

TRAUMA CENTER ASSOCIATION OF AMERICA



**COMPREHENSIVE FEDERAL LEGISLATIVE
ADVOCACY REPORT**

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INTRODUCTION

This memorandum outlines the Trauma Center Association of America's (TCAA) federal advocacy accomplishments and on-going legislative efforts in support of its partnership with the Eastern Association for the Surgery of Trauma (EAST) during the second quarter of 2011.

Capitol Hill Overview

The conversation in Washington, DC is being dominated by the need to raise the nation's debt limit before August 2. Republican leaders are demanding that any deal to raise the debt ceiling include an equal amount of spending cuts. Democrats and the Administration are willing to make significant discretionary and entitlement spending cuts, but are demanding revenue increases to be included as well. In June, a bill to raise the ceiling without any spending cuts failed to win House support, allowing Republicans to show that spending cuts must be included in order to have enough votes to raise the debt limit.

Various legislative proposals to raise the debt ceiling are under consideration, ranging from a series of short-term debt ceiling increases of under \$1 trillion each, to a long-term increase of over \$4 trillion. (Raising the nation's debt limit by \$2.5 trillion is anticipated to last through the 2012 elections.) While several Congressional groups are negotiating a package to simultaneously raise the debt ceiling and cut federal spending, focus has been on direct negotiations between the President and the Speaker of the House. Lately, however, talks between President Obama and Speaker Boehner have been stymied over the issue of tax increases. Throughout this process, both parties have been looking at reductions to Medicare and Medicaid, including changes to eligibility requirements, global caps on spending, decreases to Medicare indirect medical education (IME) payments and Medicaid provider taxes, as well as the Medicaid federal medical assistance percentage, or matching rate.

In addition to monitoring the deficit reduction debate for impacts on Trauma Centers and Systems, TCAA has been working through a number of different avenues to promote funding for the trauma provisions included in the Affordable Care Act (ACA). Furthermore, TCAA continues to comment on proposed regulations issued by the Centers for Medicaid and Medicare Services (CMS) as it seeks to implement the health reform law and promote sound policies that recognize the unique nature of trauma care. Finally, TCAA remains focused with its trauma colleagues on reauthorization of the Pandemic and All-Hazards Preparedness Act (PAHPA), in an effort to ensure that stronger language is included in support of Trauma Centers and Trauma Systems.

PURSING FUNDING FOR TRAUMA PROVISIONS

Two-Pronged Funding Strategy

As Congress wrestles with negotiations on the debt ceiling, it is also moving ahead with the fiscal year (FY) 2012 appropriations process, including the Labor-Health and Human Services appropriation bill, which House appropriators have targeted for a cut of \$18 billion compared to FY 2011 spending levels on this bill. Recognizing that the federal budget is tighter than ever, TCAA and its trauma partners are proceeding with a two-pronged strategy in an effort to secure funding for the ACA trauma provisions. The first element of the strategy is to urge members of the Senate and House to support funding for the trauma provisions through the FY 2012

appropriations process. To this end, TCAA worked with its members to urge their Senators to submit funding requests to the Labor-Health Committee for FY 2012. Thanks to these efforts, multiple Senators submitted the request for the Committee's consideration. Over in the House, TCAA worked with Reps. Mike Burgess (R-TX) and Gene Green (D-TX) in their efforts to lead a letter to the House Appropriations Committee, asking the Labor-HHS Appropriations Subcommittee to allocate \$28 million for the trauma programs. Specifically, it asks for \$11 million for Trauma Care Center Grants, \$11 million for Trauma Service Availability Grants, \$3 million for Trauma Systems Planning Grants, and \$3 million for Regionalization of Emergency Care Pilots. While over \$224 million is authorized for the programs under the ACA, TCAA and trauma community decided to ask for a smaller amount during the tough budget year in an attempt to first get a foot in the door. Getting an initial appropriation, even if it starts small, will make it easier to gradually increase it to full funding levels.

Twenty members signed on to the letter authored by Reps. Burgess and Green calling for funding of trauma programs. The Representatives who signed on are:

Dutch Ruppersberger (D-MD)
David Wu (D-OR)
David Scott (D-GA)
Shelley Berkley (D-NV)
Silvestre Reyes (D-TX)
Dennis Kucinich (D-OH)
Jan Schakowsky (D-IL)
Charles Gonzalez (D-TX)
John Sarbanes (D-MD)

Dale Kildee (D-MI)
Elijah Cummings (D-MD)
Bill Pascrell (D-NJ)
Henry Waxman (D-CA)
Debbie Wasserman Schultz (D-FL)
John Conyers (D-MI)
Steve Cohen (D-TN)
Ron Kind (D-WI)
Joe Courtney (D-CT)

The Senate and House Appropriations Committees will likely not move their respective Labor-Health bills until the fall when the debt ceiling issue is resolved and Congressional spending parameters are clearer. TCAA will continue to work with its Congressional champions to pursue funding during the remainder of the annual appropriations process.

The second element of TCAA's two-pronged strategy has been to urge the Administration to use some of the discretionary dollars at HHS' disposal (e.g., the ACA's Prevention and Public Health Fund) to support the trauma programs included in the ACA. This ongoing effort involves continued advocacy efforts with both the agencies with authority over the ACA trauma programs (HRSA and ASPR) as they contemplate how to allocate dollars within the context of this fiscal year, as well as future fiscal year spending proposals.

Advocacy Tools

TCAA continues to update its advocacy tools (fact sheets, talking points and sample letters to members of Congress), which are available on TCAA's web site for supporters and members to use in their efforts to build Congressional momentum for trauma funding. TCAA encourages AAST members to use these resources as they join in our efforts to pursue funding for the trauma programs. Sustained member involvement will remain crucial as we make the case for funding.

OTHER FEDERAL ACTIVITIES

TCAA Responds to Federal Regulatory Proposals with Impact on Trauma Care

On June 20, TCAA submitted comments to the Centers for Medicare and Medicaid Services (CMS) regarding a section of its proposed Hospital Inpatient Prospective Payment System rule related to reducing Medicare hospital readmissions. In its comments, TCAA argued that in implementing the new readmissions policy, it is imperative to take into account the unique nature of traumatic injuries, which often pose complications from the initial injury and require planned readmissions and hospital transfers. TCAA is very concerned that the proposed readmissions measures fail to adequately exclude patients with traumatic injuries. For example, CMS did not include any exceptions for heart failure and pneumonia measures. Heart failure can be exacerbated by traumatic injury and pneumonia can be induced following a serious traumatic injury and required ventilation. In the comment letter, TCAA urged CMS in its final IPPS rule (expected to be released sometime in August) to exclude all trauma patients from the readmissions measures due to how frequently their conditions cause a return to a qualified Trauma Center.

Additionally, TCAA, in concert with the National Association of Public Hospital (NAPH), expressed its belief that CMS must adjust for risks related to trauma care, and recognize the unique issues related to trauma care in implementing the readmissions reduction policy. Without such risk adjustment, Trauma Centers that provide care to trauma patients in accordance with their mission, medical necessity and ethical considerations, as well as compliance with EMTALA regulations, will be unfairly penalized under the proposed metrics.

TCAA is closely examining a number of other recent proposals related to the ACA, and will keep members apprised of opportunities to submit their own comments to CMS as well.

Trauma Reimbursement

John Osborn, of the Mayo Clinic and TCAA board member, Jennifer Ward of TCAA, and Holland & Knight staff met with officials from the Department of Health and Human Services regarding TCAA's application to the National Uniform Billing Committee (NUBC) to pursue a hospital disaster revenue code for situations in which a hospital has to activate its disaster plan and/or Emergency Operations Center. The NUBC previously advised TCAA to identify an objective, industry-wide definition of what constitutes a "hospital disaster." The group met with the HHS Assistant Secretary for Preparedness and Response's staff member, Greg Margolis, to brainstorm about how to best develop a definition, which currently does not exist. TCAA will be continuing this conversation with its hospital partners in the coming months.

Pandemic and All-Hazards Preparedness Act (PAHPA) Reauthorization

TCAA and its trauma association partners have been working with the Senate Health, Education, Labor and Pension (HELP) Committee to provide feedback and recommendations on the Committee's bipartisan effort to reauthorize PAHPA this year. The law was created five (5) years ago with bipartisan support, and authorization is set to expire at the end of this year. PAHPA created the HHS Assistant Secretary for Preparedness and Response, and provides funding to a variety of areas, including hospital preparedness programs. The law also contains a

set of preparedness goals, which drive HHS's priorities. To keep it bipartisan and non-controversial, Congressional leaders have determined that the reauthorization bill will not contain big changes, just small improvements. TCAA and its trauma partners have developed several non-controversial changes to strengthen PAHPA, including stronger language in support of Trauma Centers and trauma systems in the law's preparedness goals. Since decisions for national preparedness are based on stated goals, explicit inclusion of trauma language could help ensure that Trauma Centers are not overlooked during funding decisions. In addition, TCAA is promoting liability protections for volunteers offering trauma services in emergencies. While the current version of the House Energy & Commerce Committee's PAHPA reauthorization bill does not include the TCAA recommendations, TCAA and its colleagues are continuing to meet with the Committee, as well as the House Homeland Security Committee, to make them aware of suggestions on how to improve the last PAHPA bill.

CONCLUSION

Growing concern over the national debt and spending deficits is forcing Congress and the Administration to seriously consider significant spending cuts and changes to entitlement programs. In this climate of funding uncertainty, TCAA will need to continue its advocacy efforts on an array of fronts to ensure that fair funding for trauma care remains a priority. TCAA looks forward to working with its members and supporters to provide critical information in the policy debates ahead.