# October 2023 Advocacy Recap

November 8, 2023

**Alec Bose:**

Hello and welcome to the CAP Advocacy Recap, a monthly podcast dedicated to catching you up on the top news for pathologists. I'm Alec Bose here with your [October] 2023 recap. This month we'll be looking at the excellence of the CAP's proficiency testing, add-on services responsible for Medicare cuts, excited delirium, and more.

We start the day off with a conversation about virtual advocacy with the College. Members of the CAP recently participated in a virtual fly-in where pathologists contact the offices of their US representatives to advocate for policies that advance the profession. We sat down with Dr. Matthew Foster to go over what CAP members advocated for, how it was received in Congress, and how members can get involved in the future. So Dr. Foster, thank you so much for joining us for the podcast. We really appreciate you being here with us.

**Dr. Matthew Foster:**

Thank you. I'm glad to be here. Thanks for having me.

**Alec Bose:**

So my first question is what is a virtual fly-in and what does it take to make one possible?

**Dr. Matthew Foster:**

It takes a lot of work to make one possible. I think when virtual fly-in is exactly what it sounds like in terms of virtual. When we think of fly-ins, typically in the political process, you think about coming to Capitol Hill to meet with your members of Congress, their office staff or their health legislative assistants to talk about issues that are important to the medical and pathology community. And that historically something that's been very successful that the College of American Pathologists tries to sponsor every year. What we've realized too, and quite frankly coming out of the pandemic realized that also could be very effective, is harnessing the technologies of Zoom, Microsoft Teams, or other virtual platforms that allows to have a visit with members of the legislative staff and members of Congress without having to leave our offices, which is more convenient for members. It also is certainly less expensive and time consuming for travel, and it's been very effective.

And so we essentially try to accomplish the same thing, which is to advocate on behalf of our members for a specific issue, which is important to us in the same way we would as if we were walking the halls of Congress. It is certainly not the same experience, nor is it the same level of connection that you can have with an assistant, but it is a very effective way of getting across a message when there's a time sensitive issue such as that end of the year spending packages or another issue that comes up that may be coming up for a vote to be able to get time on busy members' schedules very quickly without having to mobilize our own members to fly sometimes across the country for a one hour or less meeting with a member of Congress. So the virtual fly-in is a way for people in the comfort of their office or home to meet with members of Congress or their legislative staff and still be able to advocate for the issues we care about.

**Alec Bose:**

Yeah, thank you so much for that answer. And I can imagine that it's good for members to have both options to participate in advocacy, both virtual and in person. So my next question is, what was the goal of this virtual fly-in and what was the legislative ask this time around?

**Dr. Matthew Foster:**

I think the goal is twofold. Number one, it's always important to have even virtual face time with members of Congress or their legislative staff and build those relationships. It's the relationship over time that really impact the legislation and when considering legislation that affects health care, the house of medicine or anything having to do with laboratory testing to understand that there are pathologists, what pathologists do, the impact that we make and have on patient care is really important. And so just having that ability to talk about the importance of what we do when so many in society don't really fundamentally understand the importance of pathologists is always an important. And on top of that, this particular ask was, although I think it's getting tiresome, but I think it's still important, is to think through the physician fee schedule and what's happening to the reimbursements for pathologists in the laboratory community.

And really put into stark contrast the economic reality of increasing burden of labor, of the costs of salary increases for staff, the costs of materials, supplies, reagents at the same time where CMS and other third party payers are ratcheting down what they're reimbursing to both physicians, laboratories and hospitals. And at some point those lines are going to cross where the costs are more than what the revenue is bringing in. And that becomes a financial or a non-sustainable financial model. The worry is the impact we have not so much on finances, but on access to care. And so our ask was to say, now is not the time to continue to ratchet down what this country is paying our physicians and our hospitals and our laboratories, but is instead a time to reinvest in our laboratories in a way that can assure sustainability long-term. Because what we're seeing and witnessing is a decrease in access that's directly related to the inability to rev provide those services at a local level. So our ask was really to continue to mitigate some of the proposed cuts to the physician fee schedule and to laboratory community to hospitals while we continue to work on long-term health care reform.

**Alec Bose:**

Thank you. And I think that's very important as we see the final fee schedule rule coming out recently and how important our advocacy has been.

**Dr. Matthew Foster:**

I think that's right, Graham, thank you for bringing that up. I think that's a really good point. I think it is not on me that we had our fly in last week and then this week the final rule comes out and already Congress and some of the members of Congress that we talked to directly are advocating on the behalf of physicians and laboratory in a very positive, meaningful way. And I do believe although this audience is incredibly intelligent, understands the difference between causality and correlation, I do believe there's a strong correlation between our efforts and the outcome.

**Alec Bose:**

Absolutely. So last question before we wrap up. How can pathologists get involved in future virtual fly-ins or other forms of virtual advocacy?

**Dr. Matthew Foster:**

I mean also being aware, College of American Pathologists does a really good job at sending updates of what's there and what's available through their website, through emails, but oftentimes it can, in busy days, it can be hard to know what's happening, what's not. One way to get involved is by directly contacting the College of American Pathologists' staff, letting them know who you are and that you're interested in advocacy or that you're available, or more importantly, through the net contacts you have at your state society if you're in a state that has a robust state society or the people in context that you may know through a CAP leadership. So it's those personal connections, but I think also what we've tried to do with virtual fines is very strategic and thinking through the members of Congress that are either chairs or the ranking member for various committees or in a position of congressional leadership if you happen to live in one of those districts.

I think it's also important for you to recognize that, be active in knowing who your member of Congress is and what committees they sit on and what leadership positions they may hold. And if you realize that your member of Congress is in a leadership position to make sure that the College of American Pathologists is aware of that, because oftentimes we don't know what we don't know, and we're looking for members that may be in a specific congressman's district that may be interested in participating in a virtual fly-in, but we may not be able to make that connection. So sometimes being proactive about making that connection is important. The College of American Pathologist staff has a robust list of folks that have participated before and are always looking for new members and do a really great job at proactively reaching out to folks. But we know that there are other people out there that are saying, oh, I'd love to do this.

I just don't know how to get involved. And I hope that we'll be able to make those connections. We are very busy people. We can all too often look down and say, look through our scope and say, I just need to focus on what I'm doing now or this particular patient that I'm diagnosing or determining what treatment should be. Or I'm in the lab and I'm thinking through things in the testing of day-to-day grind. And I think we step up from the scope where we step back from the lab. When we look at the bigger picture of what we're doing in healthcare. We're I think at a real crossroads in this country of understanding the importance of laboratory testing. And now more than ever, it's really important to be involved in advocacy, to tell our story, to tell folks how important pathologists in the laboratory community are to the care of this country. And if we don't tell our story, no one will. And so the way we do that is through advocacy, and I appreciate the opportunity. You can tell I'm passionate about this, but I hope that other people will also feel that passion and get involved. So thank you.

**Alec Bose:**

Take a step back from the scope to see the bigger picture. I think that's a great way of putting it, and I think that's a great place to leave off. Thank you, Dr. Foster. We really appreciate your time and being with us today.

**Dr. Matthew Foster:**

Thank you again for having me. I really appreciate the opportunity.

**Alec Bose:**

We turn now to news about the CAP's proficiency testing standards. Molecular Testing Laboratories using CAP proficiency testing programs exhibit excellent testing performance based on a recent analysis of a pilot study that was published in the Archives of Pathology and Laboratory Medicine based on recent results of quality assurance analysis. However, the CAP Molecular Oncology Committee concluded that these pilot results should not be extrapolated to all molecular oncology testing and should not be used to market products or change policy affecting all molecular oncology testing. Given the robust evidence of strong testing performance in clinical laboratories using CAP proficiency testing programs, there is no additional benefit for third party proof of performance of molecular testing in these laboratories. The CAP PT data are among the highest quality demonstrating excellence in laboratory performance across the over 23,000 laboratories around the world that participate in this program. You can visit our website for more details on our proficiency testing methods and standards. In other news, the CAP, along with the coalition of 46 other medical organizations representing 1.2 million providers, called on Congress to halt a new add-on service responsible for Medicare budget cuts.

The coalition specifically urged Congress to halt the implementation of the evaluation and management service add-on code G2211 created by the CMS. In a letter to Congress, the groups pointed out that this code absent of congressional action would threaten patients' timely access to vital health care services. The burden of this code comes in the form of redundant work already being expressed by other more up-to-date codes. This new code would not only result in inappropriate overpayments, but also penalize clinicians who cannot or do not use it with yet another budget neutrality related reduction to the conversion factor. We will continue to update you on this issue as it progresses and we end the day with cause of death diagnoses. The CAP recently released a statement in support of the National Association of Medical Examiners call to discontinue excited delirium as a cause of death and should no longer be used by physicians who determine it.

The term has actually been around for decades and has been used to describe how someone can die suddenly due to severe agitation. The term is commonly used by police to deny any involvement for a suspect's death while in their custody. Police have often cited the cause of death as a legal defense in many high profile cases of police brutality and excessive force, including the 2020 murder of George Floyd, where a Minneapolis police officer was charged with murder after a video showed him kneeling on Floyd's neck for nine minutes, suffocating him to death. This terminology has been used by medical examiners, forensic pathologists, and law enforcement personnel explained Michelle Aurelius, chair of the CAP's Forensic Pathology Committee. However, there are concerns that use of this term can mask physical restraint use, and that this terminology targets persons of color. California recently signed a bill becoming the first state to ban the term from being listed as an official cause of death. Additionally, law enforcement will not be allowed to use the term to describe a person's behavior in any incident. Report and testimony that refers to excited delirium will not be allowed in civil court starting in 2024. The CAP will continue to support causes that benefit, communities of color and health equity.

That's all for this edition of the advocacy recap. Thank you so much for listening. For more on all of the stories you heard today and more, be sure to subscribe to our weekly newsletter and follow us on X at CAPDCadvocacy. Once again, for advocacy communications, I'm Alec Bose and we'll see you next month.