

## Hijacking the AMA's Endorsement:

### A Tale of Two Press Releases

By Robert B. Sklaroff and Robert R. Guzzardi

Did the AMA truly endorse ObamaCare this weekend? Not really, notwithstanding media reports.

To understand the dynamics of what transpired, it is necessary to depict the interaction of the House of Delegates (which convenes semi-annually) and the President (who conducts business in the interim). All actions of the latter must be divulged to and corroborated by the former, recognizing that public emergence of any schism would foment embarrassment ...enervating to the AMA and, thus, to both.

Why physicians cannot, instead, become energized by the healthcare reform debate is dramatized by events of the past five days. They can easily be tracked by consulting one page on the AMA's web-site...after one learns how to interpret both "commissions" and "omissions."

#### Policy is Codified

What happened during this Interim Meeting can be divined following a critical review of the hyperlinks originating on the "Meeting Highlights" page (<http://www.ama-assn.org/ama/pub/meeting/highlights.shtml>).

During this convocation, four core principles adopted at the Annual Meeting this past June were reaffirmed (pluralism, freedom of choice, freedom of practice, and universal access for patients) and elucidated thusly:

- Health insurance coverage for all Americans;
- Insurance market reforms that expand choice of affordable coverage and eliminate denials for pre-existing conditions or due to arbitrary caps;
- Assurance that health care decisions will remain in the hands of patients and their physicians, not insurance companies or government officials;
- Investments and incentives for quality improvement and prevention and wellness initiatives;
- Repeal of the Medicare physician payment formula that triggers steep cuts and threaten seniors' access to care;
- Implementation of medical liability reforms to reduce the cost of defensive medicine; and
- Streamline and standardize insurance claims processing requirements to eliminate unnecessary costs and administrative burdens

## “Chicago-Style Politics” Intervene

In lieu of addressing the “public option” controversy, AMA rendered this generic endorsement, even as other entities within the structure of organized medicine—both independent of the AMA and subsidiary thereto—opted to deviate from this script.

The not-so-silent hand that had created this discrepancy was unearthed during a site-visit this past summer to the Illinois Medical Society headquarters, which had staked-out a neutral posture. The AMA’s imprimatur was juxtaposed by opposition by the Chicago Medical Society because the former had been garnered—at least in part—due to the Administration’s pledge to endorse the annual “doctor fix,” reversing the 21.5% Medicare reimbursement cut scheduled for January, 2010.

That physicians are paid less than they were at the beginning of this millennium (despite rising overhead) is to be ignored; rather, their endorsement is to be extorted, even if the payoff is subject to being rescinded during subsequent years. The shifting alliances and pledges afoot are illustrated by how endorsements were amassed from other stakeholders, only to be undermined by a classic “bait and switch” tactic. Recall that insurers had funded the iconic “Harry and Louise” kitchen-table-discussion of complaints against ClintonCare, while this year’s couple had endorsed ObamaCare. Through it all, the Administration shoulder-shrugged, claiming Congress was merely functioning independently.

## The President Pre-Empts

Immediately after the House of Representatives approved ObamaCare Saturday night, the AMA President hailed its passage. This transpired before the House of Delegates could assess resolutions in opposition thereto, scheduled for testimony on the following day in Reference Committee B. His awareness thereof, which was overtly phrased as intending to reign-in his out-of-touch Board of Trustees (by, for example, mandating roll-call votes thereof) constituted a brazen challenge to this policy-making body to dare to undo what he had already trumpeted.

As anticipated, it relented. Gone were citations of policies promoting Health Savings Accounts and the need to rescind the McCarran-Ferguson antitrust pre-emption enjoyed by health insurers, for these were inimicable with ObamaCare. Inserted were specifications regarding insurers (“elimination of denials due to pre-existing conditions is understood to include rescission of insurance coverage for reasons not related to fraudulent representation”) and insurance exchanges (“be self-supporting; have uniform solvency requirements; not receive special advantages from government subsidies; include payment rates established through meaningful negotiations and contracts; not require provider participation; and not restrict enrollees’ access to out-of-network physicians”).

## The House Sends a Message

How did the House transmit its displeasure with the President's unilateral action, without communicating overt antagonism? By compiling its objections to key facets of ObamaCare, to wit:

- Reduced payments to physicians for failing to report quality data when there is evidence that widespread operational problems still have not been corrected by the Centers for Medicare and Medicaid Services;
- Medicare payment rate cuts mandated by a commission that would create a double-jeopardy situation for physicians who are already subject to an expenditure target and potential payment reductions under the Medicare physician payment system;
- Medicare payments cuts for higher utilization with no operational mechanism to assure that the Centers for Medicare and Medicaid Services can report accurate information that is properly attributed and risk-adjusted;
- Redistributed Medicare payments among providers based on outcomes, quality, and risk-adjustment measurements that are not scientifically valid, verifiable and accurate;
- Medicare payment cuts for all physician services to partially offset bonuses from one specialty to another; and
- Arbitrary restrictions on physicians who refer Medicare patients to high quality facilities in which they have an ownership interest; and
- Creation of an Independent Medicare Commission (or other similar construct), which would take Medicare payment policy out of the hands of Congress and place it under the control of a group of unelected individuals; and
- Replacement of the sustainable growth rate (SGR) with a Medicare physician payment system that automatically keeps pace with the cost of running a practice and is backed by a fair, stable funding formula; and
- Creation of a single-payer system.

This “something for everyone” approach served to beg the question of whether the specifics of ObamaCare should have been endorsed. Meanwhile, however, the weight of the AMA—representing all of 17% of practicing physicians—can now be used by the Administration to administer this poison-pill program to a reluctant America.

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