

H.R. 3962 Q and A with ASA President Alex Hannenberg, M.D.

Q: Why did ASA endorse H.R. 3962, the “Affordable Health Care for America Act”?

A: ASA offered neither a blanket endorsement nor unqualified support of H.R. 3962. Instead, ASA sent a thoughtfully-worded letter to Speaker Pelosi urging a cautious “yes” vote on the bill.

Q: So why did ASA urge a “yes” vote on H.R. 3962?

A: The U.S. House leadership recently scrapped H.R. 3200 and introduced a new reform bill, H.R. 3962, a significantly moderated version of the controversial H.R. 3200. This new bill passed the U.S. House of Representatives on Nov. 8 by a vote of 220-215.

The new House bill incorporates critically important changes sought by ASA that delink provider payments through the public plan from Medicare rates. This change, made possible by ASA’s work with key House leaders, will enable anesthesiologists to be paid at rates comparable to commercial/private rates for services provided to beneficiaries enrolled in the public plan. This is a significant win for anesthesiologists and the patients they serve.

H.R. 3962 also includes reasonable provisions advancing a meaningful expansion of health insurance coverage for currently uninsured Americans, principally through enhanced access to commercial insurance products. This new access to insurance is financed without reductions to Medicare payments to physicians. In fact, anesthesiology is held virtually harmless by H.R. 3962.

In contrast, the proposal likely to come forward from the U.S. Senate includes many of the insurance reforms included in H.R. 3962, but proposes to finance the reforms through multi-tiered reductions in Medicare payments to physicians. These proposed payment reductions to Medicare’s already underfunded payments for anesthesia services are unacceptable.

Accordingly, given the choice between the two bills, ASA has chosen to urge a “yes” vote on H.R. 3962 given the serious threat the Senate proposal represents to anesthesiology and all of medicine.

To be clear, the likely House passage of H.R. 3962 is not the last vote on health system reform. Once the Senate passes its reform package, the House and Senate versions must be reconciled through a conference committee. Our stance on H.R. 3962 sends a strong signal to House-Senate conferees that the payment provisions and financing mechanism of H.R. 3962 have our support and must be preserved in reconciling the House and Senate bills. ASA leadership will continue to closely follow the reform debate and push lawmakers to advance a reasonable reform package that does no harm to anesthesiologists and the patients they serve.

Q: Why is the Senate bill such a problem?

A: The Senate bill finances a large portion of its reforms on the backs of physicians. Specifically, proposals pending in the Senate include the potential for serious physician payment cuts through four mechanisms:

First, through the establishment of “Independent Medicare Advisory Commission” (IMAC), a new entity with the power to implement across-the-board Medicare payment reductions;

Second, through so-called “resource utilization outlier” provisions that target physicians who are perceived to be using excessive “resources” for patient care without regard for patient acuity or the complexity of care they require;

Third, through a new punitive component of the Physician Quality Reporting Initiative (PQRI) that exposes physicians to payment penalties; and

Fourth, through across-the-board payment reductions to finance bonus payments to primary care physicians and rural general surgeons.

These provisions, some of which would be in effect for 10 years, are unacceptable to anesthesiology.

Outrageously, the bill also includes provisions that require physicians to pay an enrollment fees for participating in the Medicare program.

Q: I’ve heard and read many negative things about the “House bill.”

A: H.R. 3962 is **not** the same bill as the controversial H.R. 3200. Significant changes have been made to the bill, especially on the issue of central importance to anesthesiologists – an expansion of Medicare payment rates through the public plan. But this is a political debate and hyperbole and exaggeration are not unexpected. I would urge ASA members to thoughtfully review material about the bill at <http://www.asahq.org/news/asanews102909.htm> and make their own decisions.

Is this a perfect bill? Absolutely not. However, it is a reasonable approach to providing insurance to 36 million uninsured through a financing mechanism that does not target physician payments.

Q: Doesn’t H.R. 3962 represent a “government take-over” of our health care system?

A: There is no evidence that H.R. 3962 will result in a “government take-over” of health care.

H.R. 3962 represents a reasonable effort to expand access to health insurance for the uninsured. Under H.R. 3962, the vast majority of Americans will continue to receive their insurance coverage through commercial insurers. Similarly, the majority of newly insured will receive their coverage through commercial insurers. In fact, analysts believe that most low-

income individuals will use their government-provided subsidies to purchase commercial insurance plans through the new insurance “exchanges.”

It is worth noting that the true “government take-over of health care” – an effort to implement a single payer health care system - was soundly rejected at multiple junctures during the House reform debate.

Q: The new “public plan” represents a threat to all of medicine.

A: H.R. 3962 is not the same bill as H.R. 3200. H.R. 3200 as introduced in the House contained the “robust” public option sought principally by the House Progressive Caucus – the liberal wing of the House Democrats. The “robust” option tied payments to providers to damaging Medicare levels. Moreover, it was estimated that as many as 11-12 million individuals would enroll in the plan. In contrast, the public plan construct included in H.R. 3962 was strongly opposed by the House Progressive Caucus precisely because it represents a significantly scaled-back version of the “robust” public plan provided for in H.R. 3200. Most importantly, the public plan in H.R. 3962 includes negotiated rates. Analysts estimate that only 6 million individuals nationwide will have enrolled in the new public plan by 2019. In contrast, Blue Cross currently covers 98 million individuals.

Q: I don’t trust the government and their “negotiated” payment rates under the public plan.

A: The legislative language of H.R. 3692 clearly and unequivocally provides for negotiated payment rates through the public plan. Accordingly, Congressional analysts have already interpreted that to mean that payment levels will be comparable to commercial/private pay levels.

Q: Considering the economic conditions in the U.S., this bill is too expensive for Congress to enact.

A: According to both the Congressional Budget Office (CBO) and the government’s Joint Committee on Taxation, “enacting H.R. 3962 would result in a reduction in the federal budget deficit of \$104 billion over the 2010-2019” budget period.

Q: How could the ASA urge a “yes” vote on a bill that doesn’t include strong medical liability reform provisions?

A: ASA strongly supports meaningful medical liability reform. However, it should come as no surprise to anyone that the Democratic majorities in the House and Senate do not support the types of meaningful reforms long-sought by ASA and others in medicine.

In fact, reform efforts will fare no better than they did during the Bush Administration when the Republican Party controlled both the U.S. House and U.S. Senate. Even at that time, reform

advocates such as the AMA and ASA were unable to pass meaningful MICRA-type reforms because of a lack of support.

Nevertheless, ASA is pleased that H.R. 3962 includes incentive payments to states to implement alternative medical liability reforms including certificate of merit and early offer programs. Should these provisions be enacted, we would hope that caps on non-economic damages will one day be among those reforms eligible for incentive payments. These provisions will have no effect on states that have already enacted medical liability reform.

Q: Why didn't the ASA just support the Republican alternative?

A: There are multiple Republican alternatives, none of which have sufficient support to pass. The most recent Republican alternative was introduced on November 3 and would reduce the number of uninsured by 3 million individuals by 2019. The bill has not received enough support to be a viable legislative alternative to other reform proposals.