

Dateline Washington

prepared by the Division of Advocacy and Health Policy

Election brings more physicians to Washington

The 2004 election produced big wins for the Republicans in the Senate and the House of Representatives. Republicans took control of Senate seats previously held by Democrats in Georgia, Florida, North Carolina, South Carolina, South Dakota, and Louisiana, while Democrats won seats held by Republicans in Colorado and Illinois. The Republicans now hold 55 Senate seats, which could lead to an additional four votes for medical liability reform. Tom Coburn, MD (R-OK), won his bid for the Senate, adding a second physician to that chamber. Sen. Harry M. Reid (D-NV) will replace defeated Thomas A. Daschle (D-SD) as the Minority Leader. Republicans increased their majority in the House by two seats, meaning that the party now controls 231 of the chamber's 435 seats. Two Fellows of the American College of Surgeons were elected to the House, Tom Price, MD, FACS (R-GA), and Joe Schwarz, MD, FACS (R-MI). A third Fellow, Charles Boustany, MD, FACS (R-LA), faces a runoff election December 4.

Dr. Fischer testifies on Medicare coverage

Josef E. Fischer, MD, FACS, Chair of the College's Health Policy Steering Committee, testified before the Medicare Coverage Advisory Committee November 4 in Baltimore, MD. Dr. Fischer's testimony supported continued Medicare coverage of bariatric surgery and suggested that long-term data collection and outcome assessments for various procedures were consistent with the College's mission of promoting quality improvement and patient safety. He also suggested that the surgeon heading an interdisciplinary team experienced in caring for the obese patient be involved in the case on a long-term basis and that the care include both psychiatric and nutritional counselling. During questioning by staff of the Centers for Medicare & Medicaid Services (CMS) with regard to standards for bariatric surgery, Dr. Fischer said that the College would consider working with the agency, the bariatric surgical community, and other stakeholders to develop a verification program for bariatric surgery. To read the text of the statement go to: <http://www.facs.org/ahp/testimony/bariatric.html>.

Election results mixed on state liability reform

Four states placed medical liability reform initiatives on their November 2 election ballots. Floridians approved a constitutional amendment limiting attorneys' contingency fees. Two attorney-sponsored amendments passed as well. The first requires release of reports about medical mistakes to patients who request them, and the second strips medical licenses from physicians who are found guilty of three or more incidents of malpractice. Nevada voters "kept their doctors in Nevada" by passing a constitutional amendment to remove exceptions to the state's cap on noneconomic damages. Two trial attorney-supported amendments that would have diluted existing liability reforms in Nevada statute were defeated.

Wyoming voters split their vote on two constitutional amendments. While they approved a measure that permits the legislature to debate the issue of medical review panels in liability cases, they did not support efforts to allow the state legislature to consider caps on noneconomic damages. And in Oregon, a referendum to reinstitute a cap on noneconomic damages was defeated by 17,000 votes.

Polls show support for reform

The Health Coalition on Liability and Access (HCLA) recently released the results of polls conducted in six states regarding the need for medical liability reform. Consumers were called in North Carolina, South Carolina, Florida, Pennsylvania, Washington, and Alaska, and they indicated strong support for federal medical liability reform. More than three-quarters (76%) of North Carolinians polled support common-sense limits on payments for noneconomic damages, while at the same time ensuring that injured patients receive full payment for lost wages and medical expenses. Staff of the American College of Surgeons chairs the coalition. The complete poll results may be found at www.hcla.org.

Requirements for informed consents and operative notes revised

The CMS has set new principles for informed consents and operative notes. While most of the Medicare conditions of participation (CoP) and the companion interpretive guidelines apply to the hospital staff, this change directly affects surgeons who practice in hospitals certified by the state survey and certification agency. (The American Osteopathic Association and the Joint Commission on Accreditation of Healthcare Organizations, which also accredit hospitals, have their own standards.) If someone other than the operating surgeon performs important parts of a procedure, even under the surgeon's supervision, the informed consent and operative report should contain his or her name and describe the important tasks assigned to the individual. Important surgical tasks include opening and closing, harvesting grafts, dissecting tissue, removing tissue, implanting devices, and altering tissue. To view the revised guidelines, go to www.cms.hhs.gov/manuals/107_som/som107_appendixtoc.asp and select Appendix A-Hospitals. The surgical conditions of participation and interpretive guidelines are in §482.51-482.51b.

NIH awards new loan repayment contracts

Since fiscal year (FY) 2002, the National Institutes of Health (NIH) has offered more than 3,200 loan repayment grants to health care professionals who commit to research careers. More than 40 percent of the grantees hold medical degrees, while 9 percent hold medical and doctor of philosophy degrees. The program repays up to \$35,000 of qualified educational debt for surgeons pursuing careers in clinical, pediatric, contraception and infertility, or health disparities research. The grants may also be used to cover federal and state tax liabilities.

The applications for FY 2005 are being accepted until December 15. For more information go to: www.lrp.nih.gov.

NIH launches new cancer research initiative

The National Cancer Institute of the NIH has announced \$14.9 million in funding for a new Integrative Cancer Biology Program, which will use emerging technologies to generate computer and mathematical models for predicting the development and progression of cancer. The program will have nine research centers, including Massachusetts General Hospital and Dana-Farber Cancer Institute in Boston, MA, University Hospital of Cleveland (OH), Stanford (CA) University School of Medicine, and Vanderbilt University Medical Center, Nashville, TN. For more information, go to <http://www.nih.gov/news/pr/oct2004/nci-26.htm>.