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Medicare Law Prompts a Rush for Lobbyists

By [ROBERT PEAR](#)

WASHINGTON, Aug. 19 - The new Medicare law has touched off explosive growth in lobbying by the health care industry, whose spending on advocacy here far exceeds that of consumer groups and other industries like defense and banking.

Almost every week the federal government issues new rules or guidelines to carry out the 2003 law, which provides a drug benefit starting in January. To keep track of the new rules and to decipher their meaning is a full-time job for hundreds of lawyers and lobbyists, who regularly seek changes advantageous to their clients.

With hundreds of billions of dollars at stake, health care providers, insurers, drug makers and pharmacies are continually trying to influence rules for the drug benefit and other initiatives authorized by the law.

"You see a real surge in health care lobbying because that's where the money is," said Frederick H. Graefe, a lobbyist for hospitals and makers of medical equipment. "Twenty years ago the defense industry was dominant and had the most lobbyists, the big players. Now it's health care."

Last year alone, the health care industry spent \$325 million - more than any other sector - in its efforts to influence Congress and federal agencies, according to Political Money Line, a nonpartisan group that studies reports filed with Congress by lobbyists and their clients.

Drug companies led the way. They reported spending \$86.9 million on lobbying last year, followed by hospitals with \$55 million and doctors with \$35.4 million.

Lobbying Congress nowadays often means persuading lawmakers to make telephone calls to Bush administration officials on behalf of clients concerned about specific issues, like the Medicare payment for a drug or a medical device.

The pinpoint focus of much lobbying is illustrated by the case of Lexapro, an antidepressant made by Forest Laboratories. The Bush administration has said that Medicare drug plans must cover "substantially all" antidepressants, but not necessarily Lexapro, a drug widely prescribed for depression and anxiety among older adults. Claudia Schlosberg, a lawyer with Blank Rome who represents Forest Laboratories, has been pressing Medicare officials to reverse that decision and has obtained letters from

several members of Congress supporting the company's position in favor of covering Lexapro.

"Every health care interest has a voice on Capitol Hill," said Elizabeth J. Fowler, a lawyer who recently left the Democratic staff of the Senate Finance Committee to join a consulting firm. "What you lose in the process is consumer and beneficiary voices. We heard a lot more from industry interests than from beneficiaries."

Chris Jennings, who became a lobbyist after serving as health policy coordinator for President Bill Clinton, said: "The proliferation of health care lobbyists produces specialization. The broader good is often lost as people focus on next year's Medicare reimbursement rate for a specific group of health care providers, or a regulation to be issued next month."

The health care industry is subject to pervasive federal regulation, and the government sets prices for many goods and services provided to the elderly under Medicare. But the Bush administration and the Republican majority in Congress are receptive to advice from the industry, including private insurers who will deliver the drug benefit.

"The success of the new Medicare law depends on a robust partnership between government and the private sector," said Stacey Hughes, a partner in the lobbying firm established by former Senator Don Nickles, Republican of Oklahoma.

Health policy experts and officials said the growth of health care lobbying reflected several trends:

¶Congress earmarks more and more money each year for specific hospitals, medical schools and health care projects. Health care providers and local officials have a better chance to obtain such largess if they retain lobbyists to plump for their projects on Capitol Hill.

¶Lobbying has become more substantive. To buttress their arguments, lobbyists need data, cost estimates and economic analyses of health policy proposals. They retain expert consultants to prepare such reports.

¶Lobbyists have adopted many techniques of political campaigns. They hire pollsters and buy advertising to sway public opinion and pressure Congress.

¶Many lobbyists have carved a niche for themselves by focusing on one party, one house of Congress, one Congressional committee or a handful of influential lawmakers.

Carol A. McDaid, a health care lobbyist at Capitol Decisions, a subsidiary of the Van Scoyoc Companies, said, "It's become so sophisticated that, in preparation for a critical vote, a big health care or pharmaceutical company will hire a different firm to lobby each key member of an important committee, like the Ways and Means Committee."

The Pharmaceutical Research and Manufacturers of America reported spending \$15.5 million on lobbying last year, while two of its members, Pfizer and Bristol-Myers Squibb, spent \$5.6 million apiece and Johnson & Johnson spent \$4.5 million.

Other heavyweight lobbies included the American Medical Association, which spent \$18.5 million last year, and America's Health Insurance Plans, which spent \$5.6 million, about the same amount as the Blue Cross and Blue Shield Association.

By contrast, AARP, the lobby for older Americans, spent \$8 million. The American Cancer Society spent \$2.6 million, the American Heart Association spent \$1 million and Families USA, the liberal group that calls itself a voice for health care consumers, reported spending \$40,000.

Alan B. Mertz, president of the American Clinical Laboratory Association, said the advocacy budget for his group had more than tripled, to \$2.5 million this year from \$750,000 in 2002. "We had to beef up our advocacy to deal with threats to our Medicare reimbursement," Mr. Mertz said, noting that Medicare payments for laboratory tests had been frozen through 2008.

Lobbyists said it made sense for their clients to pour money into lobbying because so much money was at stake. Health care accounts for more than 15 percent of the nation's economy, and private insurers often look to Medicare as a guide in deciding what services to cover and how much to pay.

Moreover, the federal role is growing. Medicare and Medicaid will account for 37 percent of all spending on prescription drugs next year, up from 20 percent this year, said Stephen Heffler, an economist at the federal Centers for Medicare and Medicaid Services.

The Bush administration and the Congressional Budget Office say Medicare will spend more than \$1 trillion on prescription drugs in the next 10 years, with outlays topping \$100 billion a year after 2009.

Two linguistic changes show how health care lobbyists have emerged as a potent force. Lobbyists and trade associations, once seen as special interests, are now called "stakeholders," with a legitimate claim to be heard in the policy-making process.

"Expanding coverage" used to mean providing health insurance to people who had none. But lobbyists now use the term in a different sense. When they speak of "coverage expansions," they mean that Medicare should cover, or pay for, new technology like PET scans, implantable defibrillators and drug-coated stents to treat clogged arteries.

Political campaign contributions are frequently coordinated with lobbying campaigns. Lobbyists often hold fund-raisers at the request of members of Congress, as allowed by campaign finance laws. They are expected to contribute money from their own pockets and to raise money from clients.

"You increase your influence and access by doing fund-raisers," said James C. Pyles, a lawyer and lobbyist for psychoanalysts and home care agencies. "If you're not on the donor list, you don't have much access."

Ms. McDaid, who lobbies for hospitals and ambulance companies, said: "In the old days, the requests for political giving went mainly to your clients' political action committees. Now health care lobbyists have to tithe personally. The bigger your client base, the more pressure there is to give. It's not unusual for a lobbyist at a big firm to give \$25,000 to \$50,000 in personal contributions to Congressional candidates in a two-year election cycle."

The growing prominence of health care issues on the national agenda has created an unquenchable demand for lobbyists. New issues include bioterrorism, stem cells, health information technology, the privacy of medical records, television advertising of prescription drugs and the importing of drugs from Canada.

Republicans are in demand at lobbying firms and trade associations, but so are knowledgeable Democrats.

John E. McManus, who formed his own lobbying firm after working for Republican members of the House Ways and Means Committee, received a total of \$620,000 last year from the American Medical Association, the Advanced Medical Technology Association, the Pharmaceutical Research and Manufacturers of America and several drug companies, including Merck and Genentech. Mr. McManus can help them navigate the new Medicare law because, as a Congressional aide, he helped write it.

On the other side of the political spectrum, David H. Nexon, a health policy adviser to Senator Edward M. Kennedy for more than two decades, stepped down in February to become senior executive vice president of the Advanced Medical Technology Association, the lobby for makers of medical devices like Medtronic and Guidant.

Charles M. Brain, director of legislative affairs for President Clinton, reported that he got \$240,000 last year for representing the Pharmaceutical Research and Manufacturers of America. Stephen J. Ricchetti, deputy chief of staff in the Clinton White House, lobbies for Eli Lilly & Company, Novartis and Pfizer.

Richard J. Pollack, executive vice president of the American Hospital Association, said health lobbying had become more partisan.

"We hire Republicans to lobby Republican members of Congress and Democrats to work Democratic offices," Mr. Pollack said.

The Generic Pharmaceutical Association has retained Mr. Jennings and Mark W. Isakowitz to lobby for legislation to increase the use of generic drugs. As a White House aide, Mr. Jennings helped devise the Clinton plan for universal health insurance. As a

lobbyist at the National Federation of Independent Business, Mr. Isakowitz, a Republican, helped defeat the Clinton plan.

As the costs of Medicare and Medicaid soar, federal prosecutors and members of Congress are investigating fraud and abuse with new zeal. Many health care companies find they need more lawyers and lobbyists to cope.

In a recent advertisement recruiting lawyers for its Washington office, Sidley Austin Brown & Wood, one of the nation's largest law firms, said its health care practice had "experienced tremendous growth."