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Dear Colleague:

A lot has happened since the Annual Meeting with regard to the 'healthcare reform' debate and process. The House has passed H 3962 and is scheduled to vote on H 3961 (the companion bill with an SGR fix) next week. Sen. Reid has announced that the Senate will move to floor debate on a merged Senate bill as soon as next week—but the CBO is still analyzing it.

When the Academy's Board of Trustees met in conference call to decide whether to support H 3962 and H 3961 one week ago, all present on the call were focused on two overriding questions: (1) What is the right action to take? And (2) What will the members think? Let me address each of them:

What is the right action to take? Not supporting the Senate bill was a relatively easy decision. The bill had no link to an SGR fix, it funded primary care increases on the backs of specialists, the 'public option' structure was onerous, there were penalties for noncompliance with PQRI, the 'one year SGR fix' was miniscule, it created an IMAC (small Senate-confirmed board to preside over healthcare system decisions), gave the IMAC spending controls, provided for penalties on providers who were outliers in their specialty, and had no provision for tort reform.

The House bill was more problematic. The public option was more limited in some respects, had provisions for negotiated rates at Medicare or above, had voluntary physician participation, and would require yet further Congressional action to modify this. The cuts in imaging did not extend to our office-based imaging (a win for ophthalmology). There was no IMAC. There were two buckets for Medicare fee updates—with the eye codes falling in the 'best' bucket. Another big win for ophthalmology. PQRI was voluntary with 2% bonuses. PQRI appeals mechanisms were added. Primary care fee updates were not funded by specialists. There was a full SGR fix. But tort reform was so weak as to be functionally absent.

Both bills carry huge price tags with uncertain effects on the deficit after ten years. I say 'uncertain' because, although the Congressional Budget Office scored them, many intelligent observers believe the final numbers will be subject to so many variables as to be truly unpredictable.

The Academy has always viewed healthcare reform in the context of its mission—which is in a sense a dual mission of obligation to members and to their patients. In that context we must be concerned about rapidly rising healthcare costs, the uninsured and access to care, the sustainability of high quality ophthalmic practice, freedom of choice among patients and physicians, the appropriate valuation of services provided by ophthalmologists, and the integrity of the physician-patient relationship (among others).

As you know, the Board voted (with no 'nay' votes and one abstention) to support H 3962—not simply as a 'lesser of two evils' but as an imperfect bill, containing some language which we supported—particularly the SGR fix—and which might serve as a basis for future development. (Critically, they voted its support of the two bills as 'linked'.) The Board recognized the fact that there were serious shortcomings, but that

the process of drafting final legislation would be a long one with many further opportunities for positive impact by ophthalmology and medicine. Additionally, the House had been responsive in addressing many components of concern to medicine. With many serious issues still unresolved (such as the Practice Expense issue), the Board deemed it reasonable to support the bills (3961 and 3962). This will provide us 'a seat at the table' in the proper drafting of language and subsequent enabling regulations. We recognized that there is a difference between 'having a seat at the table' and 'being on the menu' (and you can never guarantee that you won't be both), but determined that we would be fulfilling our professional responsibility best by taking this position. The Boards of the American College of Surgeons, ASCRS, and nearly all other societies felt identically.

What would the members think? In doing so, we recognized that many physicians already feel confused, frustrated, angry, and vulnerable by the complexity, enormity, and significance of this healthcare debate. As professionals, we are concerned that many critical decisions are being made by non-physicians based in part on political expediency. Therefore, Board of Trustees members anticipated that some members would not agree with its decision to support the House bills at this juncture given their cost, complexity, and potential for negative unintended consequences on a large fraction of the nation's economy. The 'easiest' thing to do was to sit on the sidelines, but the Board, after struggling with the issue, decided the best decision at this time was to support the bills. Again, the principal motivators were the positive aspects of the bill—some negotiated directly by the Academy, the far worse alternative (Senate bill), and keeping the Academy leverage alive to advocate in the 'coming rounds'.

As anticipated, we did receive some negative emails, faxes, and phone calls from members. As of 5PM EST Wednesday November 11, we had received negative communications from 19 members. And we know there are many more than 19 who feel negatively about the decision. We believe that each person who takes the time to contact us deserves a thoughtful response; no matter how strongly worded the letter or email. As such, the Washington office has sent out individual email responses. Further, Mike Brennan, Bill Rich, and I have divided up the phone calls and emails and have attempted to contact all nineteen individually.

What has been the result? Almost all the members with whom we've spoken have been articulate, thoughtful, deeply concerned, and very appreciative of the call. One person subsequently emailed back, "Your response was honest and reveals that the board has struggled with this Therefore, please ignore my threatened resignation and accept my apologies for taking away some of your very valuable time". I think we'd all agree that this ophthalmologist's time was at least as valuable as mine, and it was I who owed him a thanks for his engagement and passion on behalf of his profession.

In conclusion, we have a long fight ahead of us, and the ultimate results will be difficult to predict. It is my firm belief, however, that if we remain true to our principles and mission and if we make the effort to candidly anticipate and respond to individual member concerns, then we will have the support of nearly all of our colleagues.

Sincerely,



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Executive Vice President and CEO

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