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prepared by the Division of Advocacy and Health Policy

Physicians avert 4.5 percent Medicare payment cut

In one of its last acts before adjourning for the winter recess, Congress succeeded in passing H.R. 1, the Prescription Drug and Medicare Modernization Act. In addition to creating a long-sought-after Medicare prescription drug benefit, the legislation reversed the pending 4.5 percent cut in 2004 physician payments, ensuring that fee schedule reimbursements will increase by at least 1.5 percent in both 2004 and 2005. The College lobbied aggressively to avert the payment reduction, which was announced on November 7 by the Centers for Medicare & Medicaid Services (CMS). Due to flaws in the underlying payment formula, CMS attributed the planned reduction to increased volume and intensity of physicians' services and a lower real gross domestic product (GDP) per capita than previously estimated.

Although H.R. 1 will not correct the formula, it will prevent steep annual fluctuations in payments by permitting CMS to calculate GDP based on a 10-year rolling average. Other changes include a temporary increase in the work component of the geographic price cost index for rural areas, bonuses in areas with physician shortages, and a study of the practice expense component.

In addition to averting the Medicare physician payment cut, the legislation provides important regulatory relief, establishes sensible standards for electronic prescribing, and blocks proposed changes in coding standards. Details follow.

- *Regulatory relief.* To ease the increasing regulatory burden that CMS has imposed on physicians, the bill offers modest reform of audit practices by guaranteeing physicians specific due process rights, including an equitable right of appeal. Specifically, the legislation will better target current Medicare education dollars to provide needed outreach and education to physicians and health care providers on the complexities of Medicare billing. The bill will guarantee regulatory reform in the following areas: extrapolation, consent settlement, evaluation and management service documentation guidelines, Emergency Medical Treatment and Active Labor Act mandates, written advice from contractors, and advance beneficiary notices.

- *Electronic prescribing.* To reduce medical errors, the bill directs the Secretary of Health and Human Services (HHS) to develop and adopt standards for transactions and data elements to enable the electronic transmission of medical information, including prescriptions. On the grounds that this mandate would create unrealistic technological and financial burdens for many surgeons, the College opposed an earlier version of this provision, which would have required that all prescriptions be written and transmitted electronically except in emergencies. The College supports this compromise because it sets a reasonable timetable for HHS to establish sensible standards for physicians who voluntarily use electronic prescribing systems. H.R. 1 also includes grants and incentives to encourage e-prescribing.

- *Coding standards.* The College also successfully lobbied to exclude language that could have replaced the *Current Procedural Terminology* (CPT) codes used in the Medicare fee schedule with ICD-10 codes. The House version cleared the way for HHS Secretary Tommy Thompson to adopt ICD-10-PCS (a procedure coding system) and ICD-10-CM (a

Number of physicians climbs 26 percent

diagnosis coding system) as a standard within one year of the date of enactment of the bill. Based on the College's strenuous objections and action by the National Committee on Vital Health Statistics, the language was removed.

To find out how your senators and representatives voted on H.R.1, log on to the College's Legislative Action Center at <http://capwiz.com/facs/issues/votes/>.

The U.S. physician population increased 26 percent between 1991 and 2001, or twice the rate of total population growth during the period, according to a report released by the General Accounting Office this month. The average number of physicians per 100,000 people increased from 214 to 239, while the mix of generalists and specialists (defined as anyone who is not an internist, family practitioner, or pediatrician) remained about one-third general practitioners and two-thirds specialists. The survey does not differentiate between surgical and medical specialties. The survey also indicates that the number of physicians per 100,000 people in nonmetropolitan areas increased 23 percent from 1991 to 2001, while the number of physicians in metropolitan areas increased 10 percent. The report may be found at <http://www.gao.gov>.

College studies access to surgical care

The College is asking Fellows to provide their input regarding the effects of socioeconomic issues on their practices and on patient access to surgical care. This information will assist the organization in telling Congress, state legislators, and regulators about how those factors, coupled with the aging population, are beginning to affect patient access to high-quality care. To provide the College with your views, please take 10 minutes to complete the questionnaire, which can be completed by going to www.facs.org and selecting the "Help Us, Help You" survey.

Congress recognizes Breast Cancer Awareness Month

In honor of National Breast Cancer Awareness Month this past October, many members of Congress highlighted legislation related to breast cancer prevention, research, and treatment. Sen. Olympia Snowe (R-ME) and Sen. Mary Landrieu (D-LA) introduced similar bills, S. 1730 and S. 1684 respectively, requiring health plans to provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer. Rep. Nita Lowey (D-NY) spoke out about the need to research the relationship between breast cancer and the environment. Earlier this spring, Representative Lowey introduced bipartisan legislation, H.R. 1746 and S. 983, with Sen. Lincoln Chafee (R-RI), to increase funding for research on environmental factors related to the etiology of breast cancer, which is conducted by the National Institute of Environmental Health Sciences.

In addition, numerous members of Congress addressed the need to reauthorize and fully fund the National Breast and Cervical Cancer Early Detection Program. This program provides reduced-cost mammograms and follow-up care to thousands of low-income women. The College is actively engaged in federal cancer issues and will continue to work with the broader cancer advocacy community to promote scientifically sound policies to prevent and treat cancer.