



Legislative and Regulatory Update



ASTS Goes to Capitol Hill

On April 26, 2013, several ASTS members went to Capitol Hill to discuss legislative priorities for transplantation. ASTS President Kim M. Olthoff, MD, was accompanied by Robert M. Merion, MD, a past president of the Society; David J. Reich, MD, chair of the Legislative Committee; and Gregory McKenna, MD, a Legislative Committee member, as

well as Kimberly A. Gifford, MBA, ASTS Executive Director, and Peter Thomas, JD, and Peggy Tighe, JD, of Powers Pyles Sutter and Verville, PC, ASTS' legislative counsel.

The visit was targeted at influential members who serve on key committees such as the House and Senate Appropriations, House Ways and Means and Energy and Commerce, and Senate Finance Committees. ASTS representatives visited the offices of: Congressman Sander Levin (D-MI), Congressman Kevin Brady (R-TX), Congressman Mike Rogers (R-MI), Congressman Michael Burgess (R-TX), Congresswoman Allyson Schwartz (D-PA), Congressman Dave Camp (R-MI), Congressman Joe Barton (R-TX), Senator Debbie Stabenow (D-MI), Congressman Joe Pitts (R-PA), Congressman John Dingell (D-MI), Senator Bob Casey (D-PA), and Senator Carl Levin (D-MI).

Topics included the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act (H.R. 1428 and S. 393); funding for the Division of Transplantation within the Health Resources and Services Administration, which received a \$2 million increase in the President's budget; the HOPE Act (HIV Organ Policy Equity Act), which would end the federal ban on research into organ donations from HIV-positive donors to HIV-positive recipients; and the recent House proposal to repeal and

reform the sustainable growth rate (SGR).

Although the staff members were generally supportive of the transplant-specific initiatives, the current environment in Congress is extremely challenging, particularly for anything that is scored to cost the federal government money in the short term. The visits did result in encouraging discussions on how transplant can serve as a role model for other specialties within SGR reform.

CMS Administrator Nomination Delayed

Senator Thomas Harkin (D-IA) removed a hold he had placed on Centers for Medicare and Medicaid's Acting Administrator Marilyn Tavenner's nomination to lead the agency due to his concerns about CMS' diversion of Affordable Care Act prevention fund dollars to ACA exchanges. The Senate Finance Committee approved Tavenner's nomination on Tuesday, April 23, 2013, and sent it to the Senate floor for final approval. A vote has not yet been scheduled. ASTS supports the confirmation of Tavenner and sent [a letter of support](#) to the Senate Finance Committee in early April.

White House, Senate and House FY 2014 Budget Proposals Recently Released

On April 10, President Obama released his FY 2014 budget, two months after the official deadline. His budget totals \$3.77 trillion for 2014 and includes \$580 billion in tax increases and over \$1 trillion in spending cuts over the next 10 years to achieve a total of \$1.8 trillion of additional deficit reduction. Of note to ASTS members:

- **Transplantation:** Includes \$26 million for the Organ Transplantation Program, an increase of \$2 million, to coordinate organ donation activities and provide grants to states to develop and improve donor registries.
- **Sequestration:** Replaces the across-the-board cuts under sequestration, which would result in the elimination of the 2% cut in Medicare reimbursement. The cost of eliminating sequestration would be offset in part through nearly \$400 billion in healthcare savings over 10 years, including \$371 billion in Medicare payment cuts to providers and drug companies, as well as further means-testing of Part B and Part D premiums for more affluent Medicare beneficiaries.
- **SGR Fix:** Proposes a permanent SGR fix, at a cost of about \$250 billion over 10 years. The proposal suggests starting with a period of payment "stability" to allow time to develop scalable and accountable payment models. The budget does not propose a particular model, but suggests that an effective model will encourage care coordination, reward practitioners who provide high-quality and efficient care, and hold practitioners accountable through the application of financial risk for providing consistently

low quality care at excessive costs.

The House and Senate recently passed their own budgets with significant differences. The Republican-led House passed in March a budget proposal that directs Congress to cut \$4.6 trillion from programs such as Medicaid, food stamps, other entitlements, and discretionary domestic spending. The House budget would raise no new revenues (i.e., taxes) and would repeal the Affordable Care Act but leave the savings achieved by the ACA (over \$700 billion) in the budget. In addition, the budget would overhaul Medicare for people 54 years old and younger by changing the program to a "premium support" model and eliminating the "entitlement" to Medicare.

The Democratic-controlled Senate also passed a budget proposal that would replace the sequestration cuts and realize \$1.85 trillion in savings through a combination of tax revenue increases and spending cuts, approximately \$750 billion of each over 10 years. The Senate budget explanation proposes \$275 billion in cuts from health care programs but offers little detail other than that they would "not harm seniors or families."

The next phase in the budget process is for the House and Senate to agree to a joint budget resolution. If a joint budget resolution is achieved, it is possible that it would include "reconciliation" instructions, which would establish the process for achievement of a major deficit reduction deal later this year. However, given the political polarization in Washington, this is still considered a tall order. Whether or not Congress agrees to a joint budget resolution, it will have to tackle the annual appropriations bills for FY 2014, which will likely include additional health spending cuts other than cuts to entitlements. Transplant initiatives are not specifically in jeopardy and there may even be a chance for modestly increased funding for some endeavors, but no government support can be taken for granted at this time when each dollar of appropriations is vulnerable.