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LEGISLATIVE UPDATE

Michael Buchele, MD, FAAEM

CAL/AAEM Board and Representative to the CAL/ACEP Government Affairs Committee

Major political high focus issues include the following:

Proposition 67: As you have by now heard, Proposition 67 was defeated in the November 2nd elections. While this is a disappointing result to all of the efforts of the CPEC coalition (consisting of CMA, Cal/ACEP, Cal/AAEM, the Emergency Nurses Association of California, California Professional Firefighters, and the California Primary Care Association) and all of the individual efforts of emergency physicians across the state, we should not lose sight of what was accomplished during this effort to help save the "safety net" for our state's Emergency Medical Services:

First, we demonstrated to the Governor, the legislators, and the public, that we emergency physicians can get organized (with other emergency groups) to try to save California's EMS system, when no one else seems to be willing to make the hard decisions and efforts to do so.

Second, like President George Bush said, we "earned some political capital" with our efforts. Many legislators became much better educated about the problems facing the hospitals, trauma centers, and emergency departments across the state. They hopefully are ashamed that we have had to do the work that they have been unable to do. Our failure to be successful means that the ball is now back in their court, since they can't deny that California's emergency services are nearing a crisis point. Based on our efforts, we have found many legislators' doors opening to us, and many dialogues have begun that will carry on in 2005.

Third, we found out that our Governor is as much a politician as all the other legislators: he did not step up to support our effort since he did not want to be "tainted" by supporting any new taxes or fees. He did demonstrate that most of the Propositions he publicly supported passed, and those he took a public stance against failed. He "kept mum" about our Proposition 67—too bad, because had our effort succeeded, he could have shown he was a "non-politician" who was more concerned about saving California's safety net than he was to save face on the tax/fee issue, and the

funds to save the system would not have to come out of the State budget. Now the problem still exists, and is getting worse, as the red ink continues to attack the state budget.

Fourth, we were massively outspent by SBC, one of the 30 most powerful corporations in America. They enclosed anti-Prop 67 literature in each phone bill that was sent out during the final months before the election—clearly they were not “fair and balanced” by allowing our side to submit a rebuttal to their arguments with their mailings. Yet despite the millions of dollars they spent to defeat us, we still made it a respectful contest, and we had an extremely good showing for the amount of money we had to use for our arguments. If we had had more time and opportunity to demonstrate how much could be done with the phone fees, and how little it would have cost the average cell phone user, we might just have won.

Fifth, we have demonstrated that we are looking out for our patients, and that includes potentially every Californian who might have to come to our emergency departments each year. We are not going away, and we are clearly the “good guys” in this battle—we see everyone who presents to our ERs, turn no one away, and are doing our best despite the unjustness of having to abide by the “unfunded mandates” that are now bankrupting hospitals and causing ER and hospital closures. The Governor and the legislators know this, and as we continue to speak up, many will want to be “good guys too.”

Because 2004 was an election year, and because the Governor is on a learning curve but with a “no new taxes” mindset, he has vetoed most of the bills that did make it to his desk that might have helped our cause—basically, if it costs money, his veto pen was there. In the coming year, the Governor will still have to work with a Democratic majority legislature. Coalitions and cooperation and compromises will have to be forged, and AAEM, ACEP, Cal/AAEM, and Cal/ACEP will need to work together to educate as well as apply pressure to the legislators as we continue to search for solutions to the impending crisis in California’s emergency care and the burden of the uninsured patients and the unfunded mandates.

Luckily, some of our major supporters, such as Perata and Dunn and others, have been returned to Sacramento, and we will be working with them to

reintroduce revised and hopefully improved bills to continue in the tradition of SB 1679 (Perata) and SB 1569 (Dunn). We need to continue to press forward to have HMO’s pay reasonable and customary charges (not just what Medicare or Medical or certain health plans pay) for the services provided by ER’s and ERMD’s for their non-contracted patients who are treated by us in the ED.

The Maddy fund: These funds (about 20-25 millions/year) have not always made it through the counties to the physicians to help pay for uncompensated care. We need to continue to push to not only maintain the fund payments, but to audit the program to make sure the counties indeed deliver this money to the physicians for their uncompensated care and not divert it to other programs—which is done in many counties across the state.

Homeland Security: We need to continue to point out that there is no “homeland security” if the Emergency Medical Services System across the state fails. Not only is there the threat of terrorism (chemical, biological, nuclear, and garden variety bombings), but we continue to have the ongoing problems of earthquakes, epidemics, traffic accidents, and violence in general. It should transcend “conservative” or “liberal” philosophies that it makes sense to have the best possible system in place to be ready for such problems. We need to continue to point this out in our discussions, as we search for new sources of revenue to pay for this system.

Well, these are some of my thoughts as we enter a “non-election” year of 2005. Please stay tuned, stay aware, and stay committed—we know what needs to be done, and we must continue the education of our patients, our communities, the local media, and our legislators if we hope to solve the crises that loom before us.

Respectfully Submitted,
Michael Buchele, MD, FAAEM