

AAOS Advocacy National Policy Affecting Your Practice



Graham Newson

Director

Office of Government Relations

American Association of Orthopaedic Surgeons

2019 California Orthopaedic Association Annual Meeting

May 17, 2019

Disclosures

No Relevant Disclosures

AAOS Advocacy Mission

- **AAOS Mission**: Serving our profession to provide the highest quality musculoskeletal care.
- **Advocacy**: Champion the interests of the orthopaedic profession to provide access to care and be a resourceful ally for orthopaedic surgeons and musculoskeletal patients.

What Do Physicians Have to Offer?

- Credibility
- Experience
- No One Understands Health Care Better Than You



AAOS Office of Government Relations (OGR)



AAOS Office of Government Relations (OGR)

OGR

Medical Director

William Shaffer, MD

Director

Graham Newson

Administrative

Connie Lamberson

Katrina Wallace

Legislative

Lead:

Catherine Hayes

Federal

Julie Williams

Jordan Vivian

Madeline Kroll

State

Open

Communications

Kristen Coultas

Political

Lead:

Stacie Monroe

Meredith Allison

Fred Essis

Regulatory

Lead:

Shreyasi Deb, PhD

Health Policy

Chris Naso

Joanne Willer

Regulatory Science

Katherine Sale

Meghan Eigenbrod

Isabel Montoya

What OGR Does

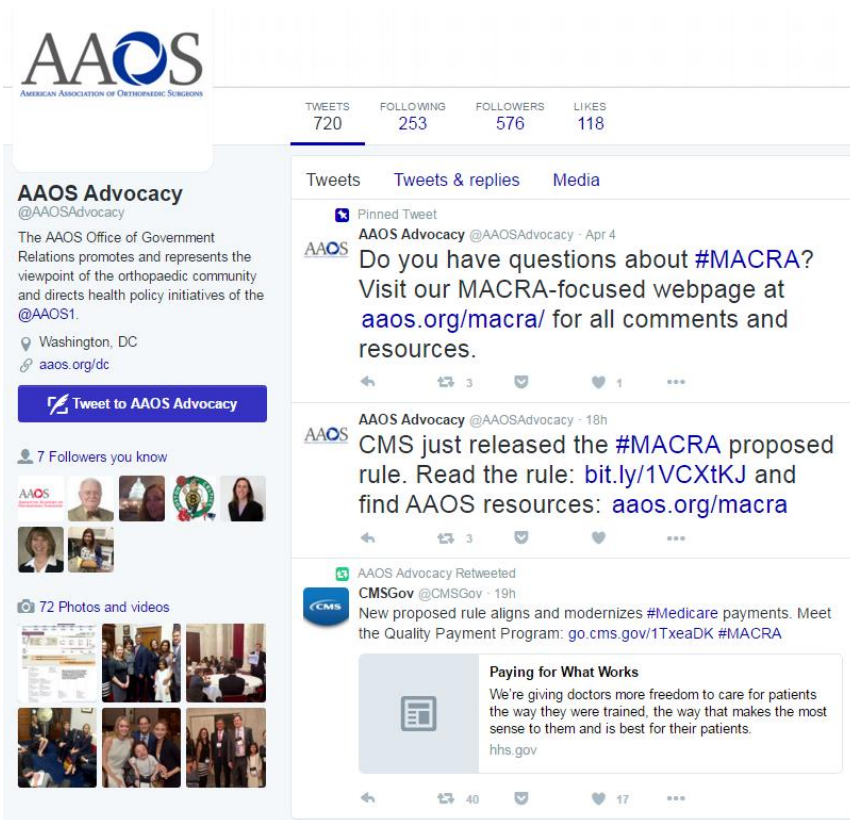
- **Proactive Advocacy**
- Promote and **Represent the Viewpoints** of the Orthopaedic Community Before Federal and State Legislative, Regulatory, and Executive Agencies
- Assist our Members to **Testify before Congress and the Agencies**
- Provide **State Advocacy Services**
- **Comment** on Proposed Regulations
- Manage the **Orthopaedic PAC** (Including Fundraisers)

Notable 115th Congress Successes



- Independent Payment Advisory Board (IPAB) repealed
- Common sense opioid legislation (H.R. 6)
- Peer Reviewed Orthopaedic Research Program (PRORP) funded
- H.R. 302, Sports Medicine Licensure Clarity Act signed into law
- Extended CHIP for 10 years
- \$2 billion extra in funding for NIH

Outreach



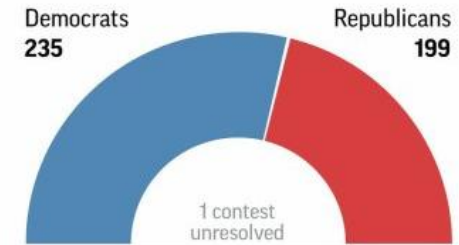
- Advocacy Now (Bi-Weekly)
- AAOS Now (Contribute Advocacy Articles)
- Orthopaedic PAC Newsletter (Quarterly)
- HNN (Headline News Now)
- Twitter ([@AAOSAdvocacy](https://twitter.com/AAOSAdvocacy))

The Political Climate on Capitol Hill

- **President Trump (Tweets set tone)**
- **Democrats take Control of the House of Representatives**
- **Mueller Investigation (Follow-up)**
- **2020 Presidential Election**
- **Immigration – The Wall**
- **Effects of Tax Reform**
- **Medicare for All**
- **US/North Korea Negotiations**
- **Infrastructure**
- **ISIS/Syria/Russia/Terrorism**

116th Congress - House

- **Democrats gain 38 seats**
 - 235-199 majority (1 not yet called)
- **Goals:**
 - Oversight
 - Reforming campaign rules and voting laws
 - Cutting drug prices
 - Defending ACA
- **Diverse, more liberal freshman class**
 - Campaigned on *Medicare for All*
 - Potential for division in Democratic caucus



NOTE: Six nonvoting delegates from U.S. territories and the District of Columbia are not reflected in this tally.

Women: **102**



Hispanic-Americans: **42**



African-Americans: **52**



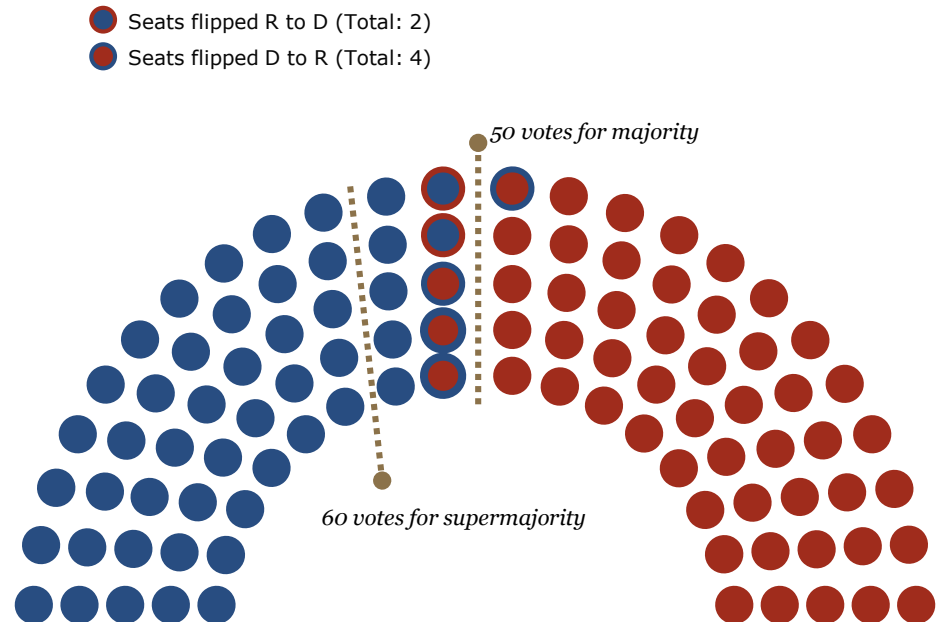
SOURCES: AP Elections group

AP

116th Congress - Senate

- **Republicans gain 2 seats**
 - **53-47 majority**
- Expected to be backstop to House
- Majority Leader McConnell to continue focus on nominations
 - May largely defer to the president on policy battles
- Several senators gearing up for 2020
 - May limit opportunities for bipartisanship

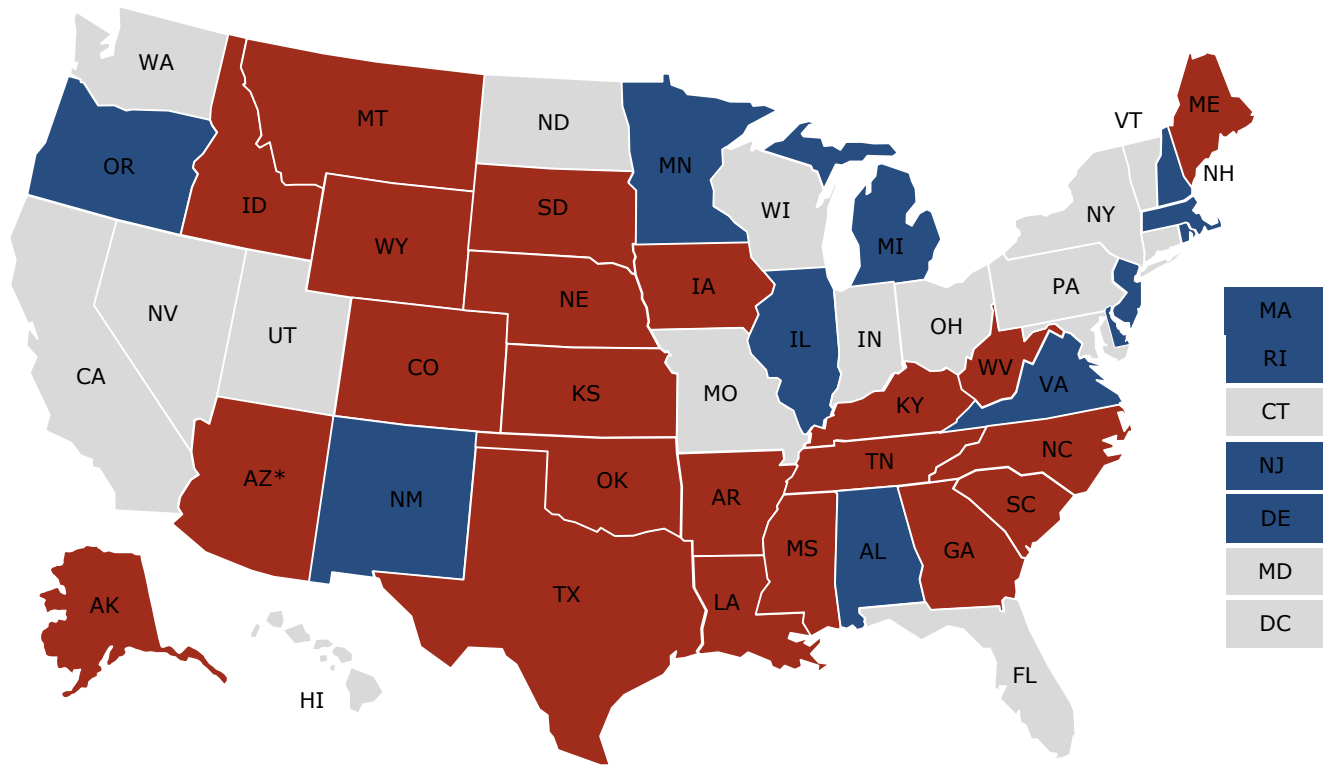
Partisan makeup of the Senate compared to the previous Congress



Republicans have 22 Senate seats up for reelection in 2020; Democrats have 12

Senate seats up for reelection in 2020

■ Democratic incumbent ■ Republican incumbent



*Arizona will have a special election, to fill the final two years of Sen. McCain's term

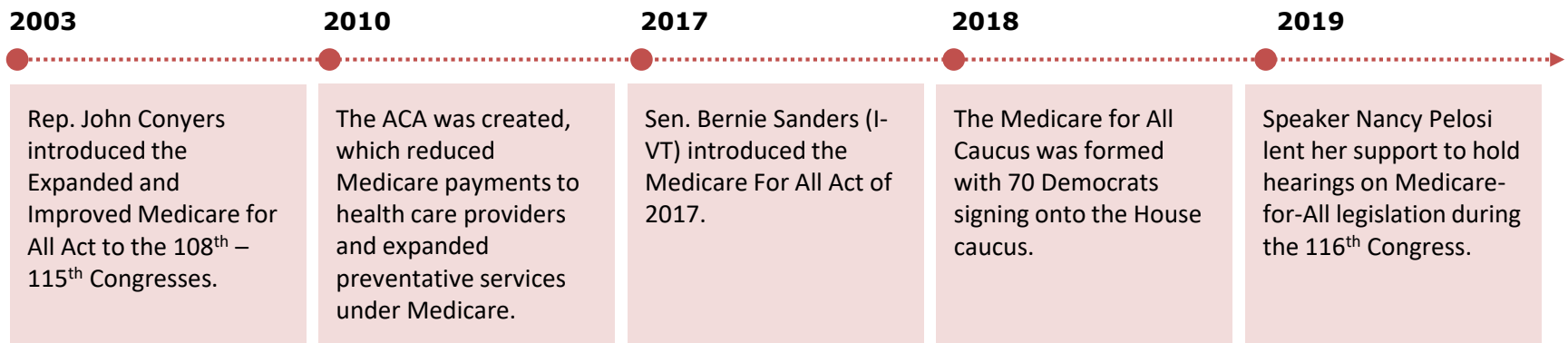
Sources: “United States Senate elections, 2020,” Ballotpedia, 2018; Nathan Gonzales, “It’s not too early to start looking at the 2020 Senate map,” Roll Call, Nov. 7, 2018.

House Democrats take steps towards hearings and legislation on single-payer health care coverage

“I request that the Congressional Budget Office provide a report on the design considerations that policymakers would confront in developing proposals to establish a single-payer system in the United States.”

—Rep. John Yarmuth (D-KY-3), chairman of the Committee on the Budget in a formal request to the Congressional Budget Office

Timeline of congressional actions towards single-payer health care coverage



Legislative Advocacy

116th Congress, 1st Session



President Trump's FY2020 Budget

In the President's budget for FY2020, items relating to the legislative and regulatory goals of AAOS include:

- **Provisions to reduce surprise bills** for hospital care and pharmaceutical drugs through increased health care price transparency for providers, suppliers, and insurers.
- **Reforms to site neutral payment** by realigning incentives to ensure accurate payments across different health care provider types are based on patient characteristics rather than site of care.
- **Improvements to quality programs** through the elimination of reporting burden and low-value metrics in performance-based payment for physicians and incentives to participate in alternative payment models (APMs).
- **Attempts to address healthcare workforce shortages** through grant programs which would be distributed based on the proportion of residents training in priority specialties or programs.
- **Changes to medical liability**, providing a safe harbor for physicians based on clinicals guidelines, capping awards for noneconomic damages at \$250,000, and implementing a three-year statute of limitations for medical liability lawsuits.
- **Amendments to the physician self-referral law (Stark Law)** by establishing new exception under the Department of Health and Human Services (HHS) to allow physician self-referral arrangements that arise due to participation in advanced APMs.

(H.R. 506) Hospital Competition Act

- **Hospital Competition Act of 2019 (H.R. 506)**
 - Rep Jim Banks (R-IN)
- Aims to combat the rising cost of health care by increasing choice among hospital providers
- Addresses several AAOS priorities including:
 - Lifting restrictions on physician-owned hospitals
 - Discouraging hospital consolidation and CON laws
 - **Expanding site neutral payment** by reducing the cost of outpatient care and reimbursing hospital outpatient departments at the same rate as independent physician services
 - **Increasing price transparency** by requiring hospitals to publish the cost of their 100 most common services



Physician-Owned Hospitals

- ***Patient Access to Higher Quality Health Care Act*** to be reintroduced this Congress
- Senate version to be introduced by Sen. James Lankford (R-OK)
- Completely lifts the ban on expansion and new construction of POHs
- Pursuing CMMI Demo



Stark Law Issues

- The Stark and Anti-Kickback Laws presume that any shared financial incentive is suspect
- Payment models such as “pay for performance,” shared savings, or bundled payments are considered problematic
- Technical violations can trigger huge penalties, creating disproportional consequences
- Changes to the law and regulations are needed to allow the transition to value-based care

Update Stark Law:

H.R. 2282 The Medicare Care Coordination Improvement Act of 2019

- **H.R. 2282, “The Medicare Care Coordination Improvement Act of 2019”**
- Sponsor: Rep. Raul Ruiz (D-CA-36)
- Provides CMS with the regulatory authority to create exceptions under the Stark Law for alternative payment models and to remove barriers in the current law to the development and operation of such arrangements.
- AAOS supports

Drug Prices

Administration Priority:

To lower prescription drug prices and out-of-pocket costs while increasing competition

Potential for bipartisan action in Congress, including:

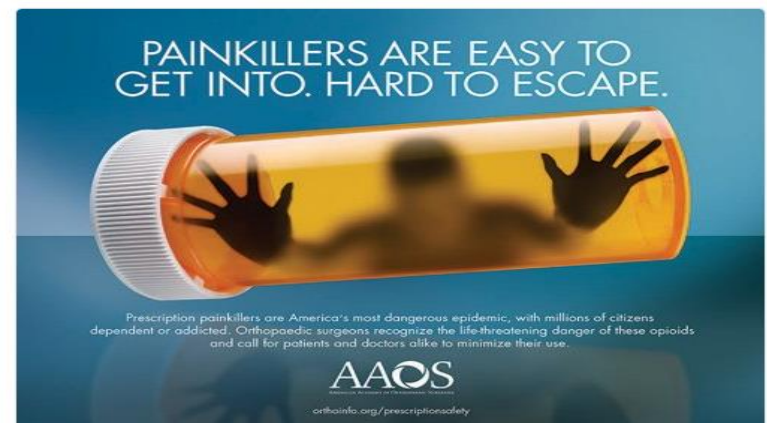
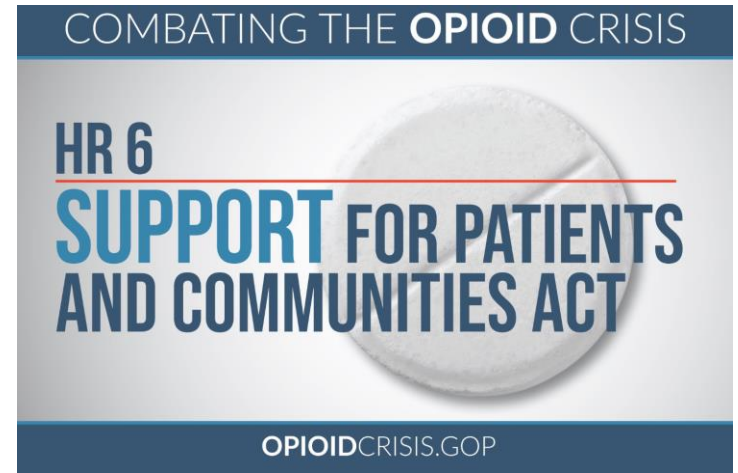
- Allowing Medicare to negotiate lower drug prices
- capping Medicare beneficiaries' out-of-pocket expenses on drugs
- requiring manufacturers to disclose and justify any significant price increases
- increasing oversight on tactics brand-name drug makers use to delay production of generic versions



Opioids

- **H.R. 6, the SUPPORT for Patients and Communities Act**
 - Passed Congress October 3, 2018
 - Signed into Law October 24, 2018
- **Includes AAOS Priorities:**
 - E-prescribing
 - Grants to states to improve Prescription Drug Monitoring Programs (PDMPs)
- **Bill also includes:**
 - Funding for research on non-addictive painkillers
 - Report on barriers for access to substance abuse disorder treatment medication
 - Expands telehealth for substance abuse disorder treatment

Does not include mandatory federal limits on prescription length



Out-of-Network Billing (Narrow Networks)

- **Protecting Patients from Surprise Medical Bills Act**
- **Bipartisan, draft legislation to prevent surprise medical bills for out-of-network care**
 - **Senator Bill Cassidy, MD (R-LA)** among group of senators working on draft
- **AAOS working with a coalition of like-minded groups in support of:**
 - Adequate health insurance networks
 - Holding patients harmless under all circumstances
 - Retaining a balance billing option
 - **Ensuring fair and timely payment**
 - Maintaining uniformity of self-insured health insurance plans



Peer-Reviewed Orthopaedic Research Program



- House Appropriations Committee included \$30 million in FY 2019 for the **Peer-Reviewed Orthopaedic Research Program (PRORP)**.
- **For FY 2020 we're requesting \$35 million.**
- The PRORP provides direct grants to research institutions to provide all warriors affected by military orthopaedic injuries the opportunity for optimal recovery and restoration of function.
- **After 2018, the PRORP will have allocated more than \$330 million since its founding in 2009.**

Become an AAOS Congressional Ambassador

- **The AAOS is seeking “Ambassadors” to develop meaningful relationships with members of Congress**
 - You’ll get regular alerts to reach out to your member of Congress, including sample email text
 - You’ll get access to webinars and special training to improve your advocacy skills
 - Attend or host a local fundraiser (the AAOS PAC can provide assistance)
 - **Not a huge time commitment, we ask for at least 5 contacts a year**



Regulatory Advocacy

- Regulatory advocacy is the process of engaging directly or indirectly with regulatory agencies to influence the outcome of policy and rule-making to benefit our physicians and patients.

Alex Azar

Secretary of Health and Human Services



Biography

Previous position: President of Lilly USA, LLC

Assumed position: 2012

Date of birth: June 17, 1967

Home: Johnstown, Pennsylvania

Education: B.A., Dartmouth University; J.D. Yale University.

Family: Married (Jennifer), 2 children

Political party: Republican

Professional experience

- As the secretary of health and human services, Azar will be a key player in implementing Trump's drug pricing control agenda in an industry he just left
- Previously, Azar clerked under Supreme Court Justice Antonin Scalia and worked for two years on the Clinton Whitewater investigation
- Under President W. Bush, Azar worked as HHS general counsel from 2001-2005, and then as the deputy secretary from 2005-2007
- Azar joined Eli Lilly and Company as the senior vice president of corporate affairs and communications from 2007-2009, and then served as President of Lilly USA, LLC from 2012-January 2017

Nominated

Approved

“

The leader of H.H.S. will be at the tip of the spear, working to not only right the wrongs of this deeply flawed law but also ensure the long-term sustainability of both Medicare and Medicaid.”

- Senator Orrin Hatch (R-UT)

HHS Report on Choice and Competition



- Report titled **Reforming America's Healthcare System Through Choice and Competition**, issued on December 3
- **Recommendations include AAOS priorities:**
 - **lifting the Affordable Care Act's restrictions on physician-owned hospitals (POH)**
 - **reevaluating site neutral payments**
 - **addressing patients' and providers' healthcare market consolidation concerns**
 - **repealing anticompetitive certificate-of-need (CON) laws at the state level**
- Secretary Azar has also said the Administration is examining the existing Stark and anti-kickback laws for potential reform

Removal of TKA (Total Knee Arthroplasty) from the IPO (In Patient Only) List

- **CMS Finalized its proposal to remove Total Knee Arthroplasty (TKA) from the Medicare In Patient Only (IPO) list effective January 1, 2018.**
- **Major Issues**
 - Misinterpretation of the OPPTS (Outpatient Prospective Payment System) 2018 Final Rule
 - Interplay with the “2-midnight rule”
- **AAOS Advocacy**
 - FAQ on Advocacy section of website; member calls and emails
 - Letters and calls with CMS
 - AAOS-CMS leadership meeting
 - CMS developed educational materials for TKA review for all stakeholders

Total Knee Arthroplasty off the IPO List

- **AAOS Advocacy Progress:**
 - CMS issued ***additional*** education : MLN Matters article (SE19002) published on January 8, 2019 clarifying this policy change:
<https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/SE19002.pdf>
 - AAOS met with CMS on Feb 25, 2019 to discuss this issue
- **We're working with CMS to exempt TKAs from the two-midnight rule**
- More information and full FAQ here:
<https://www.aaos.org/Advocacy/MedicarePaymentCMS/>

BPCI Advanced (Bundled Payments for Care Improvement): Advanced APM

- **Began on October 1, 2018**, and the Model Period Performance will run through December 31, 2023.
- Round 1 application closed on March 12, 2018; Round 2 opportunity in January 2020.
- **Voluntary Model**: A single retrospective bundled payment and one risk track, with a 90-day Clinical Episode duration
- 29 Inpatient Clinical Episodes, including **12 musculoskeletal inpatient episodes** AND 3 Outpatient Clinical Episodes:

Payment Policy Issues

Bundled Payment for Care Improvement Advanced (BPCI A)

- Ongoing deliberations with CMS and on the Hill. CMS removed the 50% cap on physician reimbursement in the model

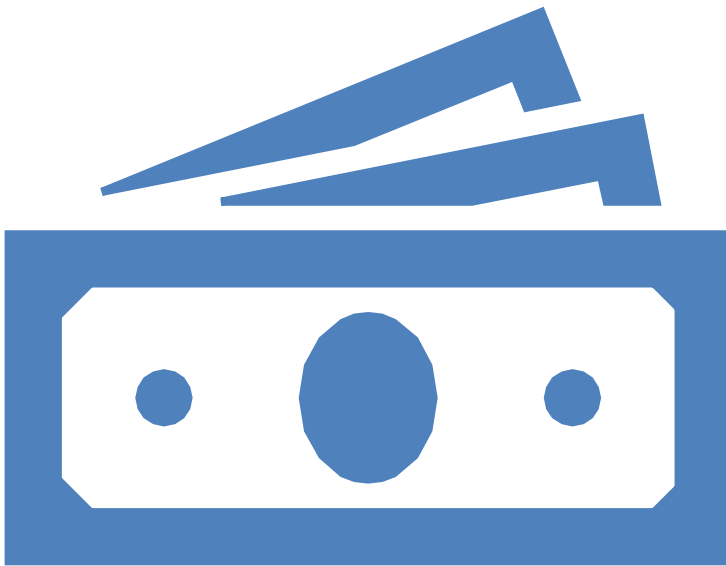
Potentially mis- valued codes: TKA, THA

- AAOS RUC advisors and staff working with AAHKS and other affected societies

State Issues

State Legislative and Regulatory Issues Committee (SLRI)

- **SLRI Grants Support State Orthopaedic Societies in Advocacy Efforts**
 - State orthopaedic societies apply for grants at three meetings a year: Annual, NOLC, and Fall Meetings.
 - Two grant reports are due every six months.
 - Priorities are given to states that match dollars and AAOS priority issues.
 - \$2.5 Million grants given over the last 11 years.



Political Action Committee PAC

AAOS Orthopaedic PAC

- AAOS Orthopaedic PAC is **the only national political action committee in Washington, DC solely representing orthopaedic surgeons before Congress**
- Formed in 1999. **Today, it is among the largest Association PACs in the United States.**

Success in 2018



Orthopaedic PAC is the political action committee of the AAOS and is the only PAC that is solely dedicated to representing Orthopaedic Surgeons on Capitol Hill. 2017-2018 was truly a banner election cycle. Recognized this year as the largest health care disburser in the nation, we achieved unprecedented access and victories this election cycle.

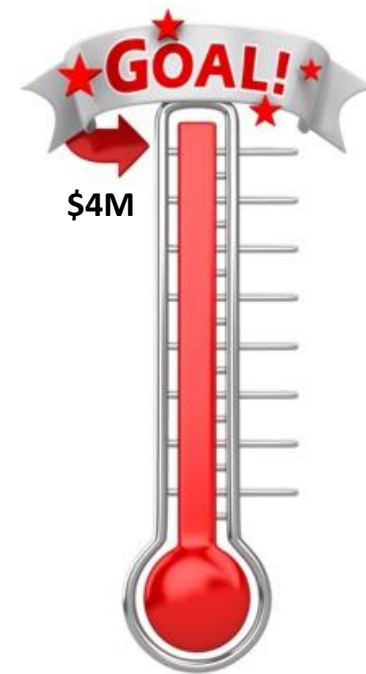
2017-2018 ELECTION CYCLE BY THE NUMBERS:

| | |
|---|---|
| \$4m raised, a 15% growth from last election cycle | A record breaking 8 residency programs achieved 100% PAC participation |
| Disbursed over \$2.7m in candidate contributions | Achieved an increase of over 60% of events attended in the Congressional District |
| You can't spell ORTHOPAEDIC without an R, D or I! | Saw a win rate of 90% in the House and 86% in the Senate |
| Saw an increase of 85% of events hosted in DC | Supported 320 candidates |
| Resident participation skyrocketed by 78% in one year | |
| In 2018, saw a 163% increase in soft dollars from the previous election year | Enjoyed a 100% retention rate in the Advisor's Circle program that is now 16 members strong |
| | Invested in 20 physicians running for office |

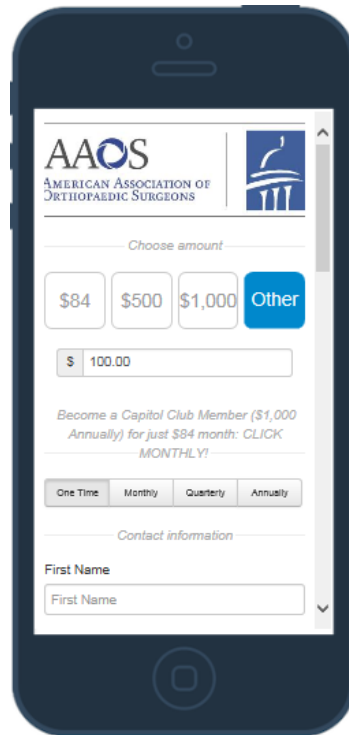
Orthopaedic PAC had its best election cycle in history, raising a record-breaking \$4 Million

We remain the largest disburser in healthcare:

- Supported over 320 candidates
- 90% win rate in US House
- 86% win rate in US Senate



Text to Donate



Text AAOS to
41444

It's that easy!



THANK YOU