NEWS from U.S. Senator Bob Dole

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REMARKS OF
SENATOR BOB DOLE
BEFORE THE
AMERICAN PATHOLOGY FOUNDATION,
THE COLLEGE OF AMERICAN PATHOLOGISTS,
AND THE AMERICAN SOCIETY OF CLINICAL PATHOLOGISTS
CONRAD HILTON HOTEL
CHICAGO, ILLINOIS
MONDAY, SEPTEMBER 22, 1975

It is a pleasure to be here at the Foundation's Annual Luncheon and the CAP and ASCP Joint Fall Meeting to discuss with you some of the major health issues involving your profession.

Daniel Hanson, President of your APF, was especially cordial in his invitation to accept this engagement, and Norm Burch of the College's Washington office has been very helpful in making the necessary arrangements for me to attend. I particularly appreciate both their courtesies and wish to thank all three of your organizations for the opportunity to join you today.

POLITICAL INVOLVEMENT ESSENTIAL

I am always encouraged when asked by a rather select group of professionals like yourselves to be a "political speaker" because I think there has been far too little emphasis on the legislative process in the past by critical elements of the health industry. As a result, they have very often found themselves being subjected to new laws which they had little part in making.

That situation simply must be turned around if we are to have any degree of fairness and objectivity in Federal standards which are being developed. By this I mean that increasing political involvement is essential on the part of all specialties within the medical community -- not just the large general associations -- in order to protect your own interests against a surge of demands for further restrictions on your practices.

PRESSURE FOR CONTROLS

Certainly, it is no surprise to any of you that such pressures have been mounting in recent years for the Federal government to bring about substantial changes in our entire health care system -- particularly in the area of financing. These have grown out of the concern that many of our citizens are unable to obtain adequate medical care either because they have inadequate resources, or because they live in underserved areas.

At the same time, we have been faced with the rapid spiral in health care prices and the concomitant increase in Federal outlays in this area. Accordingly, there has been a movement in Congress to further control the total health picture -- with the result that unless you do respond forcefully, satisfaction of both your own interests and those of the hospitals and patients you serve may no longer be a matter of professional discretion and individual desire.

AN INCREASING TREND

We witnessed a good example of this trend with enactment in 1972 of the Professional Standards Review Organization Law -- a new concept billed as a partial solution to the dual problems of rising costs and medically inappropriate services being rendered under the Medicare and Medicaid programs. Of course, Federal supervision was intended to be simply oversight in nature -- assuring only that actual, and not pro forma, reviews would be conducted by physicians themselves within professionally developed norms.

Well, you are all aware of the intense controversy surrounding the actual impact of that law and its implementation by HEW. Unfortunately, the type of criticism directed toward PSRO has become almost typical of that associated with nearly every so-called "reform" measure -- both within and without the health field -- to be enacted during the past 10 years.

BUREAUCRATIC RULEMAKING

So the challenge is not just in working to see that a legislative proposal which affects you makes sense as perceived and drafted, but in following up that effort to insure that it is not misinterpreted to your disadvantage during the rulemaking phase. Such charges as "bureaucratic abuse" and "bureaucratic revisionism" are being heard with increasing frequency, and only a continued persistency by a determined lobby through the "comment" period can guard against some confusing and oftentimes surprising modifications of statutory language.

That is not to say that all is lost if things do not turn out the way you think they should when a set of guidelines finally appears in the Federal Register. On the contrary, recent developments have shown that not only the courts, but Congress itself, have begun to react to and place limits upon the "assumed" powers of administrative regulation-writers to draw the boundaries of their own authority.

RESPONSE IN COURTS AND CONGRESS

The so-called "Congressional veto," whereby the House and Senate write directly into legislation an option for them to review and reject a given set of implementing regulations, came of age last year with passage of the Education Amendments of 1974. That same provision has since been built into a number of other similar laws, and now there are under consideration at least four bills which would give either body of Congress a set number of days to disapprove published rules by simple resolution.

In the area of court action, the most significant occurrence, I think, came right here in Chicago this last Spring when Judge Julius Hoffman issued an injunction against implementation of the highly-protested Utilization Review regulations. When that order was upheld by a three-judge Federal panel, HEW conceded just before the scheduled trial and agreed to rewrite the rules if the suit against them were withdrawn.

ANTICIPATION THE KEY

A similar court overturning of a bureaucratic mandate concerning the 8½ percent nursing differential for Medicare patients illustrates that there is a very real element of hope for successfully contesting governmental policy decisions. But the fact remains that the far more prudent and effective way of accomplishing the same result is to head off unfavorable developments before they get started -- and that calls for anticipation rather than avoidance.

By way of illustration, I can remember a group of my constituents coming to me the day before a Senate vote on a major piece of legislation that would have vitally affected their industry. The vote was not going their way, and they knew it, but the only method they could think of for communicating their views to all the necessary parties at that late hour was to buy a full page ad in the Washington Post.

NOT AN OVERNIGHT PROCESS

My point is simply this: legislation of the sort that can affect you and your profession doesn't usually develop overnight. It results from a long process that begins with the formation of public attitudes and opinions. During that period, positions tend to soldiify, and it is only afterward that legislation gets written, considered, and passed.

If you and your colleagues in the medical field were to wait until a particular proposal -- which may actually be unnecessary or burdensome to your profession -- were drafted, then nine times out of ten it would be too late for you to really make the impact you might deem desirable. It is important to note, too, that the advocates of new laws are generally reacting to existing situations -- and that if you can identify and make adjustments to tenuous problems or practices within your own ranks, you can do the very most ever to minimize outside interference.

MULTIFOLD AND UNRELENTING TASK

Any way the task at hand is analyzed, however, it can only be presented to you as multifold and unrelenting. You have to get in -- and stay in -- on the ground floor when perceptions are being shaped and attitudes in the public and Congress are being formed, and persist thereafter in seeing to it that your views and positions are known and understood.

In that regard, I think it is important to know that there are those of us who are willing to listen to your concerns and insure that you have the opportunity to be represented. As ranking Republican on the Health Subcommittee of Senate Finance, for example, I am in a position to make certain that nothing inequitable is done in the course of changing Federal health program standards.

FIRST ORDER OF ATTENTION

This, I recognize, is one of the primary anxieties of all pathologists as the current system of reimbursement for laboratory services is being scrutinized in conjunction with Senator Talmadge's contemplated amendments to our Medicare-Medicaid programs. The House Ways and Means Committee is studying the entire direct billing and fee-for-service concepts, too -- having conducted hearings into Medicare reform this past Friday and holding them again on the 26th -- so they will likely have a proposal in the hopper soon as well.

Obviously, then, this is your first order of business as you begin to accelerate your "political involvement," for you can be sure that something is going to happen which will touch your profession. Of course, your elected colleagues will be preparing testimony for formal hearings -- just as they did earlier this month before the Labor and Public Welfare Committee on clinical laboratories legislation -- when they are announced, but your individual responsibilities go far beyond that.

NEED FOR TOTAL PARTICIPATION

By that I mean each of you needs to assume the role of getting the point across and "making your case" to those who will ultimately represent you with their votes. And if you are as professional and meticulous in your dealings with legislators as you are in your chosen field of pathology -- keeping in mind all the time that politicians don't always see things quite so clearly as you do in looking at a tissue slide through a microscope -- I have little doubt that your efforts will be effective.

I might just expand on this "total participation" theme by suggesting that it makes perfect sense to be involved in something during its formation when you know you are going to be affected afterward. This is especially true if the extent of that effect is likely to continue upward, as it would with enactment of any National Health Insurance legislation -- the "next wave" to follow the planning and reform mechanisms now being put into place.

OUTLOOK FOR NHI

While such a massive, fully-funded Federal health insurance program did seem only two years ago to be an idea whose time had come, some rethinking is, fortunately, being done these days as members of Congress and the Senate finally begin to appreciate what a figure like $70 billion really means. We may yet see a national health care proposal passed and signed into law, but I doubt that it will be the unwieldy bureaucratic monster that had once been considered a sure thing.

Anything at all, however, will necessarily bring with it changes to the system, and right now the emphasis is on making those changes within the existing structure -- to bring about better efficiency and coordination and less red tape. The theory is that before we expand, we should seek to get a handle on what we have, and I personally endorse that as the "limited Government action" philosophy we should be promoting.

CAUTION NOT COMPLACENCY

Both by public insistence and corresponding enlightenment among government officials and elected representatives, this attitude of restraint is becoming more and more evident. But let me caution you again, such a trend gives no cause for relaxation and does nothing to insulate you from restrictive regulations and burdensome legislation.

The only way to do that effectively is to insure that your role, and your needs, as medical professionals are fully understood by those who would seek to control them. That is the one immunization you can obtain from unrealistic Federal interference -- and achieving it remains primarily your job.