



AMERICAN ACADEMY OF  
ORTHOPAEDIC SURGEONS

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July 31, 2020

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Charles E. Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, DC 20515

Dear Leader McConnell, Leader Schumer, Speaker Pelosi, and Leader McCarthy:

On behalf of over 34,000 orthopaedic surgeons and residents represented by the American Association of Orthopaedic Surgeons (AAOS), we would like to thank you for your efforts to mitigate the negative health, social, and economic impacts of the COVID-19 public health emergency (PHE). The AAOS writes today to urge the prioritization of further support for physicians and their practices, and to encourage House and Senate leadership to work urgently and responsibly to pass a subsequent package that will ensure the safety and well-being of those caring for vulnerable populations during this global pandemic.

#### **Provider Relief Fund**

AAOS thanks the House and Senate for previous economic support offered to physicians through the Department of Health and Human Services (HHS) administered Provider Relief Fund. Per the Centers for Medicare and Medicaid Services' (CMS) guidance on non-emergent, elective medical services, AAOS members abstained from performing elective procedures in order to free up valuable resources and personal protection equipment (PPE) for frontline healthcare workers and patients. While necessary, these abstentions resulted in dramatic reductions in patient and procedure volume within orthopaedic practices, and equally significant economic impacts. The financial support delivered through the Provider Relief Fund, provided physicians a vital lifeline during a time when revenue streams were minimal and operational costs continued to hold steady.

AAOS asks that Congress continue to provide funding for the Provider Relief Fund without narrowing provider eligibility in the next COVID-19 legislative package. While the majority of orthopaedic practices are open once again, the financial impact is still significant. Traditional patient volumes have not returned due to concern about viral contraction and new "waves" of COVID-19 outbreaks across the U.S. These lagging volumes pose a challenge for practices who are still struggling to make up lost revenue from surgical abstentions, delays, and cancellations earlier this year. Continued access to the financial support offered through the Provider Relief Fund will be critical for physicians and practices working to resume regular access for their patients.

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### **Medicare Accelerated and Advance Payment Program**

As another pillar of the financial support provided to physicians and their practices, the Medicare Accelerated and Advance Payment Program, was a critical element of relief for physicians who were struggling due to COVID-19 practice impacts. When applications to the program were suspended in late April, many physicians were left without the opportunity to participate as the economic challenges of the crisis continued to grow. In addition, those who had already received funds from the program were faced with a high interest rate (9.625%) relative to the other financial relief programs that Congress created and a tight repayment deadline given the timeframe for Medicare claims processing. As practices resume operations, they will be faced with the difficult prospect of beginning to repay these loans as early as August 1, 2020.

AAOS would strongly advocate for improvements to the program laid out in the Health and Economic Recovery Omnibus Emergency Solutions or “HEROES Act”. As stated in the HEROES Act, Congress should revise the program to give providers a full year before offsetting claims, limit recoupment to no more than 25 percent, provide two years from the first advance payment to repay the balance in full, and reduce the interest rate for remaining balances at the end of such period to one percent. These improvements are necessary to realign the program with its intended effect of supporting physicians through this fiscally challenging time.

### **Telehealth Flexibilities and Reimbursement**

With the outbreak of COVID-19, many outpatient clinics and facilities found themselves scaling telehealth services within their practices to deliver care as in-person visits became unsafe. Driven by decisive action from Congress, CMS added flexibilities for providers engaging with patients through telehealth through the duration of the PHE. As a result, participation in telehealth services has soared and patients across the country have benefited through increased access to care. Unfortunately, these newfound improvements in access are based almost entirely on temporary flexibilities which will go away unless Congress acts to extend them.

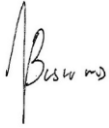
As the pandemic endures, the use of telehealth visits continues to increase patient access, particularly for those within vulnerable patient populations including mobility impaired patients, rural patients, elderly patients, and those with limited transportation. AAOS supports the continued use of telehealth to treat patients when clinically appropriate and asks Congress to extend policies on telehealth flexibility past the expiration of the PHE. Given the stated limits on telehealth flexibilities confining them to the duration of the PHE, Congress must act to ensure HHS and CMS have the appropriate flexibility to evaluate and codify COVID-19 telehealth improvements.

### **Medical Liability Protections**

The threat of litigation is a constant presence for physicians, particularly for those practicing in the field of orthopaedic surgery. This threat has only grown stronger as the nation has faced an unprecedented public health emergency with coronavirus. The targeted medical liability protection provided by H.R. 7059 will help ensure that orthopaedic surgeons and other healthcare providers on the front lines of the pandemic can focus on treating patients without the fear of unwarranted lawsuits. The AAOS particularly supports provisions of this bipartisan bill which will reduce lawsuits that stem from the workforce shortages, inadequate safety supplies, and changing guidance from federal, state, and local government officials and would encourage the adoption of this language for the fourth COVID-19 congressional package.

AAOS and our membership continues to be encouraged by ongoing discussion in both Chambers regarding the next COVID-19 relief package. We are hopeful that the forthcoming package will duly consider the healthcare community, who continues to carry the health and safety of our nation on their backs. Thank you again for your leadership in support of orthopaedic surgeons and the patients they serve during this particularly challenging time.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bosco, MD". The signature is stylized and cursive.

Joseph A. Bosco, III, MD, FAAOS

President  
American Association of Orthopaedic Surgeons

cc: Daniel K. Guy, MD, FAAOS, AAOS First Vice-President  
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