

LETTERS

Spring in Sacramento

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It is spring again in Sacramento. The fruit trees are in blossom. The air smells sweet. The temperatures are mild. There is a new political season as well, including many new faces among the Assembly and the Senate due to term limits. More than two thousand bills before the legislature represent the hopes of their authors and the dreams of their sponsors. The novelty has worn off California being governed by a foreign-born Hollywood superstar. The deep-rooted problems within state government continue to grow beneath the streets of capitol—far deeper than the foundations of the old city abandoned when levies were built to hold back the rivers that meet in Sacramento.

Returning to the capitol for the first time since the November election and seeing friends who are active in the California chapter of ACEP brought back painful emotions and memories. My term as president ended last June, long before Proposition 67 was crushed on Election Day in November. Since last July, when my wife had a recurrence of ovarian cancer, I have had little time or energy for the politics that effect emergency medicine as a specialty. When I took leave from ACEP, it was because I only had the heart for one fight at a time. I felt I had no choice but to place my family above my specialty. Now that my 'first wife' is back in remission, I could afford to spend two days at our Legislative Leadership Conference in Sacramento. It was more difficult than I expected it to be.

To be fair to Paul Kivela, who has served ably since succeeding me as president, I need to claim responsibility for the key decisions that lead up to our defeat in the polls. I represented Cal/ACEP in the Coalition to Preserve Emergency Care when an increase in the 911 surcharge was endorsed. I led the campaign to raise nearly \$2,000,000 from members of the chapter and our supporters. I decided to file nearly 1,000,000 signatures to qualify the initiative for the ballot after the hospital association pulled out.

I provoked the ire of the hospital industry by spending more than \$1,000,000 they expected back when they withdrew from the coalition. I recommended that we continue to actively campaign on behalf of Proposition 67 even though it became clear we faced intense and unexpected opposition from SBC, one of the most powerful corporations in America.

Since our defeat in November, I have had many opportunities to consider the decisions I made that culminated a five-year effort to seek a statewide solution to the problem of uncompensated emergency care. Polls into the early fall continued to show us either winning or losing by a nose. I write now because I feel that I can not move on as the chairman of EMPAC without looking back at the defeat which confused and disappointed so many ER doctors and nurses who gave so much to the cause. There are probably many people within our own constituency—and many more among other special interests around the capitol—that wish I had made different decisions about Proposition 67.

Given the same opportunities and information, it is unlikely I would do anything differently. I was raised to believe that some things are worth dying for. For someone like me, the corollary is that there are some fights worth losing if there is no other way to protect the people I was elected to serve. I still believe that the problems that surround emergency care were so serious that we could not have afforded to wait until 2006 to take our case to the people of California.

The Continental Army lost nearly every battle during our War of Independence until the final victory over the British at Yorktown. Texans remember their statehood beginning with the Alamo even though all of its defenders died. Americans won World War II only after the humiliating defeat at Pearl Harbor. We are now engaged in a world-wide struggle against terrorism because of the events of 9/11. Ironically, the war on terror has as much as anything to do with the delay in solving the problems of America's safety net. I carry with me the cover story on the ER crisis from US News and World Report that was published on September 10, 2001.

I believe that a number of very encouraging events in Sacramento might not have occurred if we had not stood up for ourselves and our patients. It is never easy to connect the dots between policy and politics in health care. Few of you are probably surprised that I will try anyway. Some of the editorial boards on major daily periodicals around the state may have opposed 67, yet all of them acknowledged the seriousness of the EMS system problems. The Governor may have opposed 67 in his own mailer, but he recently signed SB 29, which secured \$24.8 million in EMS funds for physicians providing emergency care to the uninsured. He also placed another \$24.8 million in his budget proposal for the next fiscal year, even though the state remains billions of dollars short of the revenue needed to balance it. The Department of Managed Health Care, after years of intransigence in our disputes with HMOs and their delegates, fined HealthNet \$250,000 for systematically underpaying non-contracted physicians for emergency care to their members. DMHC also demanded several million dollars more in restitution for providers for prior claims. Although the Democratic Party may have officially opposed 67 in their pre-election mailer, the most powerful Democrat in the state was our champion for SB 29. Senate Pro Tem Leader Don Perata is also the author of even more important legislation to provide the statutory relief we still need over a handful of for-profit HMOs that remain beyond our legal reach under the Knox Keene Act. Another powerful Democrat, Senator Joe Dunn, continues to use the budget subcommittee he chairs with authority over DMHC to leverage more aggressive guidelines and enforcement of fair payment practices for emergency care providers by HMOs.

Even more fundamental than the struggle to fund uncompensated emergency care is the fight to provide health care insurance for low-income working Californians and their families. On the same day that 67 failed, the Chamber of Commerce ballot initiative also succeeded in blocking SB 2, the Play-or-Pay mandate on employers to offer coverage to their workers. Since then, a bipartisan movement led by Assemblymen Nation and Richman has filed half-a-dozen bills intended to mandate Californians to purchase catastrophic health coverage. And Senator

Sheila Kuehl continues to build another coalition that favors a single-payer approach to health care coverage. None of these bills is likely to be approved while the state remains financially unstable. None of them has yet to earn the strong support of Cal/ACEP. All of them reflect a growing sense of urgency in the state legislature to solve the systemic problem they know is destabilizing emergency care in California.

Emergency physicians and nurses still enjoy some of the highest approval ratings in California—higher than either Arnold Schwarzenegger or the legislature. And ER doctors continue to be the most influential advocates for emergency care in their own communities. On the same day that 67 went down to defeat, voters in San Diego County approved a local initiative to recapitalize the Palomar-Pomerado Hospital District by more than 2:1. While Jaime Rivas and the other Pal-Pom ER doctors may not have had to contend with SBC as an opponent, they still persuaded a supermajority of local voters to increase taxes on themselves to secure access to emergency hospital care. That they won by a margin similar to the one 67 lost by on the same ballot is remarkable evidence that the streak of winning local initiatives for emergency care is likely to continue.

Real leadership often requires difficult decisions. Some causes require the sacrifice of leaders themselves on the way to ultimate victory. I am proud to have been such a leader. Cal/ACEP can not afford to lose the fight to rationalize the system that continues to unravel all around us. As I write, the EMS fund that supports one third of the state's residents and ER doctors in Los Angeles County approaches insolvency. The challenge remains the same: to sustain an unsustainable EMS system until Americans realize that their own access to emergency care can not be secured without insuring all of their fellow citizens. It is past time for California and the other 49 states to join the other developed countries that have already created inclusive health care systems—all of which function at a lower percentage of GNP than the non-system in the United States. It is hard to know how many more Cal/ACEP presidents will come and go before we achieve the final victory our members and our patients deserve. It is easier to say that there is no better fight

in which to engage, or any cause more worthy of our heroics.

Many of you know that Michael Trainor was my partner at Saddleback and one of my most important mentors in ACEP. Some of you know that Mike suffered sudden cardiac death soon after the defeat of the Nickel-a-Drink initiative by the powerful liquor lobby. One of the mysteries of Mike's death was that there was little post-mortem evidence of coronary disease that might have caused his lethal cardiac dysrhythmia. A recent publication in the New England Journal raises the possibility that Mike died from what we now know as broken heart syndrome. I have no intention of dying because 67 went down. My heart is not broken, nor is my will. In my own way, I intend to remain outspoken on behalf of ER patients and providers.

Supporters and contributors to our efforts need to be encouraged by our many victories since the defeat of 67 and move ahead. In the end, the only people who can defeat Cal/ACEP are ER doctors who quit the cause, even though it is just. We continue to show up 24/7 in part because we believe that quality health care is a fundamental human right. EMTALA will never make one ER doctor work one shift they would not work otherwise. No one is better positioned to speak out on the problems with the health care system. No one has more entitlement to a seat at the table to design a system that works better for patients and physicians. There is no question that the special interests that oppose us will continue to show up in Sacramento. There should be no question that we can not afford to stop showing up ourselves. And until the rules of the political game change in California, we will continue to need to put our money where our mouth is if we expect to be heard. Don't hold your breath or your wallets waiting for someone else to solve our problems.