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Medical Aspects of Impairment,
Incapacitation, Succession and the
Continuity of Congress

I am pleased to be able to address this very important member topic relating to impairment, incapacitation, succession and the Continuity of Congress with you today. In my position as the Attending Physician, I am quite cognizant of the significance that health or more importantly the lack of good health plays in all of our lives and, in particular, its vital role in the political process. At this time of many external threats to our well being, it is imperative that these issues be considered. My intent today is to define the playing field that needs to be explored to study the issues at hand. While on the surface, various approaches may seem readily workable, the truth is that the issues are quite complex, rest neither in the medical nor political arena exclusively and don't lend themselves to easy solutions.

First, let me define my clinic's mission. It is to ensure the Continuity of Government – pure and simple. In carrying out that mission, on a daily basis the health and welfare of not only the members but the staff and visitors to the Hill are important. This, also, includes consideration being given to prepare for potential mass casualties consequent to a weapons of mass destruction incident.

Currently, the clinic is adequately staffed and resourced with physicians, technicians, nurses, ambulances, transport vehicles and a mobile medical support capacity to accomplish our mission routinely. During a mass casualty situation or other major incident, we can rely on the

rapid engagement of the full measure of support from Federal and regional civilian contingency health resources. Furthermore, these additional assets are regularly on standby or prepositioned for scheduled events such as the Inauguration, State of The Union, Joint Sessions etc.

Important, as well, in the delivery of healthcare, confidentiality is obligate. I raise this issue of confidentiality, because the discussion that follows assumes that any member's health status or death has become public knowledge. This would, therefore, exclude those situations where a member has poor health but has not shared this with anyone, perhaps not even with a family member. I would respect the member's wishes, even if job performance had deteriorated, and not discuss their health status. Leadership has always understood this and never pressed me for information in even the most delicate and possibly obvious situations. In fact, if concern has been raised, it has been out of interest for a member's well-being and dignity.

Turning exclusively to the members and their health, lets look at some of the Continuity of Congress problems that can arise. Take for example the range of poor health status. A member may have a transient illness (like the flu) where he or she is temporarily out of action; not a problem. At the next level, how about a significant problem but one which is time limited, like major surgery or a severe pneumonia. Again, this has not usually been problematic and has been routinely excused. Continuing on, though, how about a chronic significant disease requiring prolonged hospitalization or rehabilitation. What is at stake? At one end of the spectrum, can the member be expected to vote or do constituent work? At the other end, is the member so ill that the prospect of return to work or the ability to perform adequately is so marginal that consideration may be given to leaving office before the end of a term?

Specifically, I have raised the issue of the degree of impairment of a member; that is, the objective description of the state of a member's health as determined by the medical establishment. Usually a prognosis is part of that description. Will a member fully recover? If so, when? Will there be permanent impairment? Will that impairment be primarily cognitive or physical or both? If so, to what degree? Is death a possible outcome and so on. The only caveat to add is that medicine is not a precise science and patient outcomes are sometimes unpredictable and even surprising. Some patients may unexpectedly deteriorate while others miraculously recover. A rush to judgment about a patient's ultimate status may be ill-advised.

What to do with any of this information raises the subject of succession, a process that is not a medical issue. Clearly, when there has been a member death while in office, steps towards succession will ensue. The more difficult situation relates to member incapacitation.

Incapacitation is a subjective judgment that a member is too impaired to be likely to be able to return to meaningful public service. It is made by non-medical people but based on meaningful and accurate medical input. Subsequently, the issues of leaving office followed by succession may have to be addressed. In this regard, it is possible that I might recommend to a member and their family that leaving office early be considered because future service might be counterproductive to good health or that any return to service is unrealistic or perhaps even undignified. This is what I would view as full disclosure to a patient so that personal decisions can be made with all facts considered. I would not, however, make a statement to leadership that a member was incapacitated. I would only describe the degree of impairment. A fine line, I realize, but my compact is ultimately with the patient, not the institution. Only the institution,

possibly in concert with the member, can make a decision about incapacitation and how it relates to continued service. At most, I would provide a discussion of all ramifications, if asked, but would stop short of rendering a final judgment. That would be up to leadership. After all, incapacitation must be measured relative to performance expectations. I may have an opinion but not the final say. I am an advisor.

In closing, I have tried to create a framework in which to analyze the problems of impairment, incapacitation and succession. Medical as well as institutional assessments are required, but there is a definite divide between the two when incapacitation and possible early departure from office with consequent succession are in question. While succession itself is a difficult issue, it becomes significantly more difficult when large numbers are considered or when the process of leaving office hasn't been sorted out in member impairment situations. Thank you for your attention. I will be pleased to answer any questions.