



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

At Last—An Opportunity for O&P to Become It's Own Person

O&P has made history with the introduction of S. 2125, the O&P Medicare Improvements Act in the U. S. Senate which joins its counterpart, H.R. 1958 in the U.S. House of Representatives, to give the O&P community a reasonable shot at enacting legislation that will curb fraud and abuse, improve patient care and force CMS to implement long delayed regulations on provider qualifications.

History was made because it's the first ever free-standing legislation that has been introduced in both Houses of Congress that specifically and comprehensively addresses patient care and provider issues specific only to O&P. Hats off to Senators Ron Wyden (D-OR), Olympia Snowe (R-ME) and Charles Grassley (R-IA), the bipartisan group who introduced this bill and who were soon joined by Sen. Ben Cardin (D-MD) as an additional co-sponsor. Representatives Shelley Berkley (D-1st NV), and Glenn Thompson (D-5th PA) introduced the bill in the House and were soon joined by co-sponsors, Representatives Jason Altmire (D-4th PA), Leonard Boswell (D-3rd IA), Bruce Braley (D-1st IA), Brett Guthrie (R-2nd KY), Tom Latham (R-4th IA), Richard Neal (D-2nd MA), Mike Ross (D-4th AR) and Dutch Ruppersberger (D-2nd MD).



The Core of the Issue

Fraud and abuse makes headlines and fraudsters regularly tap the O&P device wellspring to populate their shabby game of filing false claims with Medicare that steals hundreds of millions of dollars from you, your patients and the rest of America's taxpayers. The sadness is that legitimate O&P providers are tarred with the same brush and bear the brunt of the pain along with their patients. What's worse, the antics of these two-bit crooks force CMS to wield sledge hammer countermeasures in their own, often misdirected efforts to curb the abuse. Sadly, these sledge hammer approaches harm the honest providers and deprive patients of timely care they desperately need. Things like the recent HHS Office of the Inspector General Report that focused on lower limb prosthetic claim denials inferred a pattern of rampant fraud in lower limb prosthetics. But the fraud claim was largely empty when closely examined. A basic premise in the denied claims suggesting fraud was that there was no record of the original referring physician, usually the surgeon performing the amputation and who prescribed the original prosthesis, of seeing that patient in the previous five years prior to a claim for a replacement prosthesis. What the OIG didn't understand is that the operating surgeon releases the patient from care after the amputation and may not see the patient ever again. The OIG also didn't understand; (1) that a physician visit as a prerequisite to a replacement prosthesis is not the prevalent standard of care; or (2) that prostheses require replacement. They wear out like any mechanical device

To accomplish the goals of the bill, The Medicare O&P Improvements Act would do three things: (1) it would prohibit CMS from making any Medicare payment for orthotics and prosthetics to a provider who has not complied with state law by securing a license in those states that require licensure in orthotics and prosthetics; (2) it would require the same accreditations standard that were adopted by the Department of Veterans Affairs; and (3) it would assure patients of the highest quality care by linking eligibility for Medicare payment to the qualifications of the provider and the complexity of the patient's needs and the device provided—there would be no room for Medicare to pay providers who lacked specific qualifications to fabricate the specific artificial limb or customized bracing prescribed by the physician to meet the patient's needs.

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Why Is It Important To You?

In addition to curbing fraud and abuse, protecting patient care and ensuring that the qualifications of the provider match the complexity of patient needs and the device—this legislation opens the door to future refinements that can further serve O&P providers and their patients. It would represent the first Act of Congress that specifically addresses the special needs of the orthotic and prosthetic world of care, separate from DME. The proposals in both houses of Congress also provide an identity referencing a specific House or Senate bill number that calls attention to our field and raises our visibility. It's going to be a rocky road over the next few years as the Affordable Care Act is implemented, assuming all or parts are not declared unconstitutional. H.R. 1958 and S. 2125 will continue to be a peg our lobbying activities can hang their hat on until final enactment.

In short, this bill would underscore licensure, accreditation, education, training and qualifications for those who may legitimately provide and bill Medicare for O&P devices and services. That means that folks who are violating state O&P licensure laws or who have no real training in orthotics and prosthetics could not prey upon our patients. Is it perfect—NO; is it a major improvement over what we currently have—YES.

What Is AOPA Doing About This?



Rep. Shelley Berkley
(D-1st NV)

AOPA's efforts on S. 2125 and H.R. 1958 began with the 110th Congress when Rep. Shelley Berkley introduced a similar bill on September 11, 2008 which brought heightened enthusiasm and excitement to the September 10-12 National Assembly held in Chicago that year. AOPA and its lobbying team have managed to have the bill introduced in the 111th and now in the 112th Congress and for the first time it has been introduced in both the House and the Senate. Rep. Dave Camp (R-MI), the Chair of the House Ways and Means Committee has requested that the Congressional Budget Office prepare a "score" for the bill which hopefully will



Rep. Dave Camp (R-MI)

recognize that by blunting fraudulent providers this bill will save money. If that happens it would greatly enhance the prospects for enactment. While it's a long slog, often five or more years, from start to finish on any piece of legislation at the federal level, AOPA, now with an endorsement from both the Amputee Coalition and the O&P Alliance, continues to believe this bill provides the best chance of enacting fundamental change that will help patients and members.

It's taken a huge investment to retain the appropriate lobbying firms who have connections right and left to members of the Senate Finance and Senate Health, Education, Labor and Pensions Committees and the counterpart committees in the House of Representatives. The O&P Political Action Committee has been a crucial factor in supporting the re-election campaigns of those Senators and Representatives who believe in preserving quality O&P patient care and reducing fraud and abuse.

The O&P staff continues to keep members apprised of progress and how they can help but most importantly by organizing the annual AOPA Policy Forum that gets our issues front and center with legislators and their staff. More than 400 appointments last year helped make sure O&P secured a broader understanding of our services and our patients' needs. It led to added support for the Medicare O&P Improvements Act.

When it's all said and done, the Medicare O&P Improvements Act is a classic example of recognizing Voltaire's observation that "The perfect is the enemy of the good" needs to be taken in consideration when trying to do legislative "good." We can't let the "perfect" block the way. There are no perfect bills. We have a very good bill in H.R. 1958/S. 2125 and we will continue to do everything possible to expedite its enactment into law.

Very truly yours,

Thomas F. Fise, JD
AOPA Executive Director