



American Association of Oral
and Maxillofacial Surgeons

9700 West Bryn Mawr Avenue • Rosemont, Illinois 60018-5701 • 847/678-6200 • 1/800/822-6637 • FAX 847/678-6286 • www.aaoms.org

Ira D. Cheifetz, DMD
President

Robert C. Rinaldi, PhD, CAE
Executive Director

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Dear Senator:

The American Association of Oral and Maxillofacial Surgeons (AAOMS) is a committed stakeholder in efforts to reform America's health care system. Our members provide a critical service that stretches across both the medical and dental health communities and recognize the need to improve our nation's health care system so that it is accessible, affordable safe, and provides the finest quality of care for all Americans.

While we recognize that the process of reforming the health care system is ongoing, it would be difficult for AAOMS to support The Patient Protection and Affordable Care Act (H.R. 3590) as introduced in the U.S. Senate. It is our hope that as work continues on health reform in conjunction with action by the U.S. House of Representatives, you take the following comments under consideration.

Insurance Reform

AAOMS shares the Congress' goal of achieving access to quality care for all Americans. As health care providers, we frequently have concerns with vague benefit coverage policies offered by insurance companies; often these policies are not patient-friendly and limit the doctor-patient relationship. We support proposed reforms to the insurance industry including the prohibition against denying coverage for pre-existing conditions, limits to health plans' medical loss ratios and adopting standards for financial and administrative transactions to promote administrative simplification. In particular, AAOMS applauds the Senate for including language in H.R. 3590 that prohibits insurers from discriminating against health care providers acting within the scope of their professional license and within state law.

While we do not support a public option, we ask, if it is included in the final health reform bill, that the new program will institute a formula providing actuarially sound reimbursement payments to health care providers to ensure provider participation. AAOMS appreciates the foresight of the Senate for not mandating provider participation in the public plan option in H.R. 3590 and not tying reimbursement in the public plan to Medicare, both of which allow health care providers to continue to make decisions specific to their own practices, patients and communities.

Finally, AAOMS supports the provision included in H.R. 3962 which repeals the antitrust exemption that was established in the 1945 McCarran-Ferguson Act for health insurance companies, requiring that these companies be fully subject to current antitrust laws. It is our hope that this language will be included in the final version H.R. 3590.

Medicare Reimbursement

While we do not support a single-payer government run system or a substantial eligibility expansion of government programs like Medicare and Medicaid, we do believe these programs play an important role in delivering health care to current vulnerable populations. Fundamental Medicare reform that addresses the flawed sustainable growth rate (SGR) formula is critical to Medicare's fiscal solvency and adequate provider participation; both are necessary to ensure the continuation of care for patients relying on this program. AAOMS is disappointed that SGR reform was removed from H.R. 3590, but remains hopeful that a long term solution, similar to one outlined in the Medicare Physician Fairness Act, S. 1776, will pass both the House and Senate.

Further, we do not support the establishment of an Independent Medicare Advisory Board whose recommendations on reimbursement could become law without congressional intervention. We believe such decisions that will ultimately impact patient access should remain under the purview of Congress which is held more accountable to the public.

Liability Reform

AAOMS is disappointed at the limited liability reform provisions included in H.R. 3590. It is our hope that the final package will include reforms that truly improve patient care and slow the growth in liability premiums. We point to the system in place in California designated by the Medical Injury Compensation Reform Act of 1975 (MICRA), which has stabilized California's liability insurance market for over 30 years and includes reasonable limits on non-economic damages of up to \$250,000, as a great example of reforms that work. Representative John Campbell (R-Calif) has introduced H.R. 2975, the Medical Practice Protection Act of 2009, in the House which seeks to bring many of these successful reforms to the federal level.

Flexible Spending Accounts (FSA)/Health Savings Accounts (HSA)

FSAs and HSAs allow individuals and families to set aside pre-tax dollars that can be used to pay for a variety of health care services, including dental expenses. The accounts can provide additional funds to enable those without dental coverage to seek preventive oral health care services such as cleanings and exams.

AAOMS opposes the provisions in H.R. 3590 that cap contributions to flexible spending accounts to \$2,500 and increase the tax on distributions from a health savings account that are not used for qualified medical expenses to 20%. FSAs and HSAs provide alternative solutions to many Americans looking to make health care more affordable. It is our hope that this language is not included in the final health reform package.

Excise Tax on Elective Cosmetic Surgery

While AAOMS is sensitive to the need for additional sources of revenue to cover the costs of health reform, we are disappointed that H.R. 3590 includes a proposed 5% excise tax on elective cosmetic surgery procedures.

In 2004, New Jersey became the first and only state to adopt a tax on elective cosmetic procedures to generate revenue. Since the 6% tax took effect, the New Jersey Department of Taxation has taken in significantly less than budgeted and the tax has proven an unreliable revenue source and an administrative burden for the state.

AAOMS is concerned about the effect this provision will have on OMS practices and patients. Requiring the tax to be collected by the health care provider at the point of service adds another administrative burden that must be dealt with, taking time away from patient care.

Lastly, AAOMS is concerned that the implementation of the tax based on the bill's current definition of elective cosmetic surgery could lead to unfair taxation on patients undergoing procedures that may, in addition to improving body function, have positive aesthetic results.

Employer Responsibility/Small Business Premium Subsidies

Oral and maxillofacial surgeons who own practices wear dual hats; acting as a both health care provider and a small business owner. To that end, AAOMS is concerned about the specifics of an employer mandate in the final health reform package that would require the purchase of health insurance coverage for all full-time employees.

Our members understand firsthand the importance of having quality insurance coverage, but it is important that such requirements do not force small business owners, who constitute the overwhelming majority of our membership, to choose between covering the costs of this new mandate and the salaries of existing employees. AAOMS appreciates that H.R. 3590 includes a small business exemption to the employer responsibility requirements and welcomes the inclusion of tax credits to help small businesses not covered by the exemption offset the costs of providing employee health coverage.

Coverage for Treatment of Children with Congenital or Developmental Deformities

AAOMS appreciates the inclusion in H.R. 3962 of provisions outlined in the Children's Access to Reconstructive Evaluation & Surgery (CARES) Act (H.R.1339), which would set a national standard to require insurance companies, to cover corrective procedures to address congenital craniofacial anomalies for children age 21 and under. AAOMS believes this should be a covered service for insured patients, and hopes that similar language will be included in the final version of H.R 3590.

On behalf of AAOMS and our 9,000 members, thank you for the opportunity to comment on the ongoing health reform debate.

Sincerely,



Ira D. Cheifetz, DMD
President