American Orthotic &
Prosthetic Association

Statement of the American Orthotic and Prosthetic Association
Concerning Effective Strategies for Combating Health Care Fraud
October 28, 2009

On behalf of the American Orthotic and Prosthetic Association, I appreciate this opportunity to describe to you some fundamental steps we think could reduce fraud in Medicare. AOPA was founded in 1917, and is the largest national trade association representing the interests of patient care facilities, distributors and manufacturers of orthoses (orthopedic braces) and prostheses (artificial limbs). With nearly 2,000 member companies, the association is dedicated to raising awareness of the profession and advocating for policies that impact the future of the orthotic and prosthetic field and the patients we serve.

The American Orthotic and Prosthetic Association has long advocated for steps to protect Medicare patients from fraud and abuse and from poor quality care. Legitimate businesses, and organizations that represent bona fide providers in the prosthetic and orthotic field have petitioned, cajoled and met with Medicare officials for years, complaining about these problems, and proposing ways the Centers for Medicare and Medicaid Services (CMS) could combat the problem. Last Sunday, "60 Minutes" aired a report concerning fraud in this area that highlighted the cost of inaction.

Crooks apply for and receive a Medicare provider number for their "business" even though no medical equipment or supplies are ever sold. They buy names, addresses and social security numbers of Medicare beneficiaries, steal or fraudulently secure physician prescriptions, and start billing Medicare for a range of items, often including prosthetics—artificial limbs and electric arms are specifically cited in the "60 Minutes" story—because they are relatively high priced items. No one confirms the medical necessity or the legitimacy of the practitioner. As shown in the "60 Minutes" story, patients with all four natural limbs are surprised when they see their Medicare Explanation of Benefits for 'their' prosthetic legs and arms.

There are fundamental steps that should be taken immediately to reduce fraud. The first step should be to ensure Medicare payment goes to only those practitioners of orthotics and prosthetics who are licensed to do so, if a state requires licensure.

Ironically, The Centers for Medicare and Medicaid Services issued "Transmittal 656" in August, 2005 to require that only those individuals licensed in states requiring licensure for the provision of orthotics and prosthetics were reimbursed by Medicare. However, and tragically for Medicare and the people the program serves, this transmittal was never implemented. To implement this requirement, the contractor responsible for processing

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claims for orthotics and prosthetics would have to make an "edit" in their system to acknowledge that the practitioner is licensed. No explanation has ever been given about why this Transmittal although issued, was never implemented. This fundamental step would prevent those who simply want to rip off the system from being able to do so. Currently 12 states have licensure laws. Surely the time it would take to initially verify licensure would be well worth the effort and save Medicare millions over time.

The corollary to state licensure for those practitioners in states that do not require licensure would be accreditation. No practitioner should receive Medicare payment unless the individual is accredited according to a strict standard that includes specific education and training (residency) requirements. To be eligible as an accrediting organization, the organization should be either (1) be the American Board for Certification in Orthotics and Prosthetics, Inc. or the Board for Orthotist/Prosthetist Certification or (2) use standards essentially equivalent to those used by one of these Boards. This is completely consistent with legislation already enacted by Congress in Section 427 of Beneficiary Improvement and Protection Act 2000. We believe that accrediting bodies should have a history in this area and that there not be so many accrediting bodies that credentialing and therefore quality is driven to the lowest common denominator.

AOPA members believe that qualifications standards should be established so these bad actors couldn't bill for the more complicated (and costly) services, unless they had demonstrated they had the skills needed to do the job right. While most people are familiar with prosthetics, they are not as familiar with complex orthotics needed by children and adults with debilitating diseases. For children with cerebral palsy and adults with MS, complex orthotics are often custom made and can help them with activities of daily living, like sitting up right.

Legislation has been introduced in the House of Representatives that would implement the strategies we have highlighted. The Medicare Orthotics and Prosthetics Improvement Act, HR 2479, would require CMS to take the two steps we have outlined to reduce fraud in Medicare and it also creates strong standards for the professionals providing care to people with limb loss or in need of complex orthotics. It will save money and ensure the highest level of care in the prosthetic and orthotic profession. We believe that these steps could save at least $100 million in Medicare.

CMS could act upon these recommendations and tighten up the loopholes that allow crooks to take advantage of the Medicare system. However, that has not happened. AOPA members urge this Congress to act upon these recommendations now.

Respectfully submitted,

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