Tricare, Medicare and Obamacare (PPACA)
March 17, 2011

Introduction:

Vice Admiral Harold Koenig, MC (Retired) was a member of the USNA Great Class of 62, Plebe year. He unfortunately left the Naval Academy after Plebe year, due to a medical problem. He subsequently graduated from Baylor College of Medicine. He then re-joined the Navy as a Navy Physician. His career highlights include CO of Balboa Naval Medical Center, and Surgeon General of the Navy.

Let's welcome Admiral Koenig.

Good Afternoon, USNA Alumni, San Diego Chapter.

As you may know, I spent 32 years in Navy Medicine. I bilged out of USNA after Plebe year because I failed the hearing test. So I went off to college, then medical school with a 4-F draft card in my pocket. At the beginning of my junior year I got a letter from my draft board re-classifying me 1-Y. That was a special category for physicians who were 4-F. If you had M.D. after your name you were going in, period. So I hustled on down to the nearest Navy recruiter and signed up. No way did I want to go in the Army or the Air Force.

Healthcare, for most active duty military personnel is probably the second most important thing to them, right after their pay, and after retirement health care is second only to their pension.

If you talk to most guys on active duty they will tell you what each part of their pay is, VHA, specialty pay, etc. They know what is being taken out for Social Security, Medicare, and taxes as well.

When you start asking about healthcare benefits it is too complex, in extreme flux. Pay changes with rank and seniority, your health care benefit doesn't, until you get out or retire.

There are critical transitions for your health care benefits. That is what I am going to cover first.

I am glad we have an active duty guy here today, a Lieutenant (JG), I'll call him JG. You know JG; you do not need to worry about healthcare — Yet! (Laughter)

But your day is coming, when you retire after serving 20 years.

If you leave before that, your health care will change sooner, and I can guarantee it will cost you a lot more on the outside, and be harder to get.

It will change with or without Obamacare, as most people call it. Obamacare is officially known as the PPACA, the Patient Protection and Affordability Care Act.

Talk about an oxymoron - PPACA is an oxymoron. PPACA is not going to make it easier to get care, but harder and it will cost more, despite all the promises that are being made that it won't.

Those in the Armed Services, those who are serving and those who have retired are really in pretty good shape. The first inflection point is when you leave active duty before reaching twenty years of service – you are screwed - unless you go the VA and get a disability rating that entitles you to care from the VA, or your income is so low you can qualify. That doesn't apply to anyone here.

The VA is a good health system. It does not have all the fancy bells and whistles as in some of the private system, but it is a good backup for those with a disability rating.

If you retire from the Armed Forces, which applies to about everyone but a couple of you in this room, your benefits change at the moment you retire.

Your pay changes, no longer are you getting a paycheck every two weeks, now it is once a month. You will see the same thing happen to your healthcare. You go on TRICARE, formerly known as CHAMPUS.

TRICARE is also a very good health care system.

TRICARE has choices, and one; TRICARE PRIME is one of the best in this country. I helped design TRICARE in the mid-90's. One of the provisions we were required to put in was a Premium.

If you want to sign up for TRICARE PRIME as a retiree you have to pay a premium of $230 a year per retiree, or $460 for your family. Right now raising this premium is what all the shouting and pouting is about from military associations, like MOA, etc.

DoD wants to raise the premium 13% this year. When we initially designed TRICARE we wanted to put an escalator in for the premium every year, pegged to something like the cost of living allowance. We could not get that in the law because of all the pouting and the shouting then from the military associations.

What happened is as the costs went up, DOD kept asking Congress to increase the premiums. This has not happened to this day.

Now DOD is telling Congress we are broke and health care costs are a big part of this. Now DOD says it needs to increase premiums 13%. I doubt that will happen. Sen. Jim Webb of Virginia, a former SecNav and USNA - 68, who is not running for another term, says he will stop it. In my opinion it should be linked to COLA's, but not retroactively.

When you retire you are covered by TRICARE until you become 65 years old. Then Medicare with TRICARE-For-LIFE as second coverage covers you.

Pay attention, JG, this is going to happen to you also.

(Laughter)

When we went through the BRAC (base closure) process, one of the things we realized early on was a lot of retirees and their dependents were going to be disenfranchised. These were people who since retiring had always been able to get their health care from their local military hospital. Closing bases meant closing the hospitals on them. So a lot of retirees were left high and dry without the safety net they had always expected to be there. We went to Congress and asked that they fix this - and the congressmen asked what is broke?

What was "broke" was a lot of military retirees opted out of part B when they initially became eligible for Medicare.

I see some of you in this audience are not on Medicare yet. Let me explain. There are now four parts to Medicare, A, B, C & D. Then there were only two, A & B, Part A which basically paid hospital bills, and Part B, which basically paid doctor bills. I'll deal with Medicare C & D later.

We were able to convince Congress that they had literally hundreds of thousands of retirees who they were pulling the safety net out from.

Here's an example. If you lived in San Francisco, you had Letterman Army Medical center right there - until we closed it. And a lot of retirees there had opted-out of Medicare Part B - now what? If you opted-out of Medicare B at initial eligibility, each year you waited to opt-in your premium went up 10%. If you opted-out when you became 65 and waited until you were 75 to opt-in your premiums were doubled.

The sponsor would usually be male, and when he died, where there were military hospitals that were closing there were widows without heath care coverage.

We were able to get Congress to pass a law that allowed forgiving the 10% per year premium penalty for delayed Medicare B enrollment.

That was how we were able to open the door to get Tricare-For-Life.

Tricare For Life is different from TRICARE - it is better.

All the money deducted for Medicare from your paychecks or pension pays for Medicare A. The money deducted from your Social Security checks is for Medicare B and pays doctor bills. For example, this year, 2011, a single person earning less than $85,000 per year has $115.40 deducted from their Social Security check to pay their Medicare B premium.

If you are “Special”- a lot of you in this room are Special - which means you make more than the $85,000 limit, you get to pay more, a lot more in some cases. For example, if your MAGI (Modified Adjusted Gross Income) is $214,000 or more, then your monthly Medicare B premium is the standard premium plus $214.70, doing the math that comes to $330.10 per month or nearly $4,000 year. If you want to learn more about MAGI go to the Medicare website. Be sure to have a stiff drink available near by.

This is called “Means Testing.” Get used to that term, you are going to hear it a lot more in the future. It means that those who earn more - pay more. This increase in Medicare B premiums was part of the Medicare Modernization Act of 2003, which was passed by a Republican Congress and signed by a Republican President. This was an early step along the path of health care reform. Health care reform is not just a Democrat thing.

This was needed and is actually a good thing. It was passed in 2003 but did not kick in until you paid your taxes in 2008.

Why?

Because 2003 was a mid-term election year, and they didn't want people to “experience” the new taxes until after the election. So they kicked the can down the road.

That's why many of you in this room have been seeing the amount deducted from your Social Security check for Medicare go up, and it will continue to go up - and fast.

Okay, JG? This is coming for you also.

(Laughter)

Now back to the BRAC process - BRAC is what spawned Tricare–For-Life (TFL).

Here is how it works: Medicare is the first payer, and TFL pays the rest.

The only thing you have to do when you become 65 to qualify for TFL is not opt out of Medicare B. Pretty simple, huh?

JG, you understand this? Good!

(Laughter)

When you get to 65 just DO NOT opt-out of Medicare B.

You just let it happen and you are OK.

They take the payments every month from your social security check.

But as you can see the amount you pay for TFL depends on your income level, and the premiums are now almost $ 4,000 per year per person if you are in the highest income group, and you can count on that amount increasing rapidly in the future. Most, if not all of you are not going to be in the lowest premium group.

So, that brings us to the question of the free health care for life that most of you heard about while you were on active duty. Let's pause and talk about that for a minute.

When I came in the Navy I was promised free health care for myself and my wife for the rest of our lives, if I stayed in for 20 years.

I stayed in, but not for that - I was having fun and I enjoyed my job.

The problem was the "promise" was never written into law.

It was something the services began promising a long time ago for recruiting and retention.

This finally came to a head in the early part of this new millennium and Federal Judge Roger Vinson, USNA , Class of 62, who is in Pensacola, Florida, wrote the final decision.

(Cheer from 62 table)

He ruled that retirees were not entitled to free health care for life and the services were wrong in making this promise. The judge also excoriated Congress for aiding an abetting the service's "promises" for so many years, and I think that helped us get TFL and the improvements to Tricare that have come along.

Thank you, Roger.

Judge Vinson is also the judge who ruled that Obamacare is unconstitutional. More about that later.

Now let's talk about PPACA, which is more commonly referred to as Obamacare, which is what most everyone and the media call it.

The reason we have it is because there are an estimated 45 to 50 million people in this country who do not have health care insurance. That is a shame and an embarrassment, but some of those millions could afford it and just choose not to have it – and some of those people are so wealthy they don't need it; they pay cash for their care.

The rest of these uninsured people cost us a lot of money because they do not go to doctors until they are really sick, then they go to the ER when they are in "Extremis." That's a medical term meaning they are stinking, rotten sick.

We fix them up, send them out and then the whole sequence repeats itself.

The whole idea is to get improved medical access for these people.

That's where the idea of improving patient access and patient protection came from.

The affordability came from trying to cut costs. The green eyeshade guys in the back room looked for ways to do this. They came up with a bunch of ideas they wouldn't share with the rest of us. They sent it to CBO, and the CBO said it would lower costs. But CBO can only make estimates based on what the congressional staffers with the green eyeshades put in the proposed law, not in what will actually happen.

So with the CBO report in hand, Congress passed the 2,700 page monstrosity. As far as I know none of those who voted on it read it.

No one seemed to know just what was in it. On it went to POTUS who signed it (I am sure you remember the ceremony?) and it is now the law of the land – well, temporarily, maybe.

A lot of businesses, the places that employ people in what we call "starter jobs", like hamburger flippers, pizza deliverers and so on, said we can't provide the benefits the law is requiring. So waivers started being granted – over a thousand have been granted now.

Right away a part of the plan to save money was gone.

Another thing put in PPACA was that every business was going to have to issue a 1099 for anyone they paid over $600 to during the course of a year. This of course was to facilitate IRS collecting taxes due and increase revenue. A good idea on paper, but . . .

Small business went crazy because this would create a paper work nightmare for them. So, as of this transcript, both the House and Senate have voted overwhelmingly to strike this from the law, and sent it to the President who says he will sign it. (Now tell me these folks who voted on this knew what was in it.) Another $25 Billion in "savings" -- gone.

In another area where we really got stuck is to cut reimbursements to doctors.

That effort started 17 years ago, with a program to gradually reduce Medicare and Medicaid payments to physicians. Good idea, but . . .

Every year Congress has reneged on that. If all the cuts that were to have occurred, since the inception of this program had been made, reimbursement rates to doctors would be 27.5% less now than they currently are.

What happened?

You cannot pay doctors less when many of them say they are already losing money on every Medicare or Medicaid patient they see. The only way doctors can make this up is to pass the costs on to others, or not see these patients. That is what more and more of them are doing and even more are saying they will do.

That part of the "affordability" plan is not going to work. It's about $500 Billion. (That's a B, not an M.) Adios, budget neutrality.

So listen up JG – health care is going to cost you more. Healthcare is expensive stuff.

There are ways to get health care reform done. There are a lot of inefficiencies in the system.

That is what I do now, day to day – help the health care system find their inefficiencies. It's a long process because it's a change process: when you try to introduce change to people with a vested interest in maintaining the status quo, they push back.

We are starting to get traction with some of the early adopters in some programs, and are doing better, but this is a long process.

It just doesn't involve doctors or hospitals, it involves patients too.

Malpractice – yes malpractice - is an absolute disaster. Texas was losing physicians while the state's population was increasing. Finally the legislature stepped up to the plate. They looked at their malpractice laws and changed them, and now their physician numbers are increasing. We have to do it here in California also. It is a hard nut to crack.

As far as a model for malpractice, I think we have a good model in the Armed Services. The way we handle claims in the armed forces is you have to ask permission to sue. You submit a one page form, state what happened to you, when and where, and why you think you are due compensation. The government has 90 days to respond. They can

offer you a limited monetary settlement, or say you do not have a case. If you accept the offer then the case is closed. If you don't like the offer or the government rejected your claim, then and only then, can you go to court.

That is how over 90% of claims get settled in the armed forces. Most people either accept what is offered or just drop it.

That is a really efficient way to process claims. You sort out the wheat from the chaff quickly at little expense, and the process works.

We need something like that in civilian medicine.

Malpractice reform is an important step in controlling health care costs that has not been addressed. It is pretty easy to understand why - most people who are in the legislatures are lawyers.

Suing is the bread-and-butter for a lot of lawyers. No way are they going to cut off their cash cow.

So do you see what I say about change management?

You go after one part of the problem but there is another part of the problem that bulges out on you, sort of like the Pillsbury doughboy.

Malpractice influences the way medicine is practiced.

Doctors tend to do a lot of excessive testing because they're afraid if they don't do those tests, if the case lands in court, they will lose. This drives costs a lot higher than they would otherwise be.

In the meantime I think the benefits that the active-duty people have and the retirees have, are amongst the very best in the Nation.

For those of you who do or did not retire from the military, you have the VA to back you up, if you have a disability.

So, where are we with PPACA? A state of flux is the best answer I can give.

Judge Roger Vinson, our shipmate, who ruled that military retirees do not have an entitlement to free health care for life about a decade ago, has recently ruled on a challenge to PPACA brought by over half the State's Attorney Generals. He ruled that PPACA was unconstitutional.

Thank God- the Class of 62!

(Table thump)

That is where it stands now. The administration continues to move toward implementation, but that is going to take years. Long before full implementation is achieved the Supreme Court will hear the case.

If the Supreme Court agrees it is unconstitutional, then we have to start over again.

You may remember the term Hillary care? I was in the middle of a lot of that. A real opportunity was missed then, they made some bad decisions then, and I think they made some bad decisions now.

That is too bad, because health care reform needs to occur.

I don't have all the answers for you, but I have some - overall we do badly need some modernization. Perhaps we need to take some baby steps? The Medicare Modernization Act of that 2003 that created Part D of Medicare, the prescription drug benefit, is a part of the process.

By the way, those of us who are retirees or active-duty do not need Medicare D.

We probably have the best prescription benefit in the world.

I promised to mention Medicare Part C also. It is a managed care program, the Kaiser kind of thing.

I think I should probably stop.

Any Questions?

Q: **How about Canada and UK system?**

A: That is a wonderful question. The only foreign countries I believe we can fairly be compared to are China and India.

They have larger populations than us. Indonesia is the fourth largest and Brazil the fifth. I don't think any sensible American would want to trade medical systems with any of these countries. After these come in order: Pakistan, Russia, Bangladesh, Nigeria and Japan. I'll mention Japan again later.

Health care systems don't scale well. You can't compare a nation with a population of 308 million (USA) with a nation of say 4.5 million (Norway), but people with political agendas do it all the time.

Countries with small populations never are as diverse as we are. They don't have a lot of immigrants; they are genetically and culturally similar. They all grow up speaking the same language and often have similar religious beliefs. I often remark that most Norwegians are either non-practicing Catholics or non-practicing Lutherans. In the United States we do not all speak the same language or all have the same skin color. We do not all have the same cultural values. We are still a melting pot.

One of eight people currently in America came here after they were born. Many have not moved up our ladder of success yet. They don't have the same access to healthcare that those of us born here do. Many of them never had health care before they came here – and health care is not why most of them came. They came for jobs, a chance for their kids to get an education and live the American Dream – and a lot of them succeed - just like our ancestors and we did. Immigrants tend to die younger than those of us fortunate to have been born here, but they still count in our statistics.

We are often compared to Canada. Well Canada has 30 million people and California has 38 million. Canada doesn't have the immigration issues we do. People in Canada who get really sick, come to the USA. I recently heard about one of our retired Navy doctors from Balboa Navy Medical Center assisted in bringing a sick newborn in Canada to the United States. The Canadians were ready to pull the plug on him. The infant is going to survive.

Last year there was a northeastern Canadian Province Premier who came to the USA in Florida for cardiac surgery. Why? This caused a major ruckus amongst some of our northern neighbors.

I earlier mentioned Japan with the world's 10th largest population. It also has the longest life expectancy in the world. People compare life expectancy of Americans to the longer life spans of people in some other countries, like Japan. But everyone in Japan is basically the same - they are ethnically pure- everybody is of the same the same stock. They eat a better diet. They don't have immigration like we do. In fact, they have none.

I also do not believe a lot of the statistics from other lands. There are a lot of countries in the world that don't consider you alive until you are one month old. Birth certificates aren't provided before your one-month birthday. So if a baby dies before becoming a month old there is no record of his or her being born and no record of his or her death either. They are not even a statistic! The most common day most people die on is the day they are born, the second most common day of death is day two, and so on.

Here's another gasser, it has recently been revealed that in Japan many deaths are not reported. Old people get pension checks from the government. When they die their kids don't report their death, but they keep cashing the

pension checks. No wonder Japan's life expectancy is so much longer! Probably everybody in this room is going to outlive the average Japanese person. The fact you have lived this long, means you will live longer.

Q: **What if the Supreme Court overturns Roger Vinson's decision, does it affect Tricare?**

A: PPACA has nothing to do with Tricare. If you have something like Tricare, that is really working, don't mess with it. Hopefully the Feds are smart enough to know this.

Q: **Where do I find info on Tricare?**

A: Go to the Tricare web site. There are a lot of links. Do not spend too much time there, it will drive you nuts. Tricare is doing OK, and so is the VA. The VA is having problems with increasing numbers of returning warriors, with significant mental health issues. This is a challenge.

Q: **What about cutting doctor reimbursements by $500 Billion in PPACA?**

A: Remember the acronym SWAG? Those who wrote the PPACA bill threw that in there to get the bill passed. They made that number up.

We are facing a doctor shortage in this country. In the early 80's there were reports that we were making too many doctors. They forgot to look at the demographics of this Nation.

They did not understand that we had this huge wave of baby boomers approaching retirement, and the fact that the older you get, the more care you need.

This is where I think they really screwed up in PPACA. If we are going to absorb 40-50 million uninsured into our system who is going to care for them? Most doctors today work about a 55-hour week. How many more hours are we going to ask them to work? Perhaps we should have put the cart before the horse and increased output of the nation's medical, nursing and ancillary provider programs before we embarked on this expansion?

How are we going to lower costs?

We have to get rid of inefficiencies. We must have malpractice reform. Those are two places where a lot of progress can be made fast.

We must stop ordering so many tests on people. Doctors are doing this to protect themselves when they are sued.

Q: **What about insurance companies?**

A: In the past they have been basically a monetary pass through. Some of them have aggressively started work recently doing case management. It is encouraging to see these things but as long as they skim 1% off the top, or whatever, on hundreds and hundreds of billions of dollars a year, they will be making good money.

But I think they are beginning to work on that.

I do think that's starting to change.

Q: **What was second part - One Payer?**

A: Single-payer, that is and has been the goal of the far left in this country. It is the model in other countries like Canada. That means the government pays the bills – and you pay the government.

If you are in Canada and have an escape valve, like the United States, you are OK. Do you know that about 90% of Canadians live within 50 miles of the United States? If something goes wrong, they come down here.

In the UK it is not as good as it sounds.

In the UK there are about 60 million people versus 308 million here.

They are moving towards privatization in parts of their health system because they are going broke too.

Americans are a different kind of people from Europeans, even Canadians. We are independent, and most of us do not want a single payer.

Who are we? Most of our ancestors were renegades, prisoners, and rabble-rousers. They were thrown out of their former country or ran away for something better.

Our ancestors suffered some pretty tough stuff and that strengthened our gene pool… most of us don't want to live a life in socialism - we still believe in entrepreneurship and individualism, and reward for hard work.

That makes us different.

We may get to Socialism - eventually.

I am glad I got here when I did.

(Laughter)

Q: **What about Judge Vinson's early decision on military health care?**

A: Well Judge Vinson had to go back a long way in history to see where it all came from. He severely chastised the military services for making those promises, when there was no law to back it up. He excoriated Congress for allowing it to go on.

In the mid-90s I saw a US Army recruiting brochure promising free healthcare for life if you served 20 years- in writing!

A number of you guys put in careers in the Navy or Marine Corps. You know about making an unauthorized commitment. You know you cannot do that. But everyone who promised free health care for life for twenty years of service did that.

When you grow up in a culture that says something over and over and over again, pretty soon everyone believes it.

I believed it, until I took command of Balboa Navy Hospital San Diego in 1985. Then I started looking into the actual benefit. I studied it because I was totally over-whelmed with the population of 450,000 eligible beneficiaries trying to get care from our hospital. That was over a third of San Diego's population.

But there was no way I could do it. That is when I started to do research and figure it out. It was not fun.

Thank you.

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