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LETTER FROM THE PRESIDENT**Bringing Value To Our Industry**

COPA Members,

As the newly elected president of COPA, I would like to take a moment to introduce myself. I live in the Central Valley of California and have spent the last 17 years in O&P. As a CPO, I have enjoyed treating a broad spectrum of patients and have also learned much about managing an O&P business. I have seen firsthand the positive impact of the products

and services that the O&P field provides. Therefore I am dedicated to ensuring that O&P businesses in CA thrive so we can continue to help Californians in need.

2020 presented unique challenges to O&P beneficiaries, manufacturers and providers. As we look forward to a new year, COPA has decided to expand its board from nine members to 12. The expansion allows the COPA board to have more balanced representation of manufacturers and providers. In addition to welcoming back many current board members, I am pleased to recognize three new members: Riley Liddell CPO, Rick Myers CP, and Linda Collins. The expanded board has extensive and diverse O&P experience and is poised to move our industry forward.

For 2021, COPA is focused on bringing value to its members in several ways. First is through involvement with California and federal legislators to raise awareness to our unique challenges including reimbursement. Secondly, we seek to provide tools and support to O&P businesses to protect and grow reimbursement for the essential products and services we provide. Lastly, we are committed to provide education to our members in the form of webinars, video trainings, lectures, and newsletters.

The COPA board is optimistic about 2021 and would enjoy the opportunity to have each member join a committee and participate in the movement. It is for the long-term benefit of our patients and our businesses. Please reach out to admin@californiaoandp.com so that we can introduce you to the right people.

Join us for a FREE WEBINAR on Tuesday, Feb. 9 at 12 noon presented by award-winning attorney Conal Doyle, founder of Doyle Law, APC on:

LEGAL ISSUES YOU NEED TO KNOW FOR ORTHOTIC AND PROSTHETIC PATIENT CARE

Conal Doyle is an award-winning trial lawyer and one of the few attorneys in history to argue before the United States Supreme Court. He will enlighten us in a presentation focusing on:

- Legal issues related to prosthetic reimbursement with private insurance,
- Essential information practitioners need to get from their patients to get paid,
- How to be a better advocate for your patients and how to protect yourself as a practitioner.



Register now at www.californiaoandp.com

In service,

Spencer Greene

Spencer Greene, MS, CPO
Regional Director
Hanger Clinic, Central California
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RECAP ON COPA'S WEBINAR:

ELECTION AND LEGISLATIVE UPDATE

Peter Thomas, a bilateral lower limb amputee who since 1991 has served as the General Counsel to the National Association for the Advancement of Orthotics and Prosthetics (NAAOP), offered COPA members his insights into the ramifications of November's election and continuing efforts to get Congress to pass legislation related to O&P care. The webinar on November 18, sponsored by COPA, had more than 50 participants.

"Peter is very knowledgeable about the inner workings of our government, and a great resource and advocate for the O&P community," said Maynard Carkhuff, past president of COPA, whose term as president ended in December. "We are very fortunate Peter was able share his perspectives with COPA members as we continue to advocate for legislation that supports O&P providers and their patients."

Thomas discussed the outcomes of the Presidential, Senate and House elections, and provided his perspectives about how President Joe Biden will need to work with both branches to pass legislation. Given the narrow majority that exists between Democrats and Republicans in the House of Representatives and the Senate, it will only take a few members of either party crossing the aisle to pass or defeat proposed legislation.

Thomas indicated that all the sponsors of the Patient-Centered Care Act had been re-elected, which is important for this legislation to continue to move through the committee process and hopefully someday reach a vote in the House and Senate. He also discussed how much the two special elections for Senate in Georgia could impact leadership of committees and the bills that

move to the floor for a vote – especially if both of the Georgia runoff elections were won by the Democratic candidates (which happened). Thomas noted that slim differences between the majority and minority parties will give moderates from both parties, who represent potential swing votes, an outsized role in passing bi-partisan legislation or defeating partisan bills.

Regarding the Patient-Centered Care Act (S.4503 in the Senate, and H.R. 5262 in the House), Thomas described key provisions of the Bill. The provisions include statutory language distinguishing the service-oriented O&P care from services provided by DME suppliers, revisions to the expanded interpretation of "minimal self-adjustment" of OTS orthotics, exemption of O&P from needing to be a competitive bidding contractor to qualify to be paid the competitive bid rate by Medicare for dispensing OTS knee and spine brace, and prohibits "drop shipping" of all prosthetic limbs and orthotic braces to Medicare beneficiaries except braces that are truly off-the-shelf.

Thomas also provided a brief overview of another important legislation, the Access to Assistive Technology and Devices for Americans Study Act (S. 4343, H.R. 8581). If passed, it would direct the Government Accountability Office (GAO) to evaluate appropriate coverage and provision of prostheses and orthoses. The bill would require the GAO to produce a report that looks at timely access to O&P care, assessment and guidelines for O&P determinations, policies for matching O&P devices to individual needs, and the affordability of O&P care and assistive technologies.

Key sponsors of this proposed legislation in the House and Senate maintained their seats, so efforts to move these bills forward will continue in 2021.

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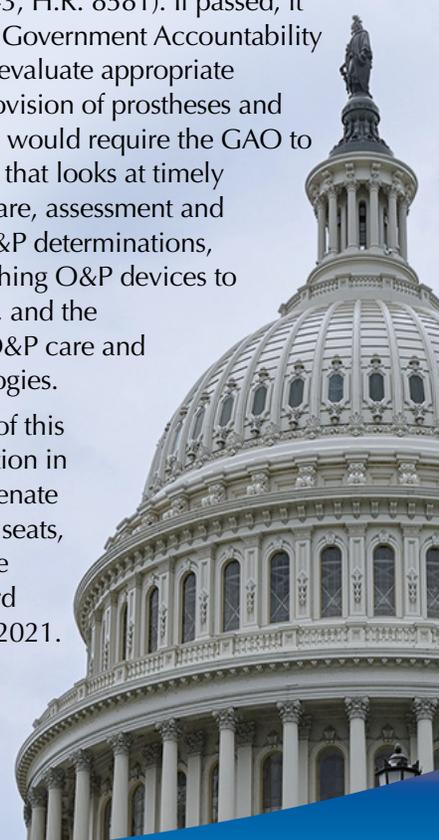
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UNDER THE DOME

State Budget and Musical Chairs by Bryce Docherty, COPA Lobbyist

On Friday, January 8th, Governor Gavin Newsom proposed his 2021-2022 State Budget totaling \$275 billion. Most notably for COPA, Newsom proposes delaying the suspension for Medi-Cal optional benefits (including O&P) by 12-months to December 31, 2022 for a cost of \$47 million (\$15.6 million General Fund). This is good news for O&P Medi-Cal providers as the downward fiscal pressure on California brought on by the COVID-19 pandemic threatened elimination of O&P Medi-Cal benefits all together. Maintaining the O&P benefit in Medi-Cal was the first hurdle for COPA. This is a small victory, but one that COPA hopes to parlay by now focusing again on attempting to “right-size” those rates with targeted one-time and perhaps ongoing increases in those Medi-Cal rates.

As previously reported, Medi-Cal reimbursement rates for O&P appliances in California have not increased in over 25 years. On average, Medi-Cal ONLY REIMBURSES 51% of the prevailing Medicare reimbursement rate. Medicaid reimbursement rates across the county AVERAGES 75% of the prevailing Medicare allowable.

A game of musical chairs is underway as Governor Newsom has appointed California Secretary of State Alex Padilla (D-Los Angeles) to replace Vice President Kamala Harris in the U.S. Senate. This triggered another statewide vacancy and Newsom nominated Assemblymember Shirley Weber (D-San Diego) to replace Padilla as California Secretary of

State. This has triggered a special election to fill Assemblymember Weber’s seat and her daughter, Akilah Weber, MD, has announced her candidacy to replace her mother. Dr. Weber is an OB-GYN practicing in San Diego and currently sits on the La Mesa City Council. If elected this spring, Dr. Weber would become the third physician in the California Legislature along with Assemblymember Joaquin Arambula, MD (D-Selma) and Senator Richard Pan, MD (D-Sacramento).

Lastly, President Joe Biden has appointed California Attorney General Xavier Becerra as the next U.S. HHS Secretary. Becerra’s confirmation by the U.S. Senate is now all but guaranteed with Senate Majority Leader Chuck Schumer (D-New York) and Senate President Kamala Harris. Once confirmed, Newsom will need to appoint another California Attorney General. Newsom is most likely to choose current Assemblymember Rob Bonta (D-Alameda). Bonta, 48, is a former Chair of the Assembly Health Committee and has already received a swath of endorsements from lawmakers, criminal justice advocates, and Asian-Pacific Islander groups. He has served in the Assembly since 2012 and represents Oakland, Alameda, and San Leandro. He was the first Filipino state legislator elected in California and would be the first Filipino Attorney General.

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COPA monitors government affairs issues, helps members stay advised on regulations that may affect our members, and makes sure our voice is heard in Sacramento and Washington. You are part of an active association that is here to help you and your business succeed.



IMPACTS OF COMPETITIVE BIDDING ON KNEE AND SPINE BRACING

Despite the concerns expressed by O&P providers and associations including COPA and AOPA and without consideration for the added challenges and economic struggles cause by the pandemic, CMS pressed forward with the rollout of Round 2021 of the Competitive Bidding Program (CBP). While all other product categories of Round 2021 were cancelled (after the bids were received), the two bracing categories went live at the beginning of 2021 and are scheduled to continue until the end of 2023.

There are significant reductions to reimbursements as well as a significant decrease to the number of providers who can bill Medicare for dispensing OTS knee and spine braces. In California, the single payment amounts for OTS spine braces in most CBAs are among the lowest in the country, and the reimbursements for OTS knee braces are lower than many other states. O&P businesses that didn't bid or didn't win the bid are no longer allowed to bill Medicare for the OTS brace codes included in Round 2021, and they will have to justify and meet the requirements for billing custom or custom-fit codes if they hope to retain the usual referrals and income they get from knee and spine braces. While physician clinics and physical therapy clinics were exempt from bidding, any MD or PT clinic that has an in-house DME program have to accept the reduced rates when they bill Medicare for an OTS knee or OTS spine brace. In California, physician DME programs will be less lucrative, particularly for clinics that have a high percentage of Medicare patients.



Similar to most other states, many of the "winning" bidders in California are DME companies that submitted bids in multiple Competitive Bid Areas (CBAs). Some of these DME businesses are not known to have any brick-and-mortar facility within the CBAs where they were selected. As such, it is presumed that some of these businesses will either dispense braces remotely (by shipping a prescribed brace to the patient) or potentially sub-contract with a local provider. It remains to be seen how a provider with no local presence will solicit physician referrals and manage the requirements and logistics for dispensing and billing braces remotely.

It will be interesting to observe how these policy changes and contractual restrictions will impact Medicare patients and non-contracted providers in the coming months. Within the O&P community, there has been speculation about the impact on quality of care (and quality of the products) patients receive. Patients will often be expected to fit their OTS brace alone or with help from someone who doesn't have specialized training in how to adjust a brace. There seems to be justifiable concerns about medical complications and increased costs for surgeries and other interventions that will be necessary when patients are not able to properly self-fit their brace. If there is a big increase in non-compliance and similar increase in patients who are not benefitting from their brace, will physicians become more reluctant to prescribe braces?

CMS created the "split codes" to ensure there was a pathway for including OTS braces in future rounds of the CBP. There was no study or evidence of how this could improve value or outcomes for patients. The intention seemed to offer only one potential benefit: Reduced annual expenditures. But the split codes created massive fraud related to late night television advertising for knee and spine braces. While there were other less complicated braces that could have been considered, that would have been easier and less risky for a patient

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to self-fit, CMS elected to start with the more complex products because they had higher reimbursement rates and, due to the fraudulent acts of DME businesses, higher annual utilization than CMS deemed appropriate.

How will patients, physicians, O&P clinicians and other providers adapt to these changes? Will they try to make the best of this? Or will there be efforts to prove to CMS that in reducing costs for bracing the Government has compromised care and merely shifted costs to more expensive treatments? If there aren't studies conducted to prove there are added risks or added costs when OTS braces are shipped to patient homes, will "brace by mail" become an acceptable norm? What other types of braces will be subject to competitive bidding in the future?

For now, the financial impact for providers shouldn't be catastrophic. In some states, the rates didn't drop as much as expected. There are also many Medicare patients who live outside of a CBA, or who are enrolled in a Medicare advantage program. There are also patients under age 65 covered by commercial policies or employer-sponsored health insurance that require knee and spine braces. What will happen to reimbursement rates for these other patients isn't known but could be adjusted in 2021 and 2022.

We will also need to see how well the winning bidders manage the care of Medicare patients. The eligible bidders who received contract offers in one or more CBAs were required to sign each contract to avoid forfeiture of the \$50,000 surety bond the bidder had to purchase for each CBA. Further, any bidder that accepted a contract and subsequently does not perform under the terms of the contract could have their entire contract terminated and be precluded from participating in the next round.



REQUEST FOR EARLY VACCINES



PHOTO BY GUSTAVO FRING FROM PEXELS

Just prior to Thanksgiving, the American Orthotic and Prosthetic Association (AOPA) made a formal written request to the Department of Health and Human Services urging the agency to include O&P providers among the first to receive the COVID-19 vaccine. AOPA made the same request to the CDC's Advisory Council on Immunization Practices, the group responsible for making recommendations for the phased allocation of the COVID-19 vaccine.

O&P providers, designated as essential healthcare workers since the onset of the pandemic, provide care to at-risk patients and in doing so are putting themselves at greater risk of exposure. Gaining early access to the vaccine will protect O&P providers and their patients.

Several COPA members have reported having access to vaccines in their community. We encourage the clinical staff of COPA members to reach out to their city and county public health departments for information or to schedule an appointment.

WELCOME 2021 COPA OFFICERS & BOARD MEMBERS

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