

Address to the West Virginia State Medical Association

by Virginia Lynch Graf

Good morning to members and guests of the WV State Medical Association! Yours is a noble profession, and it is an honor to speak with you. Thank you for your invitation. I am Virginia Lynch Graf, your next US Representative in Congress. How do you like that for confidence!

Since I have run a pure grassroots campaign and have not had any special interest groups donate financial support, my publicity has been limited. For a few minutes I would like to provide some personal information.

I am the Democratic candidate for the US House of Representatives in the 2nd district of West Virginia. My opponent, Republican Shelley Moore Capito, is a 10-year incumbent. I decided to challenge her for the seat for many reasons, some of which will be of interest to you. For now, suffice it to say, I am an honest broker who researched your issues and wrote my own speech. I do not have a speechwriter, nor will I speak to you as a political opportunist. I will freely address issues to enter an honest dialogue. But first, my profile.

My Profile

West Virginia became my home in 1996. My husband, Bob and I moved to Jefferson County with our two children who were sixth and eighth graders. We bought property after falling in love with the warm people and the gorgeous mountains and rivers, and were convinced that this was "Almost Heaven."

I spent my life in education and taught three-year old youngsters through adult learners. The settings in which I taught included rural, suburban, and urban areas and were diverse, including private catholic schools, high schools and college, and a few community colleges in Maryland. Like you, I know what dedicated service means in America and to Americans.

I entered the convent at age 17, began teaching at 19, became principal of a grade school at age 30 and spent 9 years earning a BA degree while teaching full time. It was an age of miracles, I guess! When I left the convent, it was not due to disappointment, but rather the conviction that my life could be more significant if I had to take on the challenges of other women my age: earning a salary, continuing my education while working full time, managing relationships, and taking responsibility for my decisions. Even though I loved the sisters, I felt I was in an incubator. I needed to stand on my own two feet.

After the convent, I continued my education, receiving both Master's and Doctorate degrees. I married, adopted two children, now 23 and 25, and am a happy grandmother of four- and two-year-old boys. As a young woman, I volunteered to help Cesar Chavez by writing curricula for grade and high schools about the plight of farm workers, their working conditions, their exposure to pesticides and their short life span. I volunteered in schools, wrote community columns about social issues, formed a small publishing company to help dyslexic students, and took on leadership roles in my community and county. In 2005, I set up a forum on Social Security forum, and a forum on health care reform in 2007. In 2009, I re-established and chaired the Jefferson County Water Advisory Committee to protect our waters and to write successful grant proposals.

Role models who most influenced my development include those who experienced personal economic hardship, rose to success, but returned to lend a hand to those still in the struggle. Others include those who had a life of privilege, but wanted to use their gifts for others. I'll mention a few: Cesar Chavez, Chief Joseph, Mother Teresa, Mother Jones, Bill and Melinda Gates, Martin Luther King.

From this sketchy sampling, you may want to ask me, as some of my religious sister friends have asked, why are you getting into politics? They often add, "Such a waste!" I don't see it that way. I decided to run for this congressional seat because I care about our future. I care about the future of my children and grandchildren. I care about your future and that of your children and grandchildren. I care about protecting our democratic republic and the Constitution.

About a week or two ago, when I came home from the campaign trail, Malachi, my four-year-old grandson, who loves to come to Grandma's house, nestled in my arms and asked, "Grandma, how come you're not home so much anymore?" I replied, "I'm trying to get the people to vote for me." And without hesitating he asked, "And will you vote for the people?" For me, that summed it up. "Yes, that's what I intend to do, vote for the people."

How does my determination to vote for the people as a member of Congress match your service? Let me say this, I am convinced that money, special interests and a grab for power have adversely affected many people in Congress. The voices of the people are being silenced. Your voice, my voice, is not heard over the spin of pundits, who, by the way, outnumber research journalists by 6 to 1. The airwaves are filled with misinformation, political sound bites, special interests and nonsense.

Common Goals and Concerns

Many in Congress, instead of looking for solutions to turn our economy around, to create and support jobs, to develop an educated work force, have chosen to join the rabble and the 24/7 pundits who prey on the fears and concerns of those with little or no financial security. They foment division in our state and in the country with cultural sideshows to hide their own inabilities to be problem solvers. We look at some in Congress, and some who are running for political office, and we could walk away in disgust. Instead, you and I are determined to serve West Virginia and the American people with every fiber of our being. Money and power cannot destroy our shared aspirations to serve our state and our nation through our chosen vocations.

Today, you gather to express concern about three issues centered on maintaining your career of service. These three are health care reform, litigation insurance, and SGR [Sustainable Growth Rate] reform, looking for fair compensation for that service. I understand that. Some of you may have educational loans, mortgages, or are ready to retire. You are still in the field providing medical service to the best of your ability. You are discerning ways to be effective in establishing patient safety, and you need to protect yourself against litigations that will and do occur. You want to work with health care reform that truly addresses health care needs and stands up against waste and fraudulent behavior. You and I both want the same thing, to restore America's health care system to its premier status.

We don't have exact answers about how to achieve those goals yet, but I promise to work with you. West Virginia, America needs you. And so, my remarks indicate a few starting points to let you know that I'm a willing partner and learner.

Health Insurance Reform

The Patient Protection and Affordable Care Act [PPACA] was a landmark effort at reform of health care insurance. The rising cost of health care, the impact of the aging baby boomer generation, and declining revenues in a weakened economy continue to challenge Medicare to provide quality and effective health services to its 45 million beneficiaries, as well as to health care programs in the US overall. To attempt to obstruct its passage, or to work to repeal a good first step at health insurance and health care reform, makes little sense.

Regarding health care insurance reform, I believe, along with thousands of your co-workers represented in PNHP [Physicians for a National Health Program] and American Nurses, that we should have allowed the concept of single payer to be a part of the debate. Would it have been helpful in an honest dialogue? Yes! New ideas spring from honest discussion! The value of single payer is the elimination of overlapping administrative costs that all of us — doctors, insurance companies and patients — must pay. Can we look at its advantage again going forward? I sure hope so! Other countries have developed reform by collecting the best ideas and adapting them to economic circumstances peculiar to their citizens and to overall medical professional practice. In Germany, for example, there are both private and public health care sectors at work to deliver successful health care.

The appointment of Dr. Donald Berwick to head Medicare and Medicaid Services was, you well know, an excellent choice. Dr. Berwick has a reputation among you, his peers, for addressing excellent patient care, as well as developing efficient and responsible financial practice. His approach to quality service in hospitals and financial responsibility is credited with saving 100,000 lives. Just as the reputations of highly trained, very competent physicians have been damaged by frivolous medical malpractice suits, Dr. Berwick has been subject to political malpractice. Some have damaged Dr. Berwick's reputation for frivolous patrician political purposes. This is not the type of behavior in which I will be engaged. We need an arena of civility, respect and dialogue for those with differing opinions in Washington if we are to move forward with real solutions to our nation's problems.

One reform worthy of note in the PPACA is a pilot program that will bundle payments for physician, hospital and post-acute care services with the goal to improve patient care and reduce spending. Adjusting payments to hospitals for unnecessary re-admission for preventable conditions is another important cost cutting measure. Creating an independent Payment Advisory Board to make changes in Medicare payment rates and modifying the high-income threshold adjustment for Part B premiums adds efficiency and cost-cutting measures. Lastly, subjecting providers and suppliers of health care to careful screening will stop fraud and abuse, very costly to Medicare.

The Congressional Budget Office estimates that Medicare related provisions of PPACA will reduce Medicare spending by \$390 billion from FY 2010 to FY 2019.

The journey toward health insurance reform has begun, and health care professionals and the US Congress must continue to walk a responsible path in implementing this reform for all Americans.

Medical Liability

Let me mention another concern for many of you, medical liability. After reviewing a few publications from the AMA about costs and frequency of claims, I learned a few things that we could address. From the Physicians Practice Information [PPI] Survey 2007-2008, conducted for the purpose of updating the practice cost data used to develop practice expense relative value units (RVUs) for the Medicare Physician Fee Schedule, I learned:

- 65% of claims were dropped, dismissed or withdrawn.
- 25.7% were settled.
- 4.5% were decided by alternative dispute mechanism.
- 5% were settled by trial with the defendant prevailing in 90% of these cases.

I learned that the average defense cost per case was \$ 40, 649. The range was from a low of \$22,163 for cases that were dismissed, dropped or withdrawn to a high of \$100,000 for tried cases. I also learned that median indemnity payments among paid claims were \$200,000 for settled claims and \$375,000 for tried claims. As noted, the majority of claims are dropped, and an even larger percentage are closed without payment.

Other interesting findings suggested that:

- Male physicians are more likely to be sued than female physicians
- 42.2% of physicians sued during 2007-2008 had a medical liability claim filed against them at some point in their career.
- 15% of young physicians under the age of 40 are sued, but in the age group 55 and over, 60.5% of physicians were sued, totaling an average of 161 career claims for every 100 physicians. In other words, older physicians have the greater exposure to the possibility of claims.

Physicians in the specialty fields of general surgery and obstetrics / gynecology received the most claim frequency, and are sued more often than other physicians. Pediatricians and psychiatrists had the lowest incidence of claims. The PPI survey was restricted to physicians who work full time, providing at least 20 hours direct patient care per week. Another factor that needs to be considered is that male physicians may work five hours longer per week but spend less time with patients per visit and attend to less interpersonal and or technical aspects of care.

Settings seemed to matter too. In solo practice, 25% of specialty doctors were sued; in hospitals or group practices for specialty doctors, suits were 6% lower. We also learned that men are more likely to sue than women.

The report concludes that in any single year, being sued is a rare event. Only 5% of physicians had claims against them in that time frame. Over a career, 61% of those over 55 had been sued. The higher rates of suits brought against men fall into these categories: They are likely to be practice owners, to work more hours, to work in specialties and to be 55 or older.

What can be done to lower liability insurance premiums for physicians? The Congressional Research Service points out a few important things. Regulation of insurance premiums is the responsibility of each state. But overall, knowing a few facts makes it possible for physicians to band together, and with the help of states and Congress, to insist on lower premiums.

1. Premium costs bounce between a hard and soft market. In a hard market, the growth of small mutual insurers emerges over large insurance firms. This phenomenon relies on reinsurance from other markets, and may change premium cost.
2. Reduction of medical errors reduces cost. The improved and dramatic record of anesthesiologists caused a significant 50% drop in medical liability and insurance premiums.
3. The Medical Malpractice and Insurance Reform Act of 2005 included provisions for malpractice mandatory mediation, malpractice insurance reform and a medical malpractice advisory team and a three-year limitations for lawsuits.
4. The Patient Safety and Quality Improvement Act of 2005 includes an analysis of medical error, but a restriction on the use the findings on suits. At the same time, the Act requires regular reports on approaches being used to reduce medical errors.
5. Tax Credits are a viable method of defraying qualified medical malpractice insurance.
6. Antitrust Laws assure against anti-competitive behavior, or price-fixing.

Be aware that the PPACA builds on earlier efforts of Congress and helps lower premiums. It provides:

- \$50,000,000 to identify and conduct alternatives to the current tort litigation system in states for the next five years.
- A \$250,000 cap on non-economic damages.
- A process for certifying the merit of malpractice actions.
- Sanctions against meritless actions.
- An “interstate patient reporting and physician tracking database,” promoting patient safety efforts.

There have been many positive efforts to help lower premiums. Doctors need to publicly organize around these positive steps when negotiating premiums.

Sustainable Growth Rate

Lastly, the issue of Sustainable Growth Rate, a target Congress devised to address the amount of money Medicare would reimburse doctors for treating its patients. This formula is based on the rates of growth in physician costs, Medicare enrollment, and real gross domestic product per person. The formula was set up to track with both health care costs and the overall economy. The problem is that health care costs have outstripped the economy. As a result, a reduction to fees paid to doctors became the solution to the problem.

Because of the way the Sustainable Growth Rate was formulated, it requires a drop in reimbursement rates, which could be as high as 21.2%. It seems that neither Congress nor physicians are satisfied with this arrangement.

We cannot allow a poorly developed 1997 policy to disrupt the patient provider relationship. Because permanently fixing the SGR has been put off repeatedly by both Democratic and Republican administrations, the problem has grown dramatically. It will take a quarter of a billion dollars over 10 years to fix. If elected, I will be committed to permanently fixing the SGR! We must do what we can to preserve the patient-provider relationship, the center of quality care.

Resolutions Are Within Reach

To draw this presentation to a close, I would like to acknowledge that the West Virginia state legislature has certainly moved forward in attracting more doctors to our state. It placed a cap on non-economic damage liability of \$300,000. It recognized the need to expand primary care, which cuts medical expenses and saves lives. It will use the available resources of the PPACA has aided our state in ways that many have not yet heard about.

- Doubling funding for primary care services to \$11 billion beginning in 2011.
- Encouraging more physicians to train as primary care physicians. and offering 10% bonus payments to doctors, general surgeons and nurse practitioners who serve underserved areas in WV.
- Increasing funding for the National Health Services Corps by \$1.5 billion over five years.
- Obtaining grant money to utilize means for arbitrating and settling suits.

Because I intend to work with the state legislature and with Congress, I've spent a few days researching your issues. I am a candidate who cares. I do not have solutions, but my research leads me to believe that resolutions are within reach. We do not need to go backward and re-invent the wheel. We need to work together to implement proven solutions and to offer new ideas going forward. I look forward to the challenge.