



American Association of Oral and Maxillofacial Surgeons Additional Federal Legislative Issues of Interest

Patient Access to Care

Access to Care – Oral and maxillofacial surgery is a unique dental specialty confronted by a number of issues that impact our ability to provide quality care for our patients. Nationwide media coverage in 2007 of a Maryland boy’s death resulting from an untreated abscessed tooth has highlighted the need to expand basic dental coverage to the nation’s uninsured and underinsured children as well as to low-income individuals. **AAOMS encourages members of Congress to ensure oral health care services are given the utmost consideration in legislative proposals and actions when addressing access to care issues.**

Tax-Free Health Spending Arrangements – Out-of-pocket medical costs, including many dental procedures such as dental implant placement, can exceed the annual contribution maximums for flexible spending arrangements (FSA) and health savings accounts (HSA) set by the Affordable Care Act (ACA). Many Americans – especially those with middle-class incomes and without access to dental insurance – rely on medical FSAs and/or HSAs to cover out-of-pocket healthcare costs. These restrictions on FSA/HSA contributions could force patients to forgo necessary dental care and impose a serious barrier to needed healthcare. **AAOMS supports legislation such as the RAISE Health Benefits Act (S 503/HR 1366) and the Health Savings Act (S 12), which would expand the use of FSAs and HSAs to allow families to save money for healthcare, encourage consumer engagement in healthcare decision-making and incentivize consumers to become informed about healthcare services.**

Drug Shortage Prevention – Oral and maxillofacial surgeons are among the healthcare providers who administer and prescribe essential drugs on a daily basis. This is especially true as it relates to IV saline, anesthesia and sedation drugs such as Propofol. However, providers are among the last to know when an essential drug will be in short supply or no longer available. **AAOMS appreciates Congress’ past efforts to address this issue in the Food and Drug Administration Safety and Innovation Act (PL 112-144). AAOMS supports congressional oversight of the FDA’s implementation of the law’s drug shortage provisions, as well as any other congressional efforts to address contributing factors to the drug shortage issue not addressed by the law.**

Physical Therapy Referral for Medicare Patients – Section 1861(p)(1) of the Social Security Act prohibits dentists from referring their Medicare patients for outpatient physical therapy services. Oral and maxillofacial surgeons are doctors of dental medicine or dental surgery who regularly treat patients with medical conditions that would benefit from physical therapy. **AAOMS supports the introduction of legislation such as the Medicare Oral Health Rehabilitative Enhancement Act, last introduced in the 112th Congress. This legislation would make a technical fix to the existing Medicare statute to allow oral and maxillofacial surgeons to refer Medicare patients for physical therapy.**

Technology & Research

NIDCR Funding – The National Institute of Dental and Craniofacial Research (NIDCR) conducts nearly 85 percent of the research on oral disease and conditions. NIDCR is essential to conducting investigative studies necessary for the advancement of oral and maxillofacial surgical and other dental-related procedures and treatment modalities that will improve healthcare outcomes for all Americans. **AAOMS supports adequate NIDCR funding to help sponsor such research projects about such subjects as wound healing, pain management, tissue engineering and minimally invasive surgery for maxillofacial trauma.**

Practice Administration Reform

Antitrust Reform – The McCarran-Ferguson Act is a federal law that exempts insurers from federal antitrust laws as long as they are regulated by the states. Since McCarran-Ferguson’s enactment, there has been insufficient competition in the health insurance marketplace, to the detriment of healthcare providers and consumers. Unfortunately, states do not have the resources to take action against health insurers that break antitrust laws. Amending the McCarran-Ferguson Act – thereby involving the federal government in antitrust enforcement – would increase competition in the health insurance marketplace, driving health plans to compete more aggressively for purchasers and creating policies with low premiums yet robust benefits for consumers. **AAOMS supports legislation such as the Competitive Health Insurance Reform Act (S 350 / HR 1418), which would amend the McCarran-Ferguson Act to revoke the exemption from federal antitrust law for health and dental insurers.**

Balance Billing – Providers who choose not to participate in either Medicare or private insurance plans are not able to receive their full fee-for-service payment even if patients are aware they are seeing a non-participating provider. **AAOMS supports legislation such as the Medicare Patient Empowerment Act, last introduced in the 115th Congress, which would remove limiting charges under the Medicare program for non-participating physicians with beneficiary notice, and preempt state laws that prohibit balance billing.**

Medical Device Tax – The Affordable Care Act (ACA) included a provision that levies a 2.3 percent excise tax on medical devices to be collected at the point of sale. The tax is levied in addition to the sales tax currently placed on such devices. The tax was originally intended to raise revenue from the medical device industry to help pay for the cost of the ACA’s expanded access to care; however, a large number of healthcare providers – including oral and maxillofacial surgeons – utilize many of the devices and supplies subject to this tax on a daily basis. **AAOMS appreciates the two-year moratorium on the collection of the tax enacted by Congress in 2018; however, we continue to support a permanent, full repeal as provided for in the Protect Medical Innovation Act (S 692 / HR 2207).**

Medical Malpractice Reform – The current civil justice system is costly and ineffective in resolving claims of healthcare liability and injury compensation. It adversely impacts patient access to healthcare services, the quality of patient care and the overall cost-efficiency of healthcare. The system also encourages healthcare professionals to engage in “defensive medicine,” which leads to costly and often unnecessary care, and it deters health professionals from sharing information with one another, impeding efforts to improve patient safety and quality of care. **AAOMS supports the Protecting Access to Care Act, last introduced in the 115th Congress, which would ensure full and unlimited recovery of economic damages, set reasonable limits on non-economic damages and cap attorney fees so patients receive a greater share of the settlement.**

Non-Covered Services – Currently, 39 states currently have laws that prohibit dental insurers from setting fees on what providers can charge for a service – even if the service is not typically covered and not subject to insurer reimbursement. These laws, however, do not apply to federally-regulated plans, such as ERISA plans. **AAOMS supports legislation such as the Dental and Optometric Care Access Act, last introduced in the 115th Congress, which would prohibit federally-controlled healthcare plans (such as ERISA plans) from capping fees on non-covered vision and dental services.**

Quality Payment Program – There is growing interest in tying Medicare physician and hospital reimbursement to incentives for improved quality of care. As the primary dental specialty affected by Medicare quality improvement initiatives, oral and maxillofacial surgeons remain committed to the delivery of high quality and efficient care. **AAOMS advocates, however, that any quality performance incentive system should ensure the continuation of quality care for patients relying on the Medicare program, without compromising the relationship between the patient and the provider.**

Uncompensated Care – The Emergency Medical Treatment and Labor Act (EMTALA) requires physicians to treat patients regardless of their ability to pay. Practitioners – including oral and maxillofacial surgeons – taking trauma calls can end up providing thousands of dollars each year in uncompensated care. **AAOMS supports legislation that would allow providers – including OMSs – to offset some of those costs through a tax deduction for the cost of providing such care.**