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Stumbling Blocks on the Road to Reform

by Jamie Young

Does anybody remember federal health care reform? Looking into our rear view mirrors, it seems pretty far away. Although many people believe that the Clinton plan and other reform legislation were poorly written—or just plain unnecessary—there were provisions good for oncology. Most notably was the language concerning coverage of patient care costs of clinical trials. Inclusion of language requiring coverage of these costs was a hard fought battle by many groups, especially the National Coalition for Cancer Survivorship, the American Society of Clinical Oncology (ASCO), and the Association of Community Cancer Centers (ACCC).

The political pundits and soothsayers are already churning out predictions for next year. The outcome of the November elections may result in a change in the make up of the Congress that could drastically affect the health care reform debate. The time and energy that went into this year's efforts to assure cancer patients access to clinical trials will have to be brought forth once again in a newly seated Congress.

Yet, major gains are being made to assure patients access to clinical trials that meet criteria similar to those put forth by ASCO for federal reform. In Rhode Island, for example, Governor Bruce Sundlun formally signed S. 2623 into law on October 13, 1994. The law, sponsored by State Senator John R. O'Leary, came from the work of the Rhode Island Cancer Task Force, and requires health insurers to provide coverage of new cancer therapies still under investigation. The law is limited to Phase III or IV clinical trials that have been approved by the National Institutes of Health in cooperation with National Cancer Institute CCOPs; the FDA in the form of an IND exemption; the Department of Veterans' Affairs; or a qualified nongovernmental research entity as identified in the guidelines for NCI cancer center support grants. It is believed that this law is the first of its kind in the nation! ACCC worked with ASCO, the Society of Rhode Island Clinical Oncologists, and the American Cancer Society to assure that the bill not only passed but also was devoid of some amended language that would have gutted the bill. The new law takes effect on January 1, 1995, and sunsets on December 31, 1996.

Comparable clinical trials legislation in California, Senate Bill 1816, was vetoed on September 30, 1994, by Governor Pete Wilson. In his veto message, the Governor explained that clinical trials "by their nature" are unproven and investigational. He also stated that, "it is important to note that this bill will only be available to privately insured persons." Those covered by self-insured employer health benefit plans, exempt from state laws under ERISA (the Employee Retirement Income Security Act of 1974), would not be afforded this benefit, he explained.

STICKING POINTS

Regular readers of *Oncology Issues* and attendees of ACCC's regional oncology symposiums recognize that regulatory reform is taking a back seat to market reform in many areas. A recent meeting in Minneapolis illustrated that even in states where managed care has been around for years the system continues to evolve. A member of the Minnesota Society of Clinical Oncology stated that in the next couple of years only four or five oncology groups would exist in the state (with the exception of a few solo practitioners in rural areas). Everyone else will have been assimilated into large networks. The much talked about MinnesotaCare program, enacted in 1992, remains mostly on track, although the timetable previously set for portions of the law has been changed. Integrated Service Networks comprised of employer, provider, and insurer arrangements, which provide a full range of health services, were originally to have begun operating on July 1, 1994. A revision in the law pushed the date forward until July 1997.

Other states continue to have problems in their own reform attempts. Vermont, for example, has been working for two years to devise a plan for implementing universal coverage. Earlier this year the Republican-controlled Senate and Democrat-controlled House were unable to finalize a plan. Similarly, in Florida, neither the regular session nor a special session of the legislature was able to agree on final details for the Florida Health Security Plan.

A major stumbling block to state health care reform is ERISA. Recently, the October 17, 1994, issue of *State Health Notes* described the problem under a headline that read "ERISA Still a Sticking Point; State Officials Lament its Impact." According to the article, state policy makers attending a recent conference singled out ERISA "as the make-or-break factor" in their efforts to forge ahead with health care reform. Furthermore, the article read, "attendees warned that without a change in the federal ERISA statute, state initiatives will fall flat, as a growing number of businesses leave the regulated insurance market and opt to self-insure their employees."

In response, some lawmakers are seeking to negotiate compromises with business leaders and federal officials. In Washington state, for example, the Health Services Commission, created by the legislature to devise and implement reform in that state, scheduled a three-day workshop in part to address the implications of not receiving an exemption this year from ERISA. ■

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