



July 1, 2025

The Honorable Robert F. Kennedy, Jr
Secretary
U.S. Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

Re: Request for Information – Ensuring Lawful Regulation and Unleashing Innovation to Make American Healthy Again (AHRQ-2025-0001)

Dear Secretary Kennedy,

On behalf of the American Association of Oral and Maxillofacial Surgeons (AAOMS), which represents more the 9,000 oral and maxillofacial surgeons (OMSs) in the United States, I appreciate the opportunity to comment on the Department of Health and Human Services' (HHS) Request for Information entitled "Ensuring Lawful Regulation and Unleashing Innovation To Make America Healthy Again."

AAOMS appreciates HHS's commitment to identifying opportunities for meaningful deregulation and reducing unnecessary burdens while respecting statutory authority and promoting innovation in healthcare delivery. As part of this effort, AAOMS urges HHS to implement a measured and strategic deregulation process—one that carefully weighs the administrative burdens on healthcare professionals while ensuring policies remain responsive to maintaining and/or improving patient care.

Specifically, AAOMS recommends the following regulatory reforms:

Request to Rescind Limitations on Notice and Consent Waivers for Non-Emergency Services under the No Surprises Act

As currently written, the No Surprises Act (NSA) allows out-of-network providers to secure a waiver allowing them to balance bill patients for non-emergency services only if there is an in-network provider available to perform the same service at the same facility. However, when no such provider exists, out-of-network providers are not permitted to obtain notice and consent from patients to waive their NSA protections. This policy creates significant administrative burdens. Surgeons, their staff, and hospital personnel must continuously monitor payer directories to determine the network status of potential providers. Even when in-network status is confirmed, further verification is required to ensure those providers actually perform the

procedure in question. These layers of bureaucracy can delay treatment and disincentivize providers from treating out-of-network patients altogether.

In addition to administrative complexity, this limitation restricts patient access to timely, high-quality care and reduces patient choice. These barriers are compounded by inconsistencies in state laws, some of which allow notice and consent waivers even when an in-network provider is not available, while others are more restrictive, not allowing notice and consent waivers, regardless if the patient has a choice to go in or out of network. This patchwork of requirements further complicates compliance and confuses both patients and providers.

We support appropriate safeguards that ensure transparency and informed decision-making. However, the current rules hinder effective care coordination and place undue strain on providers and patients alike. Expanding the permissible use of notice and consent waivers would support more flexible, patient-centered care without compromising consumer protections.

While we understand these constraints are grounded in the statute, we ask the Secretary to exercise any available administrative authority to mitigate the operational burden on out-of-network providers in these circumstances.

Request to Streamline or Eliminate the Merit-based Incentive Payment System (MIPS)

We urge HHS to streamline—or consider eliminating—the Merit-based Incentive Payment System (MIPS), which imposes disproportionate burdens on providers, particularly OMSs. The program’s complex reporting requirements and time-consuming documentation detract from direct patient care and have shown limited evidence of improving clinical outcomes.

A Journal of the American Medical Association (JAMA) Health Forum study found that physician practices spend an average of **\$12,800 and 202 hours annually** to comply with MIPS. In the **2025 Medicare Physician Fee Schedule (MPFS) final rule**, CMS estimated that MIPS reporting requirements would impose **586,877 hours and \$70 million** in total burden on the U.S. health care system.

Many OMSs lack the infrastructure or support to comply effectively, making the program more punitive than productive. For example, most OMSs use electronic health records (EHRs) that are not certified, rendering them unable to meet MIPS requirements or qualify for incentives. This is largely because software vendors that service the dental industry often choose not to pursue certification, citing high associated costs and the relatively low number of specialists demanding certified EHRs. Additionally, while many do not meet the patient volume threshold for participation, those who do may be experiencing staffing shortages that prevent them from assigning or training personnel to manage MIPS-related administrative tasks.

The complexity of MIPS scoring rules, combined with technology limitations and administrative strain, often discourages providers from treating Medicare beneficiaries and forces them to limit their patient volume to remain below the MIPS threshold.

We respectfully recommend that HHS reevaluate the structure and scope of MIPS to reduce unnecessary burdens and ensure that quality reporting programs support, rather than hinder, patient care.

In sum, AAOMS urges HHS to focus its deregulatory efforts on removing rules that hinder innovation, impose excessive administrative burdens and costs, or fail to deliver measurable improvements in care. A deliberate, strategic approach will ensure that deregulation enhances, not undermines, the health and well-being of all patients and their healthcare providers.

Thank you again for the opportunity to comment on this important matter.

Please contact Srini Varadarajan, AAOMS Associate Executive Director of Practice Management & Government Affairs with any questions at 800-822-6637, ext. 4303 or sriniv@aaoms.org.

Sincerely,

A handwritten signature in black ink, reading "J. David Morrison". The signature is fluid and cursive, with a small "DMD" written at the end.

J. David Morrison, DMD
AAOMS President