



THE ORTHO FILE

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Leading in Turbulent Times

By Steven Poletti, M.D.

President of the South Carolina Orthopaedic Association



The beginning of my term in office as President of the SCOA has been eventful to say the least. I would like to thank all of those members that continue

to demonstrate the strength of our association and our profession. Make no mistake we have significant challenges ahead and I am thankful for your counsel and support on behalf of the association.

Over the past three months the SCOA has been leading the battle to avoid drastic cuts in surgical reimbursement proposed by the Workers Compensation Commission. As we all are aware, the Commission has not adjusted the Workers Compensation physician fee schedule since 2003. Since that time the Consumer Price Index for Medicare Services has gone up some 26% for the South East. The initial proposal from the Commission, released at the end of September, would result in an additional 10% cut in reimbursement for surgical services. The SCOA has significant concerns with the impact on access to care if this proposal is approved. A net 37% reduction in surgical reimbursement is simply unsustainable.

I am extremely proud of the speed and professionalism with which our organization

has responded. The SCOA has been at the forefront of this issue and illustrated the expertise and volunteer leadership at our disposal. Over the past two successive months, through written comments and personal dialogue, we have been successful in stalling a final decision on this proposal. We have utilized all of our resources to craft a reasonable proposal that we hope will be adopted by the Commission in the coming weeks. The SCOA is requesting the Commission adopt a separate conversion factor for surgical services. This is a policy that has been followed by 37 other states throughout the nation. We are hopeful we have created a platform and articulated our position sufficiently for the Commission to make the right decision for injured workers.

The SCOA also remains engaged in the ongoing debate in Washington related to health care reform. As you will see later in this newsletter, the SCOA has signed on to a letter from the Orthopaedic Community in opposition to the Senate bill being crafted by Senate President Harry Reid. We continue to facilitate communications and alerts to our members on the major points being debated in DC. One major issue that Congress must address before the end of the year is the looming 21% cut in physician reimbursement in Medicare. We are confident that despite what occurs in the larger

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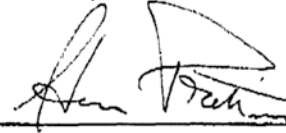
health care reform debate that Congressional leaders will at a minimum pass a temporary measure to prevent the cuts and further erode the services available to Medicare beneficiaries.

Finally, the SCOA will be filing legislation in January that will request the South Carolina Assembly to restore the rights of physicians to employ physical therapists. This is an issue that we must address on behalf of our patients. The monopolistic intention of physical therapists to control musculoskeletal therapy is dangerous and costly for our patients. Your organization has invested significantly in the resources and volunteer leadership to wage a successful campaign. We will need the assistance of our members to carry this issue forward. Resources are available upon request from our office that can be used in communicating our message. Please consider reaching out to your local legislators, your patients, and your partners and colleagues and request their support. The data

is firmly on our side in this debate and we look forward to the opportunity to make our case to the South Carolina Legislature.

The Executive Committee is humbled by the trust you have shown in us to continue to build upon the legacy of the South Carolina Orthopaedic Association. I would like to thank each of you for your membership and for your continued dedicated service to the profession and your patients.

Sincerely,



Steven Poletti, M.D.
President

Call for abstracts and Residents Research Competition Submissions for 2010 SCOA Annual Meeting!

Deadline to submit materials is MARCH 1, 2010!

The South Carolina Orthopaedic Association is now accepting abstract submissions and Resident Research Competition submissions for the 2010 SCOA Annual Meeting. The 2010 Annual Meeting is taking place August 5-8, 2010 at The Sanctuary at Kiawah Island. All of the information you will need to secure your participation has been added to the SCOA Blog: <http://blog.scoanet.org/>

All abstracts and Resident Competition papers must be submitted by March 1, 2010 to be considered by the Program Committee. Instructions for regular abstract submissions and the 2010 Resident Research Competition are included on the SCOA website. In addition to the abstract information, all submissions should be accompanied by a completed AAOS Financial Disclosure Form and an AAOS FDA Disclosure Form.

SCOA Blog — Are You Tuned In?

If you haven't visited the SCOA Blog, you are missing out on updates and information that may greatly affect your practice!

The SCOA is taking advantage of the electronic age to deliver critically important updates to members and their staff on a timely basis. SCOA staff routinely updates the Blog with breaking news in the following areas:

- Reimbursement
- Practice Management
- Legislation
- Information Technology
- National Perspectives
- Annual Meetings and Events

The Blog is easy to find, located directly on the SCOA homepage, <http://www.scoanet.org/>. You can also sign up for a live feed to receive updates as soon as they are posted.

Do you have news to share? Feel free to send the SCOA information to be posted on the blog! Just email articles or items of interest to scoa@cobbmanagement.com.



Consultation Codes Will NOT Be Allowed for Use for Medicare patients as of 1/1/2010

On July 1, 2009 CMS issued the proposed rules for the 2010 Medicare program. In the document CMS proposed to eliminate the use of consultation codes (99241-99245 and 99251-99255) for Medicare beneficiaries.

The final rules for 2010 were posted as of 10/30/09 and CMS has finalized their proposal.

As of 1/1/2010, office and other outpatient consults will need to be billed using new patient office/other outpatient codes (99201-99205) or established office/other outpatient codes (99211-99215). For inpatient services, the attending physician for an inpatient would bill an initial inpatient admission code, 99221-99223, BUT is required to use a new modifier (yet to be disclosed) to indicate the physician is the attending. Consultants are then required to bill 99221-99223 for their initial consult for a patient. Use of the inpatient consultation codes, 99251-99255 is precluded.

Follow up inpatient visits would then be billed by providers using the usual follow up codes, 99231-99233.

Practices will need to watch and follow the commercial plans to see who is following these guidelines. You may want to look into your commercial plans and confirm if the codes are loaded.

To obtain a neutral budget, the office E/M codes (99201-99215) will be increased by 6% and the hospital E/M codes (99221-99223) will be increased by 3% to make up for the decreased revenue from the loss of the consultation codes.

The new e-Rx requirements for 2010 have changed and only 25 electronic prescriptions need to be generated to receive the full 2% from CMS. The 50% requirement has been eliminated. This along with the 2% incentive for successfully completing the PQRI rules are two great ways to help the financial well being of your practice.

So in summary, get your full 4% additional incentive from CMS with e-Rx and PQRI in 2010, and code appropriately to make up for the phasing out of the consultation fees.

Important Workers Compensation Reimbursement Update!

As you are aware the Workers Compensation Commission is in the process of reviewing the Medical Services Provider Manual (physician fee schedule). The Executive Director of the Workers Compensation Commission released the recommendation for revisions in September.

The recommendation is for an overall 3.1% increase in physician reimbursement based on a proposal that maintains the current \$52 conversion factor being used by Workers Compensation and adopting the 2009 Relative Value Units assigned by Medicare.

While the overall recommendation is a 3.1% increase, the impact of this recommendation on surgical services is actually a 9.8% decrease from the current Workers Compensation Fee Schedule. Surgical services are the only medical services that are slated for reductions with all other services being increased....some significantly.

The SCOA has mobilized all our resources to try to prevent this recommended decrease in surgical fees. We have had several practices analyze the proposed fees and evaluate what the bottom line would be for our profession when accounting for utilization of all medical services. The net result

appears to be a decrease and that is the assumption we are under as we fight this recommendation.

The Workers Compensation Commission is scheduled to review the recommendation in December. The SCOA has a well researched and articulated position to request the Commission to adopt a separate fee schedule for surgical services only. We have forwarded this request to the Commission and are using everything at our disposal in advance of the hearing to try to bolster our chances of success.

Please stay tuned for additional updates in the coming weeks.

News in Brief

Court offers preliminary approval of UnitedHealth settlement.

The American Medical Association (AMA) states that the U.S. District Court for the Southern District of New York has granted preliminary approval of a \$350 million settlement to resolve a class-action lawsuit against UnitedHealth Group (Minneapolis). The action, brought by AMA and other medical societies, alleged that UnitedHealth had engaged in collusion to underpay physicians for out-of-network medical services. An investigation conducted by the Office of the New York State Attorney General had previously confirmed that the company's Ingenix database was intentionally rigged to allow insurers to shortchange reimbursements.

FTC Extends Enforcement Deadline for Identity Theft Red Flags Rule

The Federal Trade Commission (FTC) is delaying enforcement of the "Red Flags" Rule until June 1, 2010. As part of the Federal Trade Commission's (FTC's) implementation of the Fair and Accurate Credit Transactions (FACT) Act of 2003, most medical providers would have needed to comply with the "Red Flags" rule by November 1, 2009. The rule requires "creditors" - which the FTC defines to include most health care providers - to establish a program to prevent identity theft in their practices.

Government Expected to Rule on Medical Imaging Pay Cuts

Dow Jones reports that the federal government is soon expected to decide if it will cut payments to physicians for the use of medical scanning such as magnetic resonance imaging and computed tomography. The U.S. Centers for Medicare

& Medicaid Services has proposed trimming the payments because of concerns that overuse of imaging may be increasing the cost of health care. If adopted, the proposed rule would affect physicians and other health professionals paid under the Medicare Physician Fee Schedule and would also result in payment reductions for radiation oncology procedures.

Therapy Cap Values for Calendar Year 2010

Effective date: January 1, 2010

Implementation date: January 4, 2010

The Balanced Budget Act of 1997 set annual caps for Medicare Part B patients. These limits change annually. The Deficit Reduction Act of 2005 directed that a process for exceptions to therapy caps for medically necessary services be implemented. The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) was enacted on July 15, 2008, and extended the effective date of the exceptions process to the therapy caps to December 31, 2009. The exceptions process will continue unchanged for the time frame directed by Congress.

The calendar year 2010 limits on incurred expenses are as follows:

Physical therapy and speech language pathology services combined - \$1860

Occupational therapy services - \$1860

The limits are based on incurred expenses and include applicable deductible and coinsurance.

SCOA Hosts a Series of Regional Legislative Meetings

The SCOA has supported a series of regional legislative meetings hosted by SCOA Members throughout the state this fall to discuss our legislative agenda and educate our elected leaders on the practice of orthopaedics. We would like to thank all of those members and their staff that hosted and participated in these extremely productive events. During each of the events we gained some much needed support on our issues and identified relationships that our local members had with their elected officials. The value of these events cannot be understated and we again are very appreciative for the support we received.

The list of events we hosted is as follows:

- Greenwood** - October 19th
- Columbia** - October 20th
- Charleston** - November 18th
- Florence** - November 19th
- Conway** - December 2nd
- Spartanburg** - December 7th
- Greenville** - December 8th

For specific details or reports from any of these events please contact the SCOA office at scoa@cobbmanagement.com or 866-949-3121.

Want to get involved?

If you are interested in volunteering to host an event in your region please let us know by sending an email or calling the office above.

ORTHOPAEDIC COMMUNITY LETTER TO THE SENATE IN OPPOSITION TO HR 3590

December 1, 2009

The Honorable Harry Reid
United States Senate
522 Hart Senate Office Building
Washington DC 20510

Dear Senator Reid:

On behalf of the orthopaedic community, including the American Association of Orthopaedic Surgeons, state orthopaedic societies, and national orthopaedic specialty organizations, we are writing to express our strong opposition to H.R. 3590. This legislation would negatively impact our ability to provide affordable, quality specialty care to our patients and will significantly interfere with our ability to serve the best interest of our patients.

Throughout the health care debate, we have remained open and communicative with Congress and the Administration, providing feedback on many of the provisions included in H.R. 3590. However, despite this process there were no major changes to the legislative provisions of concern. These include:

- **An unaccountable Medicare Advisory Board.** This Board would grant an unelected body authority to make policy and payment decisions about the Medicare program without sufficient checks, balances, and the oversight from elected Members of Congress that Americans deserve and expect from their government.
- **No reform of the Medicare flawed physician reimbursement formula.** With practice costs continuing to rise in the face of devastating cuts due to the Medicare Sustainable Growth Rate (SGR) formula, many physicians can no longer afford to stay in practice or to accept Medicare patients. By not repealing and replacing the flawed physician payment formula, this legislation severely threatens seniors' ability to access timely and appropriate care from their physicians.
- **Mandatory participation in the flawed Physician Quality Reporting Initiative (PQRI).** This program is still experiencing significant problems in providing accurate, actionable feedback to physicians and has not demonstrated an ability to improve the quality of care provided to patients. Furthermore, a mandatory and punitive approach would increase the already high cost of defensive medicine.
- **Budget neutral bonuses.** The proposed bonus payments to primary care would come at the expense of other physicians. While we support our primary care colleagues, we cannot support any measure that would perpetuate existing workforce shortages in other areas of medicine.
- **Direct access to physical therapists.** The CMS Innovation Center would conduct a demonstration project that would allow physical therapists direct access to Medicare patients. Current Medicare law requires a physician to authorize the type, amount and duration of physical therapy and other health care services furnished to a patient. These laws protect patients and ensure that appropriate, timely treatment is given by the most qualified provider, a physician.
- **Restricted physician hospital ownership.** We believe that physician-owned hospitals are an important component of our health care delivery system and strongly oppose the language included in the bill that would prevent physicians from owning hospitals in this country in the future. Physician owners in physician-owned hospitals have greater control over the facility and the quality and efficiency of care (e.g., scheduling of surgeries, surgical equipment, staffing, etc.) which lead to higher quality patient care. Furthermore, these facilities tend to have greater patient satisfaction, reduced costs, and lower infection rates. We believe it is a disservice to our patients to eliminate these successful partnerships.

The critical issues of the Independent Medicare Advisory Board, the flawed SGR formula, PQRI, increased payments to primary care providers at the expense of specialty care providers, removing physicians from the process of determining a patient's course of rehabilitative treatment, absence of liability reform, and restriction of physician-owned hospitals all interfere with the patient-physician relationship and directly affect our ability to provide the best quality care to our patients. Above all else, we are physicians who take pride in our work with a desire to provide the best patient care available. We will support health care reform that preserves access to high quality specialty care, a cornerstone of

health care in this country. As such, we must oppose H.R. 3590 as it has the serious potential to compromise the delivery of health care in the United States by creating additional pressure on an already overburdened health care system.

Sincerely,

American Association of Orthopaedic Surgeons	Minnesota Orthopaedic Society	Ankle Society
Alabama Orthopaedic Society	Nebraska Orthopaedic Society	American Orthopaedic Society for Sports Medicine
Arizona Orthopaedic Society	Nevada Orthopaedic Society	American Shoulder and Elbow Surgeons
California Orthopaedic Association	New Hampshire Orthopaedic Society	American Society for Surgery of the Hand
Connecticut Orthopedic Society	North Carolina Orthopaedic Society	American Spinal Injury Association
Delaware Society of Orthopaedic Surgeons	Pennsylvania Orthopaedic Society	Arthroscopy Association of North America
Florida Orthopaedic Society	Rhode Island Orthopaedic Society	Cervical Spine Research Society
Georgia Orthopaedic Society	South Carolina Orthopaedic Association	Hip Society
Hawaii Orthopaedic Association	South Dakota State Orthopaedic Society	J. Robert Gladden Orthopaedic Society
Idaho Orthopaedic Society	Tennessee Orthopaedic Society	Knee Society
Illinois Association of Orthopaedic Surgeons	Utah State Orthopaedic Society	Orthopaedic Trauma Association
Iowa Orthopaedic Society	Virginia Orthopaedic Society	Pediatric Orthopaedic Society of North America
Kansas Orthopaedic Society	Washington State Orthopaedic Association	Ruth Jackson Orthopaedic Society
Louisiana Orthopaedic Association	Eastern Orthopaedic Association	Scoliosis Research Society
Maine Society of Orthopedic Surgeons	Southern Orthopaedic Association	Société Internationale de Chirurgie Orthopédique et de Traumatologie - US Chapter
Maryland Orthopaedic Association	Western Orthopaedic Association	
Massachusetts Orthopaedic Association	American Association of Orthopaedic Executives	
	American Orthopaedic Foot and	

SOUTH CAROLINA ORTHOPAEDIC ASSOCIATION POSITION STATEMENT PHYSICIAN EMPLOYMENT OF PHYSICAL THERAPY PROVIDERS

Overview:

South Carolina citizens are being harmed by unique and unnecessary regulations on the delivery of physical therapy services. The forced fragmentation in delivery of therapy impedes patient's rights; increases healthcare costs; and raises significant quality of care and patient safety concerns.

Background:

In 2006, the South Carolina Physical Therapy Association and American Physical Therapy Association were successful in their strategic plan to eliminate the ability of physicians to enter into reasonable employment relationships with physical therapists. Such relationships are recognized and protected in 48 other states and by Federal anti-kickback rules and regulations. The physical therapy community utilized some vague language in the South Carolina statutes to press for interpretation and enforcement of a rule that would allow the Board of Physical Therapy to revoke the license of any therapist who was employed by a physician from whom they accept patient referrals. The implementation of the law immediately ended long standing employment relationships between physicians and therapists in the state.

The provision of physical therapy is an integral part of the practice of orthopaedic surgery. Their patients depend on

efficient and effective therapy to build muscle strength, return to normal function or rehabilitate after surgery. Because of current law, physicians no longer have the ability to effectively manage and oversee therapy rendered to their patients. Physicians are forced to outsource all therapy to providers with whom they may not have any relationship or any measure of quality control. Patients no longer have the option to receive therapy in their physician's practice as they did prior to 2006. Medicare studies have proven that therapy rendered in an independent therapy center is significantly more expensive than therapy rendered in a physician office.

Conclusion:

The current law benefits a single entity, independent physical therapy clinic owners, to the detriment of patients, payers, and physicians. In 48 other states, physicians employ physical therapists and co-exist with independent therapy providers in their community. More importantly, in 48 other states patients have the right to choose where they receive their therapy.

By supporting this legislation you have the opportunity to protect patient safety, restore patient rights, restore competition in the marketplace, and decrease health care costs. We thank you for your support of this important legislation.



Our Role Defending the Profession

By Kelly Roper, MHA

President

South Carolina Association of Orthopaedic Executives

There can be no denying these are historic times! Our nation is embroiled in a social conversation on the rights and needs of our citizens to secure care in the most innovative and advanced health care delivery system in the world. The debate demands that our individual roles as executives and our cumulative role as advocates rise to the forefront. These indeed are challenging times and I am extremely proud of how our members and our association have responded.

Our association has made great strides in the twelve months since our inception. We have consistently grown in membership and strength creating a platform for our members to lead our profession forward. We have attracted interest and participation from practices throughout the state. Volunteer leaders have emerged willing and able to lend their time and talents to the association. The benefits to the profession are evident and there is a lot more we can do.

Over the past three months the SCAOE has played a vital role in several ongoing initiatives. Our members have assisted the SCOA in testimony and documentation in an effort to prevent cuts in workers compensation reimbursement for surgical services. Numerous volunteers have testified in Columbia and met face-to-face with the Commissioners who will

ultimately decide our fate. Our expertise and professionalism have contributed considerably to this effort.

Our members have hosted a series of highly productive legislative receptions in concert with the SCOA. These events need a quarterback to be a success and SCAOE members have been leading the team in almost all of them. It is apparent that our practices, surgeons, and staff have numerous relationships with local politicians that have not been identified in the past. With each event these relationships grow and cementing these friendships will greatly assist our efforts in Columbia.

As our focus turns to the start of 2010 we have a great deal of challenges ahead. We must be prepared to assist our members in adapting to the many legislative and regulatory proposals that will impact the business of orthopaedics. We must be ready to stand shoulder to shoulder with the SCOA as we pursue legislation that will restore physician rights to employ physical therapists in our state. And we must be willing to spread the word to our friends and colleagues that together

we are stronger. Each of us plays a role in fulfilling the mission of the SCAOE.

Thank you very much for the opportunity to serve as your President. Please let your leadership know how we may better serve you and the organization.



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ADDRESS CORRECTION REQUESTED

Save the date!

**2010 SOUTH CAROLINA ORTHOPAEDIC ASSOCIATION &
SOUTH CAROLINA ASSOCIATION OF ORTHOPAEDIC EXECUTIVES**

ANNUAL MEETING

AUGUST 5-8, 2010

THE SANCTUARY AT KIAWAH ISLAND

