Anesthesiology Advocacy Post-Health Care Reform… Now More than Ever

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Health Care Reform is the New Law of the Land

H.R. 3590

The Patient Protection and Affordable Care Act (PPACA)

H.R. 4872

The Health Care & Education Affordability Reconciliation Act of 2010

5/28/15

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And despite the recent elections, Congress is unlikely to repeal it.

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What ~~did~~ Didn't we get with HC reform?

- SGR Fix
- Truth and Transparency
- Rural Access to Anesthesiology Care

- On the plus side - No Proliferation of 33% Payment Rates (i.e. no public plan based on Medicare rates)

What Did We Get?

- **New Independent Payment Advisory Board (IPAB)**
  - Broad power to impose across-the-board and/or individual cuts by specialty or procedure (starting 1/1/14) – on top of SGR
- **Medicaid expansion to 133 percent FPL**
- **Mandatory and punitive PQRI (1/1/14)**
- **ACOs and bundling coming (2012)**
- **An unprecedented number of regulations**

Some Good News for Pain

Pain Care Coalition (PCC) Provisions included in Health Reform Bill

- Authorizes an Institute of Medicine (IoM) Conference on Pain Care
- Expansion of Pain Research through NIH Pain Consortium
- New Program for Education and Training in Pain Care

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ASA Post-Reform Key Issues "Watch" List

- Health Insurance Reforms
- Independent Payment Advisory Commission (IPAB)
- Medicaid Expansion
- "Non-Discrimination" in Health Care
- Mandatory Physician Quality Report Initiative (PQRI)
- Sustainable Growth Rate (SGR)

Others to "Watch"

- Secretary Authorized to Adjust "Mis-valued" Codes
- National Pilot Program on Payment Bundling
- Medicare Shared Saving Program – Accountable Care Organization (ACOs)
- State Demonstration Programs To Evaluate Alternatives To Current Medical Tort Litigation
- "Quality Improvement" Initiatives

ASA Post-Enactment Initiatives

- **Looking for Opportunities to Repeal or Revise Onerous Provisions** ***(Legislative Repeal of Entire Bill is a Non-Starter under Current Democratic Administration)***
- **SGR**
- **Working with Strong Surgical Coalition**
- **Preparing for Massive Regulatory/ Rulemaking Effort to Implement Law**
- **ASA Member Involvement - Engage 2010**
  - Continued Legislative Engagement
  - Political Engagement - 2010 Elections

Health Care Reform Moving Forward: Less of a Legislative Strategy

"It's fair to say that the next phase is going to be less about legislative action than it is about managing the change that we've brought,"

White House senior advisor David Axelrod

"[T]he best arena for Obama to execute his plans may be his own branch of government. That means…more deployment of his ample regulatory powers and the wide-ranging rulemaking authority of his Cabinet members."

LA Times 10/6/10 latimes.com/news/nationworld/nation/la-na-obama-staff-strategy-20101007,0,6919242.story

For ASA, The Work with the Administration has been Ongoing

- **HHS/AHRQ**
  - Comparative Effectiveness Research (CER)
  - Liability Reform Demo
  - Health Information Technology/EHRs
  - OIG "Company Model"
- **CMS**
  - Value-based Purchasing
  - PQRI
  - Interpretive Guidelines
  - Teaching Rule implementation (TOC)

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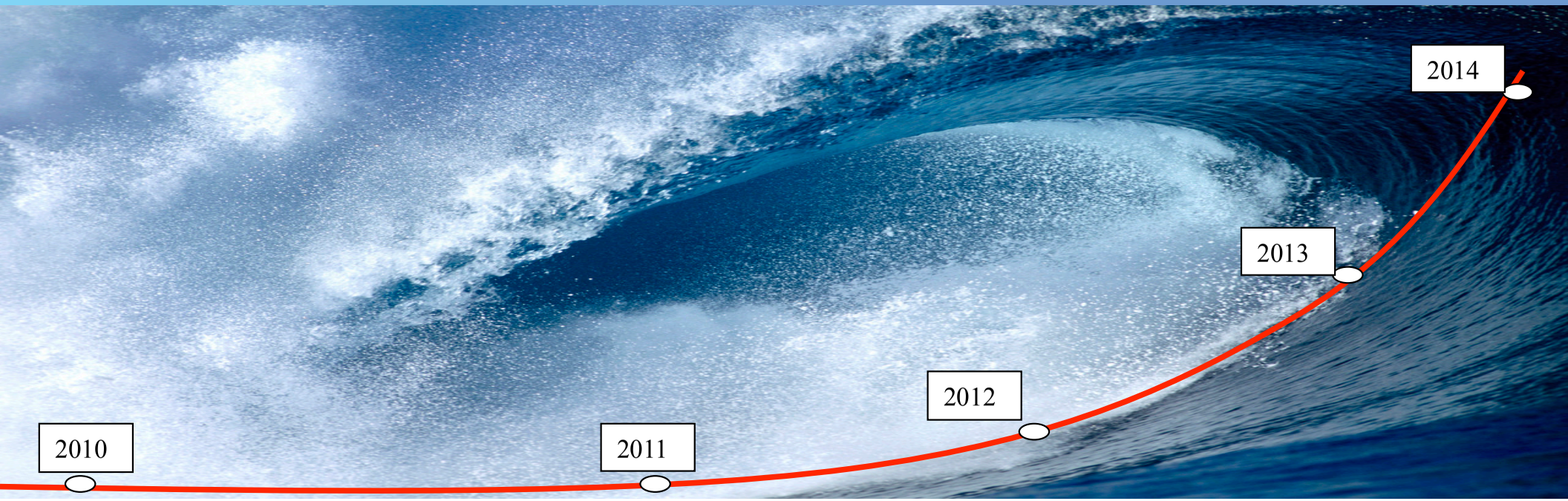
Administration Work Cont.

- **FDA**
  - SEDASYS® (a bit of a bright spot for now)
  - Risk Evaluation and Mitigation Strategies (REMS) for opioids
  - New pain treatment options (ACTION initiative)
  - Propofol and other Drug Shortages (Big Issue)
- **DEA**
  - Propofol Scheduling (Soon)
  - eRx Controlled Substances

But this is just the tip of the iceberg

A Tsunami of Regulations Is About to Hit!!!



In the coming years, the following new regulations, impacting anesthesiology, will be required by PPACA

2010

- **Establish a Patient Centered Outcomes Research Institute as part of the comparative effectiveness initiative**
- **Establish a Workforce Advisory Committee to develop a national workforce strategy**
- **Establish a commissioned Regular Corps and a Ready Reserve Corps for service in a time of national emergency**
- **Begin implementation of National Pain Care Policy Act (IOM, NIH, Education and Training)**

2011

- **Award 5-year demonstration grants to states to develop, implement and evaluate medical liability alternatives**
- **Create a new Innovation Center within CMS**
- **Develop a national quality improvement strategy to improve delivery of health care services**

A Tsunami of Regulations (Cont.)

2012

- **Reduce Medicare payments for preventable hospital readmissions (and a 1% reduction for HACs by 2015)**
- **Allow providers organized as ACOs to share in the cost savings they achieve for the Medicare program**
- **Establish a hospital value-based purchasing program and develop plans to implement one for ASCs as well**
- **Develop a value-based modifier for physicians, phased in by 2015 with a plan submitted to Congress by 2011**
- **Establish a Medicaid bundled payment demonstration project for hospital and physicians**
- **Create a Medicaid global payment system demonstration project to study a global capitated payment structure**

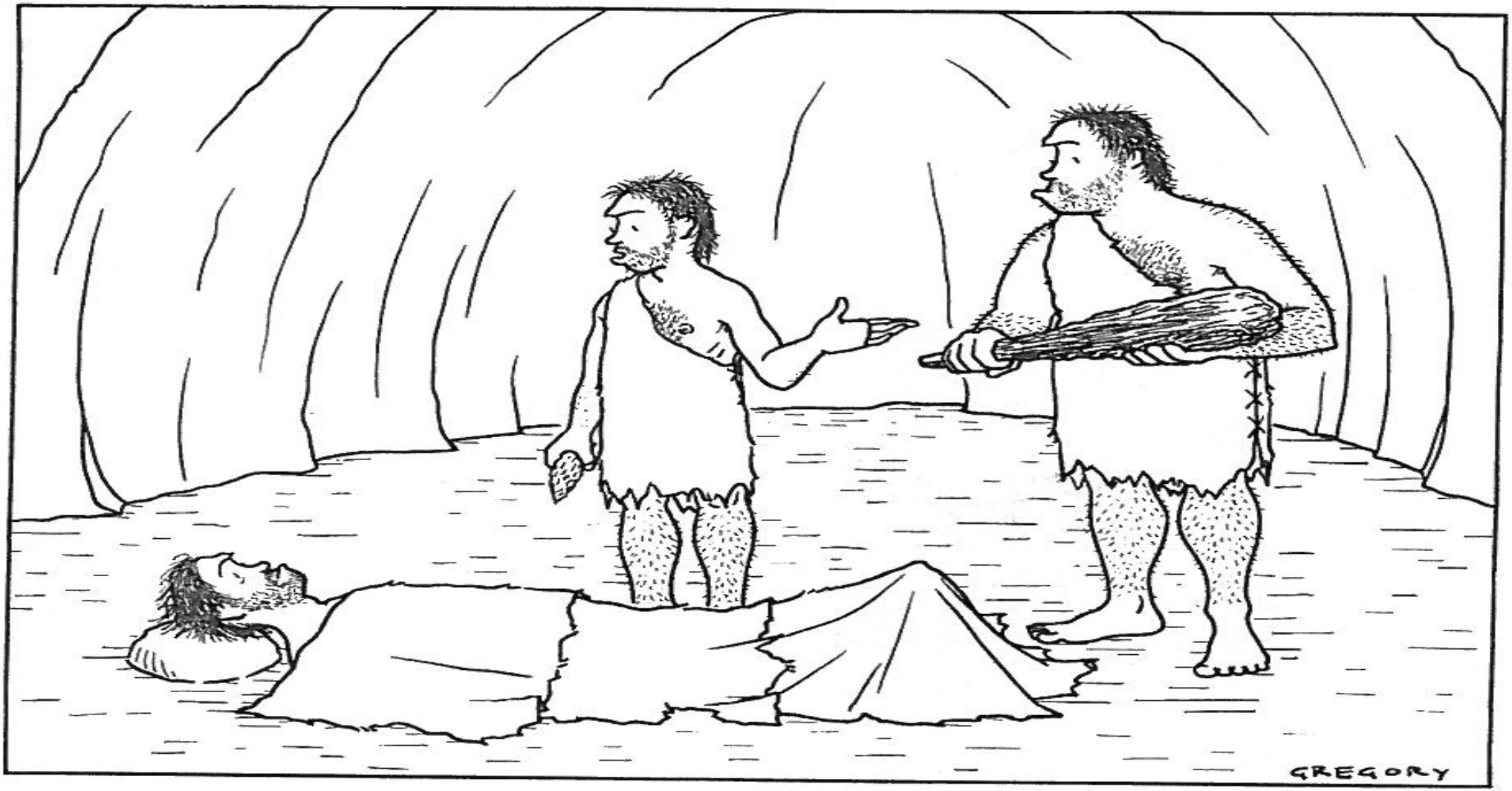
2013

- **Establish a national Medicare pilot program to develop and evaluate bundled payment for acute, inpatient and outpatient hospital services, physicians services, and post-acute care services**
- **Require disclosure of financial relationship between health entities, including hospitals and physicians, and manufacturers of drugs, biologics and supplies**

2014

- **Create an essential health benefits package that provides a comprehensive set of services**
- **Permit states the option to create a Basic Health Plan for uninsured individuals between 133-200% of federal poverty**
- **Establish an Independent Payment Advisory Board (IPAB) to recommend legislative proposals to reduce the growth of Medicare spending if spending exceeds a target growth rate (nominees due earlier)**
- **Expand Medicaid to include individuals up to 133% of federal poverty**
- **Impose penalty for non-participation in Physician Quality Reporting Initiative (PQRI)**
- **Prohibit health plans from discriminating against paraprofessionals in plan participation**

Meanwhile, government officials don't really understand your profession,

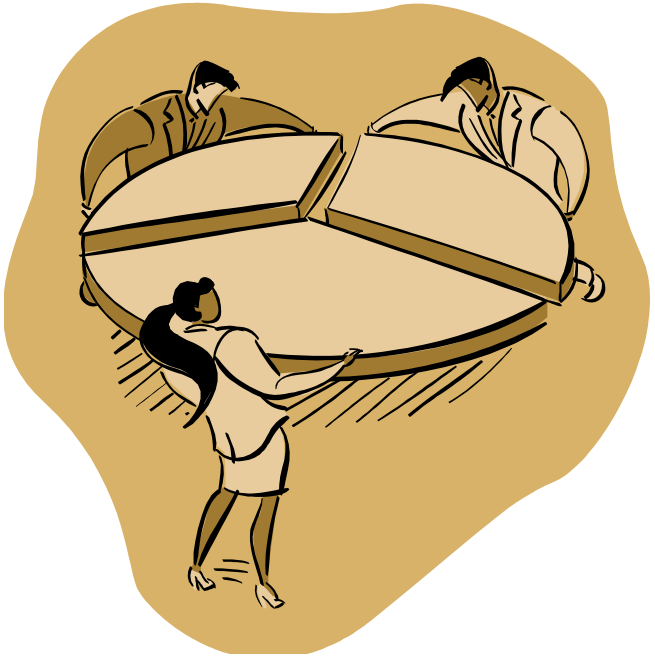


"I'll be performing the operation, and this is the anesthesiologist."

Cartoon Courtesy of The New Yorker

Those implementing the laws have more work than they can handle,

And others are out there trying to take your business or slice of the pie



- GIs, NAs, Orthos (w/ “company” model)

So Who Educates Them? AANA?

NURSE ANESTHESIA • SAFE ANESTHESIA

Which ones are the anesthesiologists and which are the nurse anesthetists?

CAN'T TELL?

It's *just as hard* to tell the difference between their anesthesia education, the way they administer anesthesia, and their safety records.

Or Us?

Is there a physician in the house?

Anesthesiologists are specialized physicians (MD/DOs) who care for patients before, during and after surgery. In many settings, they supervise and direct non-physicians such as anesthesiologist assistants (AAs) and nurse anesthetists (NAs).

Beyond the Operating Room, anesthesiologists treat pain and save lives in critical care units, using their skills and unparalleled medical knowledge to keep patients safe when they need it most.

They have the most advanced education and training of any anesthesia professionals and have alone been recognized by the Institute of Medicine as the leader in patient safety.*

The American Society of Anesthesiologists supports:

- Ensuring fair payment for anesthesiology services
- Empowering patients with information to make smart health care choices
- Expanding access to high-quality anesthesiology services, especially in rural areas and among underserved communities

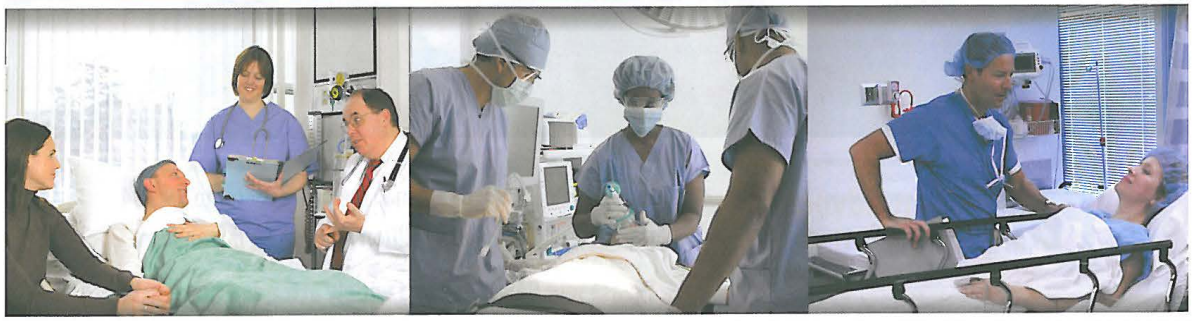
* Institute of Medicine (IOM). (1999). *To err is human: Building a safer health system* (p. 124-125, 142). Washington, DC: National Academy Press.

Jane C.K. Fitch, M.D.
John L. Plewes Professor & Chair
University of Oklahoma

Anesthesiologist
Chair, ASA Committee on Governmental Affairs.
Former nurse anesthetist

Anesthesiologists:

Physicians providing the lifeline of modern medicine



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We always say, you need to have a seat at the table…

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To avoid being on the menu.

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And we've been doing that

AMERICAN ASSOCIATION OF NURSE ANESTHETISTS

CRNA-PAC $704,000

AMERICAN ASSOCIATION for JUSTICE

AAJPAC $2.55 M

American Hospital Association

AHAPAC $1.9 M

American Society of Anesthesiologists Political Action Committee

ASAPAC

ASAPAC $1.67 M

AMA AMERICAN MEDICAL ASSOCIATION

AMPAC $1.37 M

AAOS

AMERICAN ACADEMY OF ORTHOPAEDIC SURGEONS®

AMERICAN ASSOCIATION OF ORTHOPAEDIC SURGEONS®

AAOSPAC $1.63 M

Source: Federal Election Commission filings for 2009

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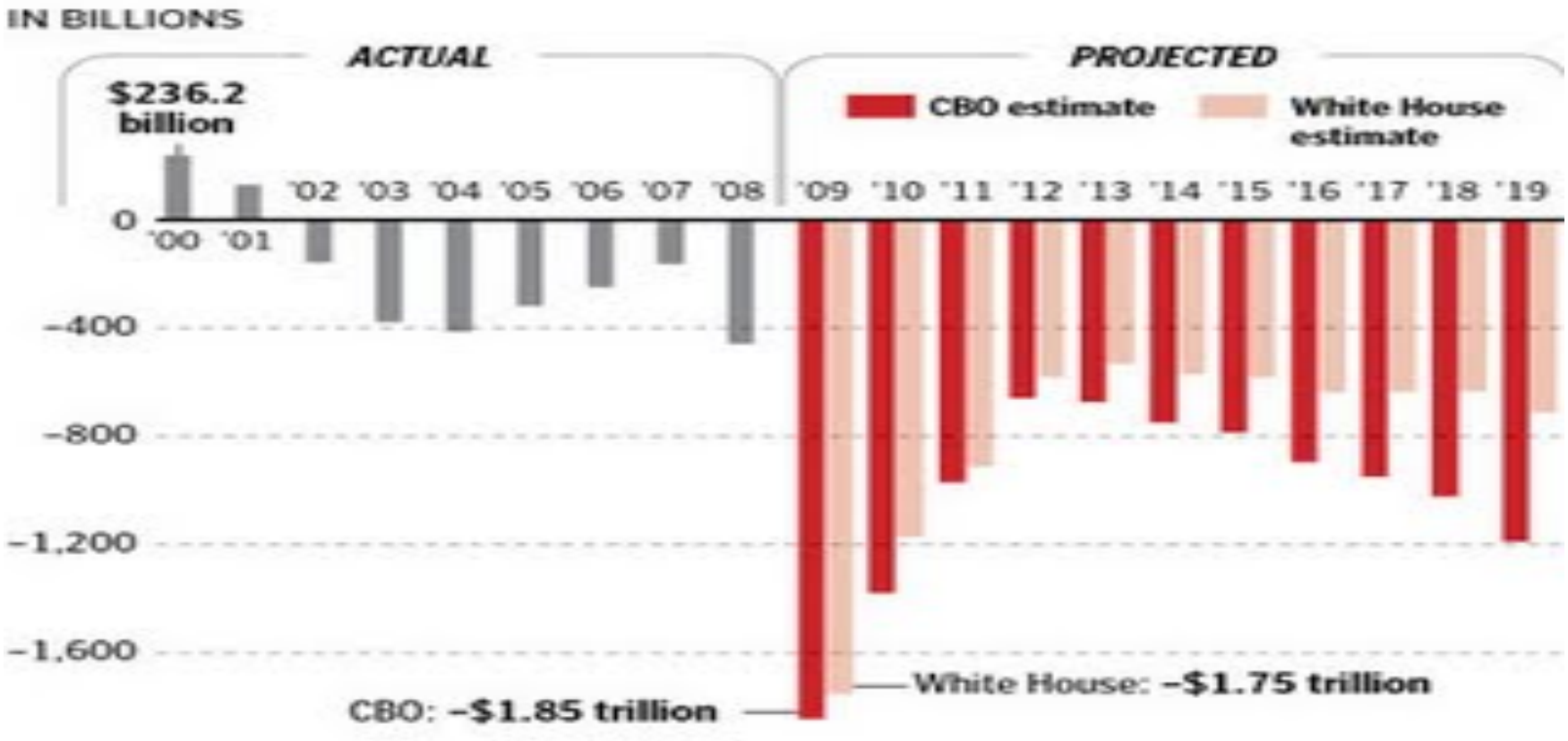
But in this environment, you now need to bring something to the table.

Unprecedented Deficits Create More Pressure

- Deficit and a new "Deficit Commission"



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The Key is to Demonstrate Your $VALUE$

- **Patient Safety**
  - Leaders, Closed Claims Data Project, APSF
  - Can't rest on our laurels, IOM Study 1999
- **AQI**
- **AIMS**
- **Research**
- **What can you do that can't?**
  - More education means…?

Administrative "Buzz" Words/ Initiatives

- **Value-Based Purchasing (VBP)**
  - Cost/Quality = Value
- **Public Reporting (Transparency)**
- **Comparative Effectiveness Research (CER)**
- **Health Care Disparities**
- **Medical Liability Alternatives (Through Quality Improvement)**
- **Hospital Acquired Conditions (HACs/HAIs)**
- **Payment Reform (ACOs and Bundling)**

Established Programs

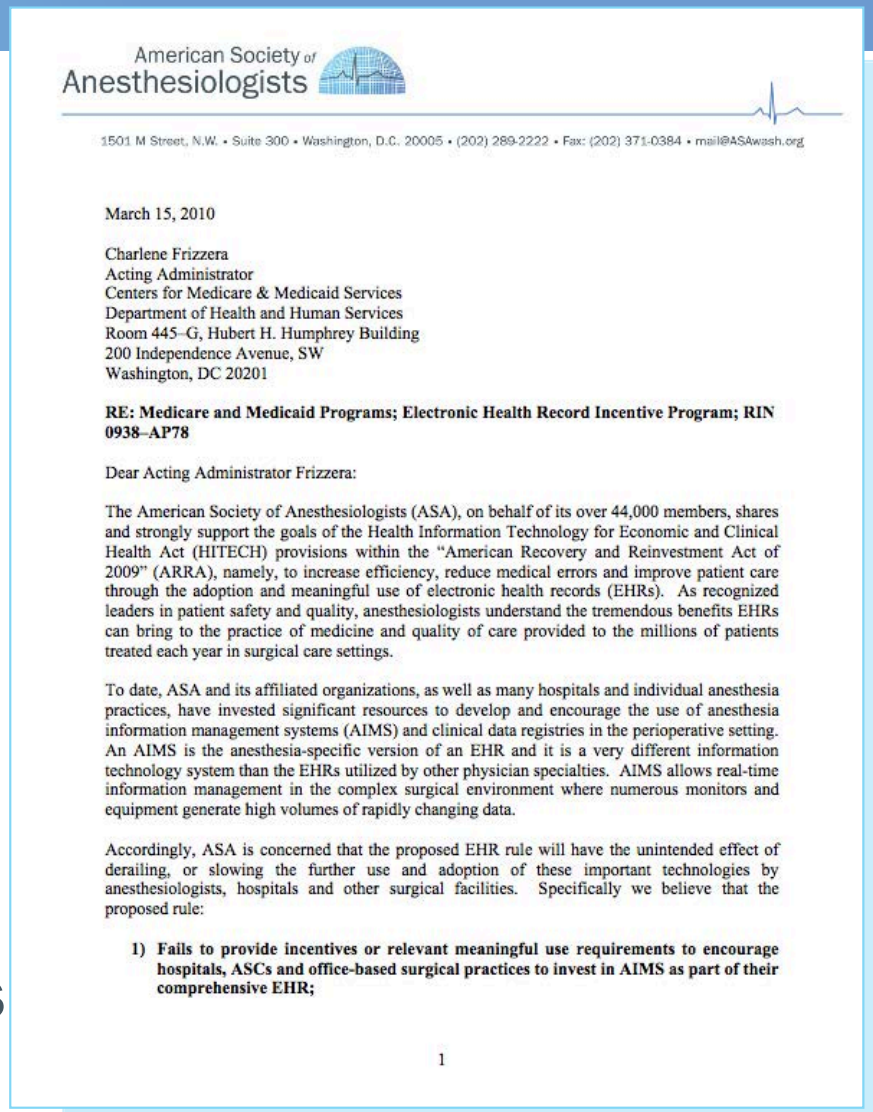
- Physician Quality Reporting Initiative (PQRI)
- Physician Resource Use and Quality Reports (A.K.A. Physician Feedback Program and Value-Based Modifier)
- Physician Compare Website
- HITECH Act (EHR Incentive Program)

HITECH Act

- **HHS Implementing ARRA legislation with focus on "meaningful use" of HIT**
  - "Hospital-based" physicians are not eligible for incentives, but most anesthesiologists will be eligible
  - The final rules establish certification standards for information exchange, privacy and security, quality reporting, etc.
- **ASA Goal: to support AQI efforts and expand use of AIMS**

ASA on HITECH and "Meaningful Use" of EHRs/AIMS

- **The Proposed Rule:**
  - Failed to encourage investment in AIMS
  - Ignored Congressional intent to exclude hospital-based physicians
  - Potentially subjects anesthesiologists to requirements or face payment penalties
- **Letter proposes suggestions for appropriate application to AIMS**



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March 15, 2010

Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445–G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

RE: Medicare and Medicaid Programs; Electronic Health Record Incentive Program; RIN 0938–AP78

Dear Acting Administrator Frizzera:

The American Society of Anesthesiologists (ASA), on behalf of its over 44,000 members, shares and strongly support the goals of the Health Information Technology for Economic and Clinical Health Act (HITECH) provisions within the "American Recovery and Reinvestment Act of 2009" (ARRA), namely, to increase efficiency, reduce medical errors and improve patient care through the adoption and meaningful use of electronic health records (EHRs). As recognized leaders in patient safety and quality, anesthesiologists understand the tremendous benefits EHRs can bring to the practice of medicine and quality of care provided to the millions of patients treated each year in surgical care settings.

To date, ASA and its affiliated organizations, as well as many hospitals and individual anesthesia practices, have invested significant resources to develop and encourage the use of anesthesia information management systems (AIMS) and clinical data registries in the perioperative setting. An AIMS is the anesthesia-specific version of an EHR and it is a very different information technology system than the EHRs utilized by other physician specialties. AIMS allows real-time information management in the complex surgical environment where numerous monitors and equipment generate high volumes of rapidly changing data.

Accordingly, ASA is concerned that the proposed EHR rule will have the unintended effect of derailing, or slowing the further use and adoption of these important technologies by anesthesiologists, hospitals and other surgical facilities. Specifically we believe that the proposed rule:

1) **Fails to provide incentives or relevant meaningful use requirements to encourage hospitals, ASCs and office-based surgical practices to invest in AIMS as part of their comprehensive EHR;**

1

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Final HITECH and Meaningful Use Rules

- **Released on July 13, 2010**
  - CMS did not address ASA concerns
  - Long and complex rules (1,000+ pages)
  - Only anesthesiologists who provide ≥90% of their covered services in the inpatient or ER setting (POS 21 & 23) will be exempt from meaningful use requirements and future penalties beginning in 2015
  - Positive developments:
    - Some exceptions exist that may help
    - Talks between CMS, ONC and ASA have been positive and productive
  - ASA is working with member taskforce to determine compliance potential

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Ongoing Effort to Explain how Anesthesiologists Fit into the HC Reform Puzzle.

Best Approach is to be Proactive

Set your course and Advocate for your Vision

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Creating the Vision

In 10-20 years, where do you see your specialty? Your department?

- What does that look like?

For example:

"Anesthesiologists will be THE leaders in patient safety, quality and efficiency in the perioperative, periprocedural and pain care setting."

What will it take to get there?

- **More research?**
  - Into what areas?
  - What future challenges will you face?
- **More resources?**
  - EHRs/AIMS in all settings?
  - Quality database?
  - Resource and quality reports?
- **More member/staff involvement and advocacy?**

If You Don't Articulate your Vision, It Will be Done for You...and not well.

Tsunami of Regulations

CRNAs and others ready to take business

Advocacy, Now More than Ever

Uninformed Government Officials

Over-stretched Regulators

Now, more than ever, you hold the future of the specialty in your hands

- What will the practice of anesthesia look like post-health care reform?
- We need your academic programs to help define and advocate the vision.

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Stay Involved

ASA GRASSROOTS NETWORK

American Society of Anesthesiologists Political Action Committee ASAPAC

- www.asahq.org/Washington/grassroots.htm
- **Resources for involvement**
  - CapWiz – take action when asked
  - Washington Advocacy Guide
  - Guide to Hosting a Site Visit
  - State Governmental Affairs Handbook

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Other Ways to Stay Up to Date

- ASAPAC Vital Signs
- RSS feed
- Facebook
- Twitter
- YouTube

Thank You!

- **Contact information**

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  202-289-2222

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