



## A TOPIC AOPA IS WORKING ON THAT IS IMPORTANT TO THE FUTURE OF YOUR BUSINESS

# Introduction of H. R. 3112, the Medicare Orthotics and Prosthetics Improvement Act, Offers a No Cost Solution to Fraud and Abuse in the Medicare System and Underscores the Need for Professional O&P Care

### The Core of the Issue

Untold amounts of money have been paid to providers who are not qualified, licensed or certified to provide O&P care. Many of these providers, according to a CBS 60 Minutes Report in October of 2009, are sham businesses who fraudulently billed Medicare for medically unnecessary or undelivered services. Other reimbursed providers simply may not be qualified to deliver the needed patient care. A study commissioned by AOPA this year found unlicensed providers in licensure states were paid, contrary to Medicare's claims in Transmittal 656 and elsewhere that they do not pay unlicensed O&P providers. The study also documented substantial Medicare payments to parties who have not secured accreditation or do not have a certified O&P professional on staff in clear violation of the Benefit Improvement and Protection Act (BIPA). Congress passed BIPA in 2001. Section 427 established special payment provisions for prosthetics and certain custom-fabricated orthotics as to qualifications of the provider. Providers in states that do not have a licensure statute must be certified by ABC, BOC or a certification body with essentially equivalent requirements for certifying orthotists and prosthetists. Twelve years later, Medicare has still failed to enforce BIPA Section 427. H.R. 3112 would require Medicare to implement and enforce both licensure and accreditation prerequisites.

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### Why Is It Important To You?

First, the legislation would prohibit The Centers for Medicare and Medicaid Services (CMS) from making any payment for orthotics and prosthetics to a provider who is not appropriately licensed in a state requiring licensure. Second, the bill will require practitioners in states without licensure requirements to be certified. The combination of these two much needed reforms will keep fraudulent providers out of the O&P arena, so that only legitimate, qualified O&P practitioners will be paid for serving Medicare beneficiaries. Since eligibility for payment would be linked to the qualifications of the providers and the complexity of the device the patient needs, patient quality of care would be assured. Additionally, taxpayer dollars will be saved through a reduction in poor outcomes and repeated charges for follow up O&P care that would not be necessary if a qualified provider served the patient in the first instance.

Medicare is mandated to find \$750 billion in savings over the next ten years to pay for the expanded health coverage in the Affordable Care Act. They can cut benefits, they can cut payments to providers or they could find significant dollars, more than \$250 million over five years, by passing H.R. 3112. Similar legislation has been introduced in the last three Congresses and was pending in both Houses of Congress is the 112th Congress.

The screenshot shows the AOPA Votes website interface. At the top, it says 'AMERICAN ORTHOTIC & PROSTHETIC ASSOCIATION' and 'AOPA VOTES.ORG'. Below that are navigation links: Home, Latest News, Voter Resources, Issues & Legislation. The main content area is titled 'CONNECT' and 'DIRECTORY'. There is a form for 'YOUR INFORMATION' with fields for Prefix (dropdown), First Name, Last Name, Email Address, and Organization/Company. Below that is 'YOUR ADDRESS' with a Street Address field. To the right of the form is a section titled 'Act Now on H.R. 3112 the Medicare O&P Improvement Act' with a 'BACKGROUND' section. The background text reads: 'The Medicare Orthotics and Prosthetics Improvement Act of 2013 (H.R. 3112) was just introduced by Rep. Mike Thompson (D-CA) and Rep. Glenn Thompson (R-PA) on September 17, 2013 and it takes a very constructive approach to tackling the issue, both perceived and real, of fraud, while saving the Medicare program and taxpayers money. It prohibits the Centers for Medicare and Medicaid Services (CMS) from making any payment for orthotics and prosthetics to a provider who is not appropriately licensed (if a state requires licensure), and it requires practitioners in states without licensure to be accredited. The combination of these two much needed reforms will keep fraudulent providers out of the O&P arena, so that only legitimate, qualified O&P practitioners will be paid for serving Medicare beneficiaries.' At the bottom of the form, there is a URL: 'Visit aopavotes.channeldemocracy.com/connect/write?alert=1002.'

Visit [aopavotes.channeldemocracy.com/connect/write?alert=1002](http://aopavotes.channeldemocracy.com/connect/write?alert=1002).

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### What Is AOPA Doing About This?

H.R. 3112 in the 113th Congress and similar legislative proposals in prior Congresses have been the result of AOPA advocacy efforts involving top flight lobbying firms retained by AOPA and directed by AOPA staff along with the continual support effort of AOPA members. The AOPA Policy Forum each spring has provided members with the opportunity to have face to face meetings with their representative, senators and staff to further educate Members of Congress. It's an ongoing effort that is supported by the O&P Political Action Committee which contributes to the political campaigns of those legislators who share the concerns of curbing Medicare fraud and abuse and preserving quality of patient care. On September 17th, one of the Congressional co-sponsors of H.R. 3112, Rep. Glenn Thompson (R-PA), former CMS Administrator Tom Scully and Al Dobson of the noted healthcare consulting firm, Dobson DaVanzo along with AOPA president, Tom Kirk and I participated in a webinar press conference that announced introduction of H.R. 3112. The press webinar focused on good ways to fight fraud (H.R. 3112) and bad ways to fight fraud, such as wholesale RAC audits funded by Obamacare with moneys intended to fight fraud but misapplied by government as to claims that all agree do not involve fraud, but rather result in legitimate providers being "dinged" for some minor paperwork discrepancy.



Tammy Duckworth (D-IL), who has signed on as early co-sponsor of H.R. 3112, meets with AOPA members.

This press webinar also unveiled a compelling study by Dobson DaVanzo that documented instances in licensure states where unlicensed providers were reimbursed for O&P services, contrary to the intent of Congress. Dobson used Medicare's own claims data to demonstrate substantial Medicare payments to unlicensed and unaccredited providers, a fact which was further substantiated by an independent surveying firm's calls to medical supply providers AOPA identified in the three O&P licensure states—Texas, Ohio and Florida—who were paid by Medicare but acknowledged to interviewers that they did not have a licensed individual on their staff. The webinar was the media piece of an overall strategy to educate the public, policy decision makers and payers about the benefits of passing H.R. 3112, the Medicare

O&P Improvement Act. You can go to AOPA's home page and click on the Legislative and Regulatory pull down menu and select H.R. 3112 to read the bill and a "Dear Colleague Letter" from Rep. Glenn Thompson inviting other House members to co-sponsor. Most importantly, you can send a letter to your representative requesting your legislator to co-sponsor the legislation. You can also view the media event and resulting coverage the AOPA orchestrated press webinar produced. Rep. Glenn Thompson was joined by Rep. Mike Thompson (D-CA) as an original sponsor. Rep. Tammy Duckworth (D-IL), Rep. Dutch Ruppersberger (D-MD) and Rep. Peter King have signed on as early co-sponsors. You can help by sending your legislator a request to co-sponsor H.R. 3112. You can also go to this address to send the letter:

<http://aopavotes.channeldemocracy.com/connect/write?alert=1002>

### The Bottom Line

This is one more step taken by AOPA to make sure that your reimbursements are preserved to the fullest extent possible so you can continue providing quality patient care and not suffer needless reductions in Medicare payments because of fraud and abuse perpetrated by others. This legislation is also another step in separating O&P from DME which furthers O&P's quest for distinctive identification as a true and qualified professional provider of quality patient care that requires special expertise and qualifications.

Very truly yours,

Thomas F. Fise, JD  
AOPA Executive Director