right drug, at the right time, in the right dose, and by the correct route of administration. The rule was based on findings from a study of a bar code system installed at a Department of Veterans Affairs medical center, where 5.7 million doses were administered without any errors.

Existing medications and blood products will have to comply within two years. New medications will have to comply within 60 days of their approval. The rule applies to most drug manufacturers, repackers, relabelers, private label distributors, and blood establishments. Hospital adoption of information technology to take advantage of the new labels will be done voluntarily.

For a copy of the regulation, go to <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2004/04-4249.htm>.