

An endoscopist's guide to political involvement: because inaction is no longer a reasonable alternative

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With the passage of the Affordable Care Act and other health care reform efforts, there has been heightened awareness of the intersection between politics and medicine. Physicians are still unsure about the extent to which health care reform will affect them. However, it is certain that decisions made in Washington, DC, and at the state level will affect the practice of each endoscopist working in the United States. Too often we forget that our practice of endoscopy can be affected more by legislative and regulatory decisions than by the results of outstanding research studies. For example, although groundbreaking endoscopic technology may have the potential to have a positive impact on patients, use of that technology may be limited if government agencies fail to approve it (eg, U.S. Food and Drug Administration [FDA]) or fail to reimburse for its use (eg, Centers for Medicare and Medicaid Services [CMS]). Because of the significant impact of government on the practice of medicine by endoscopists, it is imperative that practitioners understand how to develop influence and have a voice in this process.

HOW LAWS ARE CREATED

To be a successful advocate, one needs a basic understanding of the political system. If you are up to speed on politics in the United States, skip to the next section. Otherwise, here it is in a nutshell. Laws originate in the Congress. The U.S. Congress is composed of the Senate with 100 members (2 members from each state) serving 6-year terms and the House of Representatives with 435 members (apportioned based on population) serving 2-year terms. Any member of Congress may write a bill, in hopes of it becoming a law. In fact, the 110th Congress (serving from 2007 to 2009) introduced nearly 14,000 bills, but only 449 became law. Of these 449 laws, 144 did nothing but rename a federal building.¹

With so few bills becoming law, the bureaucratic process of creating a law is clearly deliberate. After the member introduces a bill, it is typically referred to a committee (Table 1) by the Speaker of the House or Senate Majority Leader. Multiple committees may have overlapping jurisdiction over an issue; thus, a bill may ultimately be sent to several committees. The committee chair refers the bill to the appropriate subcommittee, who sends it back to the

full committee when its action is complete. If the committee chooses to consider the bill, a vote is held, and the bill may be sent back to the full House or Senate. During the committee process, input on the bill may be solicited from federal agencies, interest groups, expert testimony, or public hearings. It is at the committee level where much of the Congressional deliberation occurs.

If a bill makes it out of committee, it is sent back to the full House or Senate for consideration by the entire body. At this point, the Senate Majority Leader or Speaker of the House determines which bills will come up for a vote and when that vote will occur. When a bill has passed both houses of Congress, any differences in the 2 versions of the bill must be reconciled by a conference committee composed of members from the House and Senate. A single compromise bill is then sent back to both chambers of Congress for a final vote. If the bill passes both chambers, it is sent to the President to be signed into law (or vetoed).

HOW LAWS ARE IMPLEMENTED

After a bill is signed into law, its implementation is largely determined by federal agencies, typically within the Executive Branch. The most relevant examples for endoscopists fall under the Department of Health and Human Services (DHHS) and include the National Institutes of Health (NIH), Centers for Disease Control and Prevention (CDC), the FDA, and CMS. The NIH and CDC are not regulatory agencies, but they do significantly determine the effects of legislation because they are responsible for the implementation of Federal laws. The FDA and CMS are regulatory agencies and thus have quasi-judicial powers to interpret laws. With the passage of health care reform legislation, DHHS agencies and the DHHS Secretary have markedly increased power and influence.

"Rule making" is the key tool available to these agencies in determining how laws are implemented. Laws passed by Congress provide the framework, but the process of rule making is where sometimes vague statutes in the law are translated into more specific regulations. Once these rules are created by agencies, they carry the same authority as law. During the rule-making process, there may be opportunity for public comment, and the Ameri-

TABLE 1. List of committees and subcommittees relevant to the American Society for Gastrointestinal Endoscopy

Committee	Jurisdiction
Senate committees	
Budget	Reports to Senate on all matters related to the budget
Finance	Has a health care subcommittee. Responsible for legislation related to Medicare, Medicaid, and other health programs under the Social Security Act
Health, Education, Labor, and Pensions	Reports on issues related to public health, medical education, biomedical research and development
Judiciary	Encompasses tort liability, including medical malpractice
Senate Appropriations	Has subcommittee on Labor, Health and Human Services, and Education that is responsible for bills related to the National Institutes of Health, Centers for Disease Control and Prevention, Centers for Medicare and Medicaid Services, and the U.S. Food and Drug Administration
House of Representatives Committees	
Appropriations	Has subcommittee on Labor, Health and Human Services, and Education that is responsible for bills related to the National Institutes of Health, Centers for Disease Control and Prevention, Centers for Medicare and Medicaid Services, and the U.S. Food and Drug Administration
Budget	Reports to the House on all matters related to the budget
Education and Labor	Covers measures regarding workers' health care and some medical education issues
Energy and Commerce	Has a Health subcommittee. Responsible for items related to Medicare, Medicaid, public health, mental health, medical research, nationwide health insurance plans, and some medical education issues
Judiciary	Encompasses tort liability, including medical malpractice
Ways and Means	Has a Health subcommittee. Health proposals funded by Federal revenue fall under this committee (eg, Medicare, Medicaid)

can Society for Gastrointestinal Endoscopy (ASGE) typically sends a letter to the relevant agency highlighting areas where proposed policies could adversely affect its members or the members' patients. Relevant examples of rule-making by the CMS include the recent decision to stop payments for consultation codes and the choice of quality measures to be included in the Physician Quality Reporting System (formerly the Physician Quality Reporting Initiative).

Federal agencies can also affect endoscopists through control of discretionary spending. The NIH or the Agency for Healthcare Research and Quality, for example, can channel funding toward specific research programs of interest to endoscopists. The CDC can develop programs that improve patient awareness about, or access to, screening colonoscopy.

HOW WE CAN INFLUENCE THE PROCESS

There is an opportunity to exert influence at each step of the political process, at both the state and federal levels.

This extends from the bill-writing phase to implementation of a law. If a Congressional "fix" for an issue is needed, then a bill can be written and members of Congress can be solicited to sponsor and cosponsor it. When a bill goes to committee, lobbying efforts can then be directed toward members of that committee. If the bill is one of the select few that actually makes it back for a full House or Senate vote, then extensive efforts are needed to ensure that there are enough votes in support of the bill. Regardless of whether a bill is being supported from inception or whether an existing bill of interest needs ASGE member support, it is very important to reach out to Congressional members.

As an example of the ways in which an organization like the ASGE can seek change in Washington, let's consider 3 important topics: ambulatory surgical center (ASC) payment reform, copayments for screening colonoscopy, and funding for endoscopic research. Regarding ASC payments, the CMS has chosen to base its annual update for ASC payment rates on the Consumer Price Index (CPI) instead of the Hospital Market Basket Index (HMBI). The CPI measures changes in consumer spending, like the

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