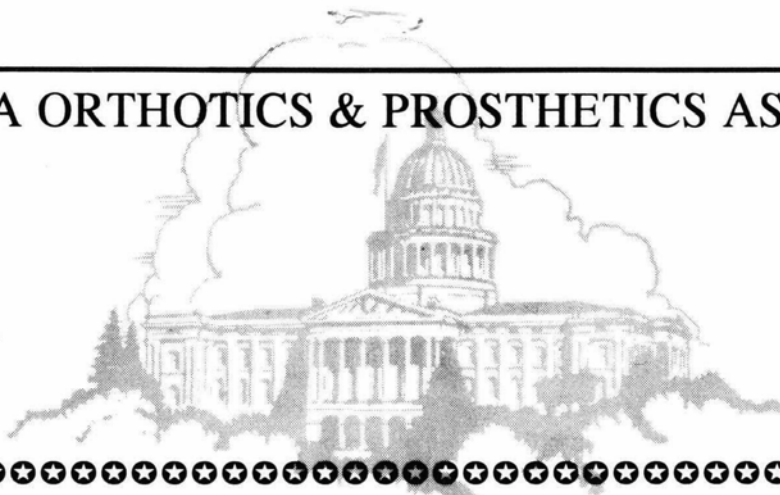

CALIFORNIA ORTHOTICS & PROSTHETICS ASSOCIATION

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REPORT



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California Orthotics & Prosthetics Association - c/o Nick Medeiros, Inc., 1127 - 11th Street, Suite 350, Sacramento, CA 95814

COPA and ACA Join Forces for Meeting with Insurance Commissioner, John Garamendi

Caps, limitations and licensure top agenda

On December 13, 2004, representatives of the California Orthotics and Prosthetics Association (COPA) and the Amputee Coalition of America (ACA) met with California Insurance Commissioner, John Garamendi, to discuss enlisting his assistance in the effort to end abusive tactics being employed against California's disabled population.

The meeting, initially requested by COPA President, Rick Chavez, CPO, gave consumers and industry leaders a long-awaited opportunity to engage California's highest ranking insurance official in important dialogue about treatment limitations being forced upon orthotics and prosthetics patients. Chavez was joined by COPA Consumer Liaison to the Board of Directors, Ralph Nobbe, CPO, COPA Lobbyist, Nick Medeiros and ACA President and Chief Executive Officer, Paddy Rossbach.

"He was very attentive and seemed generally interested in what we were saying," commented Rossbach. "I think the meeting was extremely important for our cause."

Rossbach flew from the East Coast to attend the meeting on behalf of consumers and was instrumental in advocating on



California Insurance Commissioner, John Garamendi, COPA President, Rick Chavez, COPA Consumer Liaison, Ralph Nobbe and ACA President and Chief Executive Officer, Paddy Rossbach

their behalf. "I was impressed with our mutual associations' ability to pull together in California, said Chavez. "The Insurance Commissioner got to hear what is happening from both levels."

COPA presented its position statement which deeply criticizes the insurance industry saying "Prosthetic and orthotic patients are suffering inexcusable abuse in California..." The document, that served as a framework for the meeting, accuses insurers of failing to comply with laws passed more than ten years ago which prohibit limitations on coverage. It also accused insurers of planning and implementing strategies to deny, delay and downcode products for the physically challenged. Finally, the position statement painted a broader picture of serious consequences to denial of

these vital services in the form of increased public costs and personal suffering.

Rossbach provided important documentation concerning

See "Garamendi" on page 2

COPA to Sponsor Parity Legislation

“Colorado Like” bill drafted and sent to Assemblyman Emerson

In response to renewed efforts by the insurance community to restrict access to orthotic and prosthetic applications, COPA will be sponsoring legislation to create orthotic and prosthetic parity equal or better than that under Medicare for all Californians who are privately insured.

“We have no choice,” said COPA Consumer Liaison, Ralph Nobbe. “We are seeing identical policy changes by major carriers that virtually eliminate coverage for most patients.”

Recent changes in policies that institute caps as low as \$2,000 for both durable medical equipment (DME) and orthotics and prosthetics are now becoming standard. “Patients are finding they have no coverage, and in many cases, no way to pay for items that are medically necessary,” said Nobbe.

The bill gives physicians the ability to confer medical necessity by requiring, “Covered benefits are limited to the most appropriate device that meets the medical needs of the patient as determined by the insured’s treating physician.” And although the bill is not intended to focus on the issue of standards, it does include language that would require providers working with private insurance to have the same minimal qualifications required of practitioners in California’s Title 22, which administers the state’s Medi-Cal program. Repair and replacement of devices is also covered by the legislation, with a caveat for misuse or loss.

Encouraged by the success seen in Colorado, Maine and New Hampshire, the states of Alabama, Connecticut, Louisi-

ana, Massachusetts, New Jersey, New York, Ohio, Texas and Washington are all actively pursuing parity laws in their states. The Amputee Coalition has vowed to support these local efforts with technical assistance and grassroots lobbying.

Assemblyman Bill Emerson, R-Fontana, has been approached about carrying the legislation. His office is reviewing the draft and the background necessitating its introduction. “Emerson is a great choice for an author,” said COPA Lobbyist, Nick Medeiros, “With his patient care background, he understands what we are facing and how helpless consumers can be made when going up against the insurance lobby.”

Garmendi—Cont. from Page 1

the number of amputees and the low costs of providing service as a portion of the overall insured population. Several papers developed by the ACA for use in many states attempting laws to gain insurance parity proved to be invaluable.

Taking advantage of the opportunity to influence the Commissioner's future support of COPA/ACA legislation, the group also discussed the need for licensure and the importance of requiring professional standards for providers in the Workers' Compensation system.

Representatives from the associations asked the Commissioner for assistance in several areas of regulation and law. Specifically the Commissioner was asked to review the current law and require that it be enforced, thereby prohibiting caps and other limitations on access to services. He was also asked to require insurers to differentiate O&P vs. DME in policies because the law against policy limitations only affects O&P. Advocates also implored Garmendi to end “loss leader” tactics of selling coverage that is exhausted by the DME category before the patient reaches the point of needing O&P care and to penalize deliberate practices by insurers to downcode, delay and deny services.

Garmendi pledged to continue discussions and to research the issues presented by COPA and the ACA and assigned to staff members to assist the groups in their requests, thus opening an important avenue for implementing fair reimbursement policies. COPA and the ACA will continue a combined effort to enlist the Commissioner's office in their campaign to establish a level playing field in California.

COPA and the ACA are discussing the possibility of joint legislation for 2005 and COPA is continuing as a plaintiff in *Solomon v. Bluecross/Blueshield*, a class action lawsuit focused at ending organized abuses against insureds.



Assemblymember Bill Emmerson

Representing the 63rd district which encompasses a portion of East San Bernardino, Fontana, Grand Terrace, and all of Rancho Cucamonga, as well as Redlands.

Prior to his election, Dr. Emmerson was a practicing orthodontist, and was heavily involved with the California Dental Association.

In addition to health care issues, Dr. Emmerson is also concerned that not enough is being done to address local transportation problems, or the deficiencies in our educational system.

He is concerned with the state’s business climate, citing the Worker's Compensation premiums that have hit the state's economy hard, contributing to the budget crisis. As well as over-regulation at the state level.

Workers' Compensation Reform Sought

Division of Workers' Comp asked to enforce "rules" used by Medi-Cal

When the California Legislature passed a new law that required all Workers' Compensation fee schedules to not exceed 120% of the Medicare Fee Schedule, COPA reviewed the new law and determined that it had little impact on the association, given that all of the products listed on the current fee schedule already meet this requirement. However, in passing the legislation, a new provision was added to California law that requires that the same "rules" of the Medi-Cal and Medicare fee schedules be used.

Because California's Medi-Cal fee schedule "rules" require ABC or BOC certification of providers, COPA has formally requested that this requirement now be used for the state's Workers' Compensation system as well.

"I was reviewing the code section on Workers' Compensation to prepare an amendment to use in legislation for 2005, when I discovered that the change we are seeking may already be in statute, depending on interpretation of course," said Board Member, Ralph Nobbe.

COPA is confident that the Division of Workers' Compensation will side with its interpretation of the law because it would limit the provider pool and assist in reducing fraud as was the case when the asterisk codes in the Medi-Cal system were restricted to certified providers.

In a letter dated, January 6, Nobbe specifically asks for a requirement of certification for Workers' Compensation reimbursement, "This change in the law requires that the "rules" of Medi-Cal be enforced for the Workers' Compensation Fee Schedule. The California Welfare and Institutions Code Section 14132.63 states that, "(a) An orthotist or prosthetist providing services under this chapter shall be required to be certified in orthotics or prosthetics by either the Board for Orthotist Certification or the American Board of Certification in Orthotics and Prosthetics." Therefore, all providers participating in the Workers' Compensation system must be certified."

Nobbe goes on to support the request by pointing out its potential cost savings to the Division, "In addition to the legal standing regarding these code sections, requiring certification makes good public policy. The Medi-Cal system has long recognized the need to restrict provider access for this benefit category due both to the highly specialized nature and invasiveness of the products, and also for the need to exclude potentially fraudulent providers in a category that is currently not regulated by any state agency. As a standard, California workers deserve at least the community standard of care that is inherent in both national certifications. As a state entity, the Division of Workers' Compensation would also benefit from the protection that a certified body of practitioners can provide (both bodies referenced in the code section have active ethics committees which can revoke certification for fraud)."

COPA is prepared to seek an amendment to one of many legislative bills introduced in 2005 to reform Workers' Compensation in order to enact this requirement if the Division

does not support COPA's request. "If it takes a new law to enact this change, we are prepared to take that route, too" said Nobbe.

Labor Code Section 5307.1 (a)

The administrative director, after public hearings, shall adopt and revise periodically an official medical fee schedule that shall establish reasonable maximum fees paid for medical services other than physician services, drugs and pharmacy services, health care facility fees, home health care, and all other treatment, care, services, and goods described in Section 4600 and provided pursuant to this section. Except for physician services, all fees shall be in accordance with the fee-related structure and rules of the relevant Medicare and Medi-Cal payment systems, provided that employer liability for medical treatment, including issues of reasonableness, necessity, frequency, and duration, shall be determined in accordance with Section 4600.

Blue Cross Blue Shield Case Moves Forward

The case of Solomon v. Blue Cross, Blue Shield is moving ahead with active discovery taking place over the last three months. The case, which seeks to penalize insurers for practices such as downcoding and delaying payment, will soon be entering its critical "class certification" stage whereby a judge will determine whether the plaintiffs share enough in common to pursue the defendants as a group.

Depositions for the class certification stage of the case are still ongoing and should be completed in the near future. Upon their completion the request for class certification will be made. The defendants will then make arguments against the class certification, following which the plaintiffs will have an opportunity to respond. When these arguments are complete, the judge will make a ruling about whether the plaintiffs can proceed on as one group. The group seeking certification, includes consumers, COPA, physical therapists, chiropractors, psychologists, midwives, acupuncturists, dentists and others who are not included in a similar suit brought against insurers by physicians' groups.

The certification status should be made within the next three months or so according to plaintiff's attorneys. Obtaining this status is crucial to the case against the "blues" because the economic stakes involved in a class action suit are so grave.

ACA Action Plan, a Script for Success

Fund raising, grassroots communication and statistics create avenues for progress

***Following are excerpts from the amputee Coalition of America's recently released, "Action Plan." For a detailed look at the organization's plans, or for more information on how your patients can participate, please visit the ACA's web-site, at: <http://www.amputee-coalition.org>

**NATIONAL ACTION PLAN
TO IMPROVE ACCESS TO
CARE FOR PERSONS
WITH LIMB LOSS**



The Problem.....

People living with the absence or loss of a limb face daunting obstacles when attempting to obtain appropriate prosthetic care. Some third-party payers place annual or lifetime caps on prosthetic devices. Others eliminate coverage for them altogether. Under their Medicaid programs, States have restricted access to certain types of prostheses, or completely eliminated coverage for them. Medicare has frozen reimbursement for prosthetic devices, placing pressure on providers.

Together, these factors prevent persons with limb loss from living productive lives, lead to poor rehabilitation outcomes, and place amputees at risk for dangerous and costly secondary conditions like cardiovascular disease and additional amputation.

The Amputee Coalition of America (ACA) has assumed the challenge to address and improve prosthetic access for all amputees in the U.S. at both state and federal levels. To do this, ACA must raise an additional \$1 million annually to defend against the public health threat created by limited prosthetic access.

The Two Main Goals of the National Action Plan...

To ensure adequate lifelong coverage of prosthetic devices and associated services for all individuals with limb loss and those at risk for limb loss, regardless of whether they have public or private health insurance; and

To provide and distribute to all individuals with limb loss, and those at risk for limb loss, information about healthy living practices to prevent primary amputations and secondary conditions, including further amputation.

The Plan...

Hire three regional grassroots coordinators to work with states (NY, CT & MA in the East, CA, TX & WA in the West, and OH, AL and LA in Central U.S.) in the process of introducing Prosthetic Parity bills mandating coverage of prosthetic devices and services to at least the current Medicare level, as has been achieved in CO, NH and ME, and to identify and work on introducing similar bills each year in additional states in their region.

Engage appropriate professionals – lawyers, strategists, health care professionals (HCP), and lobbyists -, and work with them to improve access through federal health care programs, FEHBP, VA, TRICARE, ERISA and Medicare, either through regulation or legislation.

Enhance focus on ACA's ongoing, highly-regarded educational programs, and incorporate additional modules that promote good health practices to prevent primary disease and amputations, and secondary conditions, including further amputation.

Form strategic working partnerships with additional allied health organizations serving similar constituencies to disseminate information to the new amputee and those at greatest risk of amputation, particularly Native Americans, African Americans and Hispanics.

Expand the current relationship with Walter Reed Army Medical Center (WRAMC) Amputee Care Center, the Veterans Administration (VA) and other federal agencies to ensure greater emphasis on amputation, prosthetics, and outcomes research that ultimately will benefit the civilian sector.

Funding Sources...

Each of the over 2,000 prosthetic facilities in the US will be asked to contribute \$1000/year (\$20/week), and each of the 3,995 American Board for Certification in Orthotics and Prosthetics (ABC) and Board for Orthotist /Prosthetist Certification (BOC) certified prosthetists will be asked to contribute \$100/year (\$2/wk). Contributors will be listed on ACA's web site and in *inMotion*. Assuming 100% participation, this effort would result in \$899,500 in additional support annually. Recognizing that this may be an unrealistic goal, and even if successful will take considerable time to accomplish, ACA will ask its stakeholders to contribute funds at the outset of this campaign. Patients will also be asked to participate in the "WE-CAN..make every penny count" drive by donating to cans made up and distributed to O&P facilities.



*Paddy Rossbach
ACA President & CEO*

Trained as a Registered Nurse, since 1984 Rossbach has specialized in educating, supporting and advocating for individuals of all ages who have either had a limb(s) amputated or were born with a limb difference.

She co-founded and is the President of ASPIRE, Inc., a nonprofit organization known for its work encouraging young amputees to be active through sports. She has spoken extensively nationally and internationally on all aspects of living well with an amputation. She also consults for Landmine Survivors Network, traveling to their network countries, and teaching outreach workers about peer visitation.

From the President's Desk



by Rick Chavez

Dear COPA Member:

Last month I had the opportunity to meet the Amputee Coalition of America's President and CEO, Paddy Rossbach, at our combined meeting with Insurance Commissioner, John Garamendi, and I have to say that we have developed a real ally in our efforts to see things change in California.

Finally, we are all working in a coordinated effort, and it is going to be the largest effort we have ever seen in California. COPA is committed to passing a parity law, as well as Workers' Compensation reform this year. We have already geared up our legislative efforts and meanwhile, the ACA is gearing up the grassroots effort that may tip the balance in favor of passage in California.

We now have a terrific combination in play. COPA has more than 20 years experience in legislative issues, retains a high quality, full time lobbyist, and has been through the wringer on a variety of issues. The ACA brings to the table a brand new "action plan" that features deep grassroots support, organizational strength and a campaign to build a war chest that will put serious cash behind the association's desires.

Being an amputee myself, as well as a certified practitioner, I had come to think that we were doing a sufficient job in representing consumers at our meetings. It has always been COPA's belief that our goals always have consumers best interests at heart. But, seeing Paddy in action, it is more clear than ever that consumer support (or outcry) has been underutilized. Sometimes it's hard to see the forest for the trees, I guess.

When we met with the Insurance Commissioner, there was a greater sense



of legitimacy to our cause having Paddy in our company. She is an excellent advocate and has a greater avenue for presenting big picture dynamics than we do.

We see patients every day with problems getting coverage or damage inflicted on them by incompetent, so-called practitioners, but it is she who can put numbers to our coincidental experiences. When she says there are massive problems facing this population, she speaks from a different kind of authority. And, people are listening.

Although we hear complaints all of the time and our patients may sometimes ask us to help them with their plight, it is usually specific to their item or their condition. When the ACA fields complaints, they are seeing the entire scope of the problems facing amputees. They also document individual cases and have a tremendous network which they can communicate with to raise awareness.

I am extremely hopeful for 2005 because this new partnership will bring us all forward. With COPA's technical skills in legislation and familiarity with the home front in California, combined with the mobilization capabilities of the ACA, we are destined to see progress soon. That is not to mean however, that all practitioners and their patients are no longer needed. All of our letters, calls and testimony will be in demand.

The California Orthotics & Prosthetics Association Industry & Government Legislative Report

The California Orthotics and Prosthetics Association Industry & Government legislative Report Newsletter is published every other month. COPA, a nonprofit association, represents Certified Orthotists and Prosthetists throughout the state of California.

Opinions expressed in the COPA Industry & Government Legislative Report do not necessarily reflect the positions of COPA and acceptance of advertising does not constitute endorsement by the Association of any advertised service or product.

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Letters to the Editor and article submissions can be faxed to: Sherry Daley, Editor, COPA Industry & Government Legislative Report (209)744-2673, or can be mailed, c/o Nick Medeiros, Inc., 1127 - 11th Street, Suite 350, Sacramento, CA 95814. Articles submitted for review are encouraged.

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For information and assistance about becoming a member of COPA, please call Sherry Daley at (209) 744-2672.

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