



## **AOPA 4<sup>th</sup> Quarter 2009 Staff Report**

TO: AOPA Membership

From: Thomas F. Fise, Executive Director

Date: January 15, 2010

Subject: Healthcare Reform Legislation....Teetering on the Brink!

On December 24, the U.S. Senate finally enacted its version of the health care reform bill. As the general media has reported in recent days, the Senate Democrats overcame many obstacles in achieving unity in the absolute party-line 60-39 [the two Senate Independents, Lieberman and Sanders, who caucus with Democrats, voted with the 58 Democrats; Senator Jim Bunning (R-KY) was not present for the vote] votes that were needed to close the debate on three separate filibusters. In his final comments to the Senate before the vote, Majority Leader Reid cited the case of a child with a prosthesis as his example of why fixing preexisting conditions, and implicitly, the legislation is so important.

So, the House and now the Senate have passed health care reform bills, but they are not identical, and in fact have significant differences in content (the House passed a public option; the Senate did not) as well as funding mechanisms (the House levies a surtax on wealthy Americans; while the Senate would tax high-end health insurance plans together with taxes on device manufacturers and others). The two bills need to be reconciled, and another round of voting in both Houses on a "unified" bill must occur before there is a bill capable of being signed into law by the President.

While enactment of a health care reform bill is more likely now than it was a month ago, it is by no means certain. Those who attended AOPA's April 2009 Policy Forum may recall AOPA lobbyist, Tom Scully's pessimistic prediction, noting the huge cost and the collision course of so many different large, competing interests, that more likely than not it wouldn't happen in the 1<sup>st</sup> session of the 111<sup>th</sup> Congress. And that pessimism still may be right on as the margins are razor-thin. Most of the pundits do expect final action within weeks.

The delay might work to O&P's benefit as more time means more opportunity to educate members of Congress on the huge payback from AOPA's legislative offerings. H.R. 2479, the O&P Medicare Improvement Act, would curb fraud and abuse saving \$100 million annually, as a conservative estimate. H.R. 2575 – the orthotic and prosthetic parity bill – could also cut government spending in the long haul. Removing lifetime caps on devices and providing proper treatment to patients with limb loss or disabling diseases returns them to productive lives. That means tax dollars are coming in instead of welfare payments going out which limit peoples' ability to pursue an active quality of life and a full career of earning capability.

Over the next few weeks, the House and Senate will try to hammer out differences in the two versions voted by each body. Because of the solid GOP opposition it appears they will not reconcile differences through a formal House-Senate conference committee. Each procedural step would allow an occasion for another Senate filibuster and delays through multiple cloture votes. Rather, it appears each chamber will send revised bills back and forth arriving at a reconciled bill for a final vote in each chamber. Then the final stop on the journey will be the Oval Office for President Obama's signature.

## **AOPA TAKES NEW INSURANCE PARTNER**

The turn of the New Year inaugurated AOPA's new insurance partnership with Cailor Fleming Insurance, a fifteen year veteran of servicing O&P facility insurance needs. AOPA's agreement with Aon Affinity Insurance expired December 31, 2009. Several past and current members of the AOPA Board of Directors had switched from the AOPA sponsored program with Aon to Cailor Fleming over the past few years. In explanation they praised the continued presence of Cailor Fleming representatives at local, state and regional O&P events, broad coverage options and very competitive rates. AOPA members should obtain a quote from Cailor Fleming when their policies renew this coming year. A call to Cailor Fleming's Don Foley or Jeff Michalenok at 800/796-8495 will initiate that quote. Using Cailor Fleming will benefit AOPA and its members on many levels.

## **O&P CHALLENGES OF 2009**

In addition to the health care reform legislative arena, O&P was deeply affected by actions regulatory agencies took, especially the Centers for Medicare and Medicaid Services (CMS). Here are some of the more important issues and how AOPA responded:

**Consignment Closet Regulations.** CMS announced that on September 8, 2009 consignment closets were no longer acceptable – giving O&P and physicians only 30 days notice of this change. CMS had no idea of the crisis this decision would precipitate. AOPA was deluged by member calls. **Action & Result:** AOPA explained the impact to CMS which agreed to **postpone the effective date until March 1, 2010**, providing more time to clarify the regulations and educate those affected – we would not be surprised to see further delays and policy changes.

**Surety Bond.** Mass confusion on who was exempt and who was covered under the new CMS rules requiring the bond by many before October 1<sup>st</sup> resulted in hundreds of calls to AOPA. **Action & Result:** Clarification was sought from CMS and AOPA provided members with information on who must comply and how and where to obtain the bond to avoid any interruption in Medicare payments. AOPA encouraged CMS **to delay the effective date of actual enforcement** so more firms could be instructed on their specific obligations. Most O&P facilities are required to obtain the surety bond.

**Accreditation Confusion.** The October 2<sup>nd</sup> effective date of accreditation requirements threatened members' ability to see Medicare patients. **Action & Result:** AOPA sought clarification from CMS and was able to confirm that **a basic O&P facility is not presently required to be accredited at this time**, although many choose to be. **Accreditation is presently required for DME facilities and may be required for those selling pedorthic and mastectomy products under certain circumstances.**

**PECOS Requirement.** A further CMS bombshell dropped with CMS' January 4, 2010 deadline requiring physicians to be registered with PECOS in order to write a prescription eligible for reimbursement. No registration would result in no reimbursement to the O&P facility providing services under the unregistered physician's prescription. **Action & Result:** AOPA obtained clarification on the program roll out and at the same time conveyed to CMS the serious consequences if the effective date was not postponed to provide time to educate physicians and facilities as to the requirements. **CMS agreed to delay implementation until April 1, 2010 and promised that the PECOS physician registry will be on line before the program goes into effect.**

**AOPA's web site has a sample letter members can use to encourage physicians to register to avoid any hiatus in payment of claims filed on prescriptions by unregistered physicians from being rejected.**

**Code Deletions.** In 2009, CMS deleted codes that, while not covered by Medicare, are covered and highly used by private insurers. This meant that facilities had to use "not otherwise specified" for these items causing delays and often denials of payment. **Action & Result:** AOPA protested to CMS when the deletions were known; **CMS has announced a replacement code that goes into effect on April 1, 2010 for elastic devices, however it lacks specificity and may prove difficult to use with private payers. AOPA continues to work for more specific replacement codes; however, due to the long lead time for new code creation, the earliest that such additional codes might be effective would be July 1, 2010.**

**Red Flag Rules.** The Federal Trade Commission (FT) created another maze of confusion when a rule was issued requiring certain business firms offering consumer credit to implement a compliance program in the event a security breach compromised consumer credit information in their files. **Action & Result:** AOPA reviewed FTC information and confirmed that most O&P facilities were affected and conveyed information to members. **The effective date was postponed from November 1, 2009 to June 1, 2010.**

Then there were those special situations where AOPA was able to intercede directly on behalf of members. As an example, effective January 1, 2009, CMS deleted two codes, L2680 and L3890, that covered the joints in many UltraFlex devices, based upon the fact that Medicare does not usually cover them under the brace benefit. Unfortunately, CMS neglected to assess the usage of these codes in non-Medicare situations, where there is a significant volume. This left practitioners with no way to bill private insurance companies for these devices, other than using a non-specific L2999, for which it is difficult to almost impossible to get paid.

AOPA, in conjunction with the O&P Alliance and the manufacturer, worked with CMS to explain the need for these codes to be reinstated. The group effort was eventually successful in persuading CMS to create two new codes to cover these devices. Unfortunately due to the annual nature of the coding cycle, the new codes were not implemented until January 1, 2010. However, they are now once again available to be used for private pay patients.

## **CONTINUED PUBLIC RELATIONS OFFENSIVE**

The mid-summer public service advertising and print ad campaign appearing in several national magazines, transit stop posters and airport dioramas marked the launch of AOPA's first comprehensive public relations program and boosted awareness of O&P, especially through the joint ads with the Amputee Coalition of America (ACA). These ads, one of which depicted the President embracing an amputee, are aimed primarily at legislators, policy decision makers and payers. The ads urged the inclusion of O&P parity provisions when O&P coverage is offered by private insurers and also pushed the need for H.R. 2479, the O&P Medicare Improvement Act, to reduce fraud and abuse by only reimbursing qualified providers.

Seizing the opportunity to play off the stirring 60 Minutes CBS expose of the \$60 billion Medicare fraud involving DME and O&P in South Florida, AOPA once again partnered on an advertising buy with the ACA. The ad appeared on the back page of the November 5<sup>th</sup> issue of *Roll Call*, the inside the beltway political daily read by legislators and policy makers. It again urged Congress to include provisions of H.R. 2479 in any healthcare measure with its projected savings of more than \$1 billion over ten years by reducing opportunities for O&P fraud.

Following up on this high impact combination of paid and public service advertising, AOPA purchased a strategic buy in the final days of the Senate health care debate on the highest rated Washington, DC area news radio station, WTOP. The 60 second spot featured a 17 year old amputee, Rachel Grusse. Rachel made the case for eliminating lifetime caps by telling her own story of outgrowing her prosthetic devices and how young people are

especially vulnerable to these arbitrary limits. Her message concluded with “arms and legs are not a luxury.” The December 15, 2009 *AIA* had a link to the commercial on the AOPA web site as did the January 7, 2010 *AOPA Insider* electronic newsletter.

Additionally, the 60 Minutes expose triggered a CBS affiliate’s interview in Miami of AOPA’s executive director. All of these public relations efforts increase the public awareness of O&P, the needs of our patients and push the need for provisions of H.R. 2479 and H.R. 2575 to be included in any final health care reform measure.

And finally, AOPA collaborated with the ACA in placing a December 21st one page ad “letter to Senator Olympia Snowe (R-ME)” in the *Portland Press Herald* thanking Senator Snowe for past efforts on parity. The ad further urged her continued commitment and leadership by seeking to insert language in the final version of the healthcare measure. The language would address ACA/AOPA recommended Medicare improvements (H.R. 2479) and a private insurer requirement that reimbursements for prosthetics and orthotics (H.R. 2575), when offered, match their other surgical and medical benefits in the policy.

To see the complete array of paid and public service advertising, the transit stop ads, the airport dioramas and to access the radio spots, CBS interview and other public relations initiatives – go to [www.AOPAnet.org](http://www.AOPAnet.org) and click on the press room button and select 2009 AOPA PR. Take a moment and view the site – you’ll find it’s pretty impressive in the way it’s positioning O&P in the healthcare marketplace.

## **O&P POLITICAL ACTION COMMITTEE’S BIG COUP**

Hitting the 2009 PAC contributions goal of \$100,000 has been a big challenge but the single best generator of funds was the wildly successful Wine Tasting and Auction on Monday, September 21<sup>st</sup> at the Seattle National Assembly. The donated wine offerings expanded the PAC coffers by more than \$22,000 in auction receipts from the 125 dedicated wine aficionados and those who just wanted to help the PAC by enjoying a fun filled evening. Board member Anita Liberman-Lampear and husband Alan once again spiced up the evening by conducting the spirited live auction and encouraging the silent auction bidding. While the 2009 \$100,000 annual goal wasn’t achieved (sadly), the year ended with more than 278 AOPA members stepping up to protect their business with \$82,631 in contributions – the best year yet in the PAC’s history. Highly targeted contributions to 16 legislators reached \$25,000 in 2009 reserving most of the funds for the big fundraising demands later this year during the 2010 election cycle.

## **CAPITOL CONNECTION’S PERHAPS BIGGER COUP**

Members often ask about the difference between the O&P PAC and Capitol Connection. Both are vital and the distinction is fairly simple. The PAC can only accept personal checks or credit cards which then underwrite the PAC’s contributions to campaigns of candidates who support issues benefiting O&P patient care, such as H.R. 2479 and H.R. 2575.

Capitol Connection may accept company checks or credit cards but may not contribute directly to a political campaign. An excellent example of how Capitol Connection funds benefit O&P is the Connection’s underwriting the travel expenses of 15 ACA members who flew to Washington for a special September 16<sup>th</sup> educational and meet your legislator day. Fortuitously, it was the same day that Senator Baucus (D-MT), as chairman, introduced the Senate Finance Committee’s version of healthcare reform. Timing was perfect and the *Washington Post* featured a photo of the group clustered outside the Finance Committee’s offices as part of a six column spread on the healthcare bill introduction. The photo included the president of the Amputee Coalition of America as well as AOPA’s executive director.

## **NEW MEMBER SERVICES**

In addition to the advocacy and public relations effort, AOPA constantly seeks out new services that can benefit members, their employees and patients. The effort scored a bull's-eye with an agreement to endorse the 'Health Proponent Program' offered by the company, Health Advocates. For an annual subscription fee of \$26 per employee (you may also want to refer patients), several areas of services are available. Access is provided to a personal health advocate whose job it is to help resolve clinical and insurance related issues including finding the best care providers; expediting appointments with hard to reach specialists; providing comparative health care cost estimates; assisting with eldercare arrangements for parents and loved ones; helping resolve insurance claims, negotiating billing and payments; and obtaining insurance pre-approvals. Another service provides highly specialized, skilled negotiators to help reduce post-claim bills for healthcare services rendered, resulting in substantial savings to O&P businesses and your employees – often in the 25 to 50 percent range. Full details are available at [www.AOPAnet.org](http://www.AOPAnet.org) on the Benefits Products Services menu by selecting the Health Advocates option.

## **O&P ALMANAC FOCUS GROUP**

Editors of the *O&P Almanac* conducted a focus group conference call to flesh out ideas that could freshen up content, the look and the overall value of AOPA's fifty-eight year old publication to the O&P community. Healthcare reform, Medicare changes, compliance issues, coding and reimbursement issues were hot topics and top priorities for participants. Several participants mentioned articles that discuss challenges or interesting developments within the practice as key interest areas along with profiles of fabrication labs and facilities. Information technology was cited as a reader need noting it will be vital to future survival. The group encouraged more coverage that explains the need for overall change management and why the industry must evolve and stay current and even ahead of the curve with treatment practices and technology.

The Reimbursement Page and Ask the Expert were the most well-read sections of the magazine. These two columns often are on the read first list.

## **CENTER FOR O&P LEARNING CONTINUES RESEARCH GOALS**

Frequent conference call meetings of the Board of Directors of the Center for O&P Learning and Outcomes/Evidence-Based Practice have further advanced the Center's research agenda. Interim reports were received in early January from recipients of the first three pilot research grants selected by the Center's Board. The grants of \$7,500 each were funded by AOPA and final project results are due July 7, 2010.

The Center is recruiting two additional directors outside the O&P practice area to broaden the Board's horizons and to help guide a more aggressive effort to secure major research funding which could build on the pilot research projects' findings. The COPL Board is currently comprised of eight individuals, each designated by one of the major organizations in the O&P field. Further information on the Center is available at [www.centerforoandp.org](http://www.centerforoandp.org).

Each AOPA member company is entitled to designate one member of their staff to receive an AOPA-sponsored membership in the Center and benefit from the services. The Center currently offers a newsletter, a guide to potential sources for research money, how to write a successful research grant proposal, and highlights of a recent literature search on O&P products and topics.

## **YOUR AOPA'S FINANCES CONTINUE STRONG**

Consistent with AOPA's Board of Directors decisions last year to streamline the organization; AOPA's fiscal year end November 30, 2009 produced favorable financial results. Total revenue was slightly ahead of last year

reaching \$5.06 million compared with \$4.9 last year. Total expenses increased to \$4.8 million as increased spending on the advocacy and public relations initiatives rose dramatically confirming then Treasurer, Mark Emery's report to members during the Annual Business Meeting at AOPA's National Assembly in Seattle. The modest annual surplus allowed net assets or the "rainy day" fund to reach the \$3 million mark for the first time ensuring AOPA's ability to advocate on behalf of members regardless of current economics.

## UPCOMING EVENTS

**AOPA's Board of Directors** will meet January 25, 2010 in Alexandria preceded by a January 24<sup>th</sup> Executive Committee meeting. High on the agenda will be review of AOPA's commitment to comparative effectiveness/outcomes research, expansion of last year's support for pilot research and possible additional targeted RFP's. Another centerpiece project will be review of the 11 strategic initiatives with a goal of further prioritization and possible blending of similar projects. The preliminary 2009 audit report should also be available for the Board's review.

The **Center for O&P Learning and Outcomes Evidence-Based Practice** will meet Wednesday, February 24<sup>th</sup> in Chicago during the AAOP annual meeting.

AOPA's first **Advanced Coding and Billing Seminar** of the year is scheduled for February 18 and 19 at the Intercontinental Buckhead Hotel in Atlanta, GA. Just a few places left. Register on line at [www.AOPAnet.org](http://www.AOPAnet.org) or contact Erin Kennedy at 571/431-0876 ([ekennedy@AOPAnet.org](mailto:ekennedy@AOPAnet.org)).

AOPA's **93<sup>rd</sup> National Assembly** at Rosen Shingle Creek Resort in Orlando, Florida, September 29-October 2, 2010 sounds mighty inviting after these frigid January days across much of the country. Mark your calendar today blocking out that period for the greatest educational and networking experience that will bring you the finest clinical and business management speakers we've ever assembled for one meeting. Remember, the AOPA National Assembly – *"It's the Place to Be."*

## WRAP UP

It has been almost three years since your Board of Directors selected me to serve the O&P community as executive director of AOPA. It's been a fascinating time to be involved with O&P as we've witnessed the complete makeover effort of healthcare, a much changed AOPA organization, the development of strategic initiatives to chart the future and the privilege of working with a community that consistently does things that leave people better than we found them. Thank you for all the terrific support as evidenced by the growing membership and the terrific turnout in Seattle for the National Assembly. With our dedicated staff, we will continue to work to make things better for our AOPA members and their patients.

Sincerely,

Thomas F. Fise, JD  
Executive Director