

1st Quarter AOPA Staff Report

To: AOPA Membership

From: Thomas F. Fise, Executive Director

Date: April 15, 2010

Subject: So Now That We Have It, What Do We Do?

At long last the tortuous process spanning the last year has birthed the “health care reform” law that has been the front and center issue for this administration. The rhetoric still continues including threats of “repeal” but much of what’s being said is merely setting the table for the November elections. Realistically, repeal isn’t going to happen, at least not anytime soon – this President isn’t about to sign a law that repeals his most coveted campaign pledge. Even if the U. S. Senate could muster the votes for repeal, it could never muster a two thirds majority necessary to override a White House veto of any repeal bill.

The question of what this law is and how it impacts the O&P community largely remains to be seen. The Patient Protection and Affordable Care Act (PPACA), like most new laws, contain ambiguous language that will be clarified by the implementing regulations .

There are two things up front that will cost O&P businesses money—(1) the productivity adjustments across the board, which were expected, whereby all providers, including but certainly not limited to O&P, will be subject to reductions beginning in 2011 in the annual Medicare fee schedule updates by between 1 to 1.5 percent per year; and (2) the medical device excise tax, which came as a very late surprise. The Class I exemption which had always been part of both the Senate and House bills was removed in a last minute House deal to peel off a couple of needed “yes” votes. This means that all medical device manufacturers (O&P and all others) beginning in 2013 will be burdened with a 2.3% excise tax on devices sold. AOPA is exploring whether there is a way that O&P manufacturers might qualify for one of the very narrow exemptions from the device tax. AOPA will make every effort to obtain a determination over the next few months as to whether componentry used in creating another device will be exempt from or subject to the excise tax.

Mandating minimum benefits for insurance plans offered in the small group and individuals markets and prohibitions on lifetime caps and annual limits on the dollar value of benefits for a particular beneficiary may mirror some of the desired provisions of

“parity” legislation, long sought at the federal level. But whether it does or does not will have to await interpretation by the regulatory process.

That’s why AOPA’s marching orders for the next three or four years will still be deeply entrenched in health care reform – to make sure the resulting regulations offer the best possible climate for O&P’s delivery of the best quality care to patients.

AOPA Policy Forum, May 26 - 27 – Best Place for Answers, Best Place for Impact

There’s no question that those 172 Policy Forum appointments that AOPA members had with legislators and their staffs during the 2009 event made a difference in how O&P fared in the new health care law. And there’s no question that the high impact national advertising, placements in six major weekly and monthly magazines, drive time radio spots, dioramas in airports and the transit stop ads directed at policy makers also made a difference.

With a huge body of implementing regulations pending and proposals already to further “refine” health care legislation, Congressional visits and improvements of legislator awareness and understanding of O&P are still just as critical for O&P today. You never know when help will be needed to help educate and clarify details of the law for the regulators.

A big difference in this year’s policy forum briefings will be allocating a portion of our focus to licensure and parity – both critical state issues. Several members from the Amputee Coalition of America (ACA) will join AOPA members at the Policy Forum to share their insights on how state lobbying efforts can lead to enactment of both proposals. ACA’s members will primarily be from states where parity has been enacted into law.

Another big difference is the location. The Hyatt Regency Washington Capitol Hill is an easy, only minutes-away walk from the U.S. Capitol and Senate and House Office Buildings. AOPA members can fly into Washington Reagan National Airport on Wednesday morning, May 26th, in time for the “by invitation only” Noon luncheon for Rep. William Cassidy (R-6th/LA), a member of the House Education and Labor Committee. The 1 p.m. “Welcome and Overview” kicks off the afternoon of issue briefings and the analysis of the new health care law. From 5:00 to 6:00 p.m., AOPA members will be invited to a reception which will provide quality time with Rep. Jason Altmire (D-4th/PA). Congressman Altmire is a member of the House Education and Labor Committee and Small Business Committee. He is also one of the very few Democrats who stood up to intense political pressure and voted against the health care reform package. A 6:30 p.m. reception and dinner offers even more opportunities for expanded networking and information exchange.

Thursday morning will kick off with a continental breakfast for the entire group and a final briefing in preparation for the day of Congressional visits.

The \$75 registration fee and the unusually low \$255 room rate at the convenient Hyatt Regency Washington Capitol Hill both reflect pocket book concerns. The hotel rate for

the busy May period is usually much higher. To register, go to www.AOPAnet.org and click on the Policy Forum button under the Government Relations menu tab.

Wine Auction PAC Event & More at National Assembly, September 30, 2010

“Smashing success” may not be the best choice of words to describe the 2009 Wine Tasting and Auction hosted by the O&P PAC – but that’s what it was – “a smashing success.” The event raised more than \$22,000 to further the O&P community’s ability to support members of Congress friendly to O&P issues. Please mark your calendar for 6:30 p.m., Thursday, September 30 at the Rosen Shingle Creek Resort in Orlando, Florida.

To comply with Federal Election Commission (FEC) rules, everyone attending must have signed a PAC Authorization Form so if you are not sure whether you signed one, please go to www.AOPAnet.org. Click PAC Authorization under the Government Relations menu tab and download the form and fax to AOPA or see page 8 of this report.

You and your employees will definitely want to participate in the \$10,000 Cash Give-Away during the AOPA Assembly. Any attendee who makes a \$25 contribution to AOPA’s government relations activities will have the opportunity to play a challenging game of skill in the exhibit hall – watch the AIA for details. One lucky winner will take home \$10,000. (Thanks to the generosity of Arizona AFO and Branier Orthopedic for hosting this event.)

State Laws/Activity Still Matter

While everyone’s attention was riveted on the national health care reform proposals and debate, legislative and regulatory activity at the state level had its own potential impact on O&P.

In California, Governor Schwarzenegger’s budget proposal included cuts to MediCal reimbursements if a \$6 billion Federal payment was not received. O&P would be among those services affected. AOPA issued a strongly worded press release opposing the action and coordinated with the California Association of Prosthetists and Orthotists (CAPO) and the Amputee Coalition of America (ACA) to alert AOPA members to the danger.

Congratulations to AOPA members in Kentucky, the Kentucky Orthotic and Prosthetic Association (KOPA), to Tony Ward and to others whose perseverance and leadership were rewarded in the final days of its 2010 legislative session. The Kentucky State Legislature approved and sent the O&P Licensure bill to the Governor for signature. KOPA had been pushing for this legislation aggressively in the past couple of years.

Parity legislation has been introduced this year in Alabama, Idaho, Michigan, Minnesota, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Utah and Wisconsin and another five states are expected to introduce or reintroduce parity bills this year – Connecticut (reintroduction), Delaware, Florida, North Carolina and Kansas.

More Research Funding by AOPA

Priming the pump for more comprehensive research, AOPA has issued a Request for Proposals (RFP) covering five topics of pilot research:

- a. AFO treatment of stroke – appropriateness of the 5 custom criteria for custom device use
- b. Microprocessor Knees and functional value for K 2 patients
- c. Residual limb and socket interface selection criteria
- d. Vacuum assisted socket research
- e. Prosthetic Foot/ankle mechanisms assessment of current functional classifications

RFP responses are due April 30 and the Board of Directors of the Center for Orthotic & Prosthetic Learning and Outcomes/Evidence-Based Practice (COPL) will once again conduct the review and selection process. AOPA is providing \$7,500 funding for each project area.

These projects follow up on RFP's issued last year when three topics were funded. Final reports from the researchers on these earlier RFP's are due June 30.

AOPA Responds to Member Complaints on Reimbursement Software Denials

Recently, AOPA received several complaints from members regarding claims denials from private payors that are based on the payors' use of McKesson claims editing software. Our members were being told by these payors that the McKesson program only allows a frequency of "one" for each claim line item. Any frequencies above this are denied. In response, AOPA contacted McKesson and has opened a dialogue with their medical director, urging him to use the Medicare MUE edits rather than creating their own. So far this has been a fruitful discussion and for many codes McKesson either already uses the Medicare MUE or is willing to do so. We are in current discussions with them on those codes where there is an existing Medicare MUE but their software doesn't use it and instead, tells the payor to always flag the claim for review. We will be presenting McKesson with a rationale for changing most of these flagged items to match the MUE, to eliminate the automatic suspension of flagged codes.

We have also found out that in some instances, payors are not simply flagging these codes, but are automatically denying them, since payors are allowed to modify the frequency edits to suit their coverage policies. Because of this, once we have finished discussions with McKesson, we may still have to deal with some of the private payors directly.

Further L Code and Reimbursement Issues

After significant feedback from AOPA and other specialty groups, CMS has rescinded the consignment closet rule that was scheduled to go into effect on April 1. However, we believe that this is not the end of this rule and that at some point in the future, CMS will reissue it under "notice and comment" rules. This will allow time for the field to provide input, unlike the earlier announcement that gave just one month to make significant

changes in the way many facilities do business. We continue to educate CMS on this issue and its potential impact on the field.

In addition, the requirement that all referring physicians be in the Medicare PECOS system to be eligible to write prescriptions has been postponed until January 2011. CMS received serious blowback from all DMEPOS provider groups on the upcoming denial of payments engendered by this rule, which was to go into effect in April 2010, and CMS realized that the physician community was quite uneducated about the need to enroll through PECOS. It is hoped that the delay will allow for significant further educational activities for physicians. CMS has indicated that at some point in the future, it would be sending those physicians still not in PECOS a letter giving them 60 days to enroll or be removed from Medicare.

The new Red Flag Rules will still go into effect on June 1, 2010. Members can access the Federal Trade Commission website <http://www.ftc.gov/redflagsrule> for guidance on how to implement these rules and a template that will give facilities a shortcut to implementation. The FTC has indicated that it will initially concentrate on education rather than enforcement.

Update on the Haitian Relief Effort

The world was shocked by the devastating earthquake in Haiti costing hundreds of thousands of lives and thousands of limbs. AOPA members responded appropriately with major companies pledging support, devices, treatment facilities and manpower. Individual members volunteered their services.

AOPA and AAOP collaborated on a consolidated AOPA/AAOP Web site which offers a wide range of information, links and other options to support relief efforts in Haiti. Anyone clicking on the AAOP or AOPA home page Haiti Relief buttons will go to the consolidated site where donations of cash, used componentry or time can be made or registered. AOPA will acknowledge the various submissions, forward donations and maintain the registry of offerings and needs for matching purposes.

Because so many victims were young people, the need for O&P services will continue for decades as orthoses and prostheses are outgrown and require replacement. The strategic placement of Transit Poster Ads at bus and subway stops frequented by policy makers in Washington, DC tells that story and distinguishes our profession from other providers. To see the ad, go to www.AOPAnet.org select the Press Room tab, click on Transit Ad.

Products and Services Catalog

If you have not seen the 2010 AOPA Products and Services catalog, email or call us for a free copy. The 2010 catalog is packed full of the timeliest information from AOPA and how to obtain it. Including:

- The new 2010 Coding Suite
- AOPAversity offerings (2010 Schedule for Seminars, Webcasts and Audio Conferences)
- White papers and monographs available at no charge

- Different Business Models “How To” Series, free for the asking
- AOPA Business Optimization Analysis Tool (BOAT) – no charge to utilize this service
- *AOPA In-Advance* electronic newsletter – Free Subscription available
- Much, Much More

The 2010 National Assembly– The Place to Be

The 2010 AOPA National Assembly will be held September 29 – October 2 at the luxurious Rosen Shingle Creek Resort in Orlando. Rosen Shingle Creek will impress you with first class meeting space, a beautiful 230 acre setting, an on property 18-hole golf course, a fabulous spa, and an incredible selection of dining and recreation options.

Once again this year, the oldest and largest meeting for the orthotics, prosthetics and pedorthics profession in the United States features over 34 hours of superior clinical and business education. A new Business Education Workgroup has created a first-class program to teach you what you need to know to rebound from the recent tough economic times. For the first time this year, there will be an award-winning business education program to complement the Thranhardt award for superior clinical education. A keynote business speaker has also been added to the schedule, reflecting AOPA’s commitment to the business of O&P.

Today’s healthcare landscape is covered with changes. The 2010 AOPA National Assembly will prepare you for the massive changes that health care reform will bring and its impact on your practice. It’s also the place to be to learn about the latest rules, regulations and Medicare billing changes you need to serve your patients.

Be sure and check out www.AOPAassembly.org for the latest information on the show as well as special events, post-show vacation options, and the other reasons that this is the “must attend” event of the year. The preliminary program will be posted online by early June and mailed by mid-month to all certified practitioners and selected former attendees.

Coming Soon

Watch the *AOPA In Advance* newsletter for information on a new member benefit coming soon. AOPAiversity presents a series of educational seminars available to AOPA members at no charge. Topics include:

- Post Mastectomy Care For Today
- Scoliosis Management
- Advances in Upper Limb Prosthetic Outcomes Using Targeted Muscle Reinnervation
- Treatment Options Using the Van Ness Procedure
- Managing Medicare Billing
- Customer Service

Streamlining AOPA Committees & Strategic Initiatives

As AOPA’s 11 strategic initiatives have matured and reached various levels of implementation, it became clear that an opportunity existed to reshape how AOPA

utilizes volunteer resources in advancing the initiatives. To maintain the momentum, AOPA is consolidating all activities under three Promote, Protect and Provide Committees plus the Executive Committee.

The Promote Committee includes the public relations, the communications efforts, the development of a Federal GrassTops legislative program plus efforts to advise schools on curriculum needs. The former Business Survey Task Force and the Membership and Marketing Committee activities were also folded into the committee. The AOPA vice president and chief operating officer serve as co-chairs.

The Protect Committee includes licensure, the O&P Political Action Committee, the Capitol Connection and the Coding and Reimbursement Committee. Also included are the reimbursement related initiatives – linking service, complexity of patient needs, qualifications and payments; improve the fee schedule; and the research and outcomes/evidence-based practice activities. The AOPA president –elect and the senior director of government relations co-chair the Protect Committee.

The Provide Committee includes the National Assembly Planning efforts, business education, the insurance program and member services. It also folds in the initiatives on improving practitioner skills, the ideal office of tomorrow and different business models. The AOPA treasurer and senior director of membership, operations and meetings co-chair the committee.

The Executive Committee with the AOPA president and Executive Director as co-chairs includes the charter activities of government relations, the VA relationship, O&P Alliance, oversight of finances, board and staff development and strategic planning.

What it means to AOPA members is that reimbursement and other vital advocacy interests are being aggressively pursued and carefully monitored by the Executive Committee and AOPA volunteer officers. The organized public relations strategy will continue front and center as it tells the “greatest story never told” – the life-enhancing message of mobility and dignity restoration that is the lifeblood of the O&P field. Members can expect the latest, most readily applicable business tools to help you analyze your needs, strengths and opportunities by transforming these into your bottom line success. In short, the new AOPA means professionals “working smart” for you, to anticipate and meet your needs to assure you the strongest bottom line performance.



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