

May 21, 2019

Melissa Smith
Director, Division of Regulations, Legislation and Interpretation
Wage and Hour Division
U.S. Department of Labor
Room S-3502
200 Constitution Avenue NW
Washington, DC 20210

Re: RIN 1235-AA20—Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

Dear Ms. Smith:

On behalf of our 163,000 dentist members, we are pleased to comment on the Department of Labor proposed rule to expand the number of workers eligible for overtime pay by revising one of several tests—the salary level test—used to determine whether an employee is exempt (or not exempt) from federal overtime pay rules. We offer these comments in response to your Federal Register notice of March 22, 2019 (84 FR 10900).

The Fair Labor Standards Act requires that all employees be paid overtime for working more than 40 hours in a given work week. All hourly employees are entitled to overtime pay. Salaried workers are also entitled to overtime pay, unless they meet several tests that render them ineligible (or “exempt”). The Department of Labor is proposing to revise one of those tests—the salary level test—to expand eligibility for overtime pay to as many as one million salaried workers.

Under the proposed rule, overtime pay eligibility would be extended to salaried workers earning between \$455 per week (\$23,660 per year) to \$679 per week (\$35,308 per year). Employers may opt to raise salary levels, reorganize workloads, adjust work schedules or spread work hours to avoid payment of overtime pay. But without some intervening action by their employers, these workers would gain overtime eligibility.

According to our volunteer leaders, this rule change would have little (if any) impact on dental practices. Around 39 percent of all dental offices have at least one employee in a salaried position. Few (if any) of these employees would typically work more than 40 hours per week. The wages and salaries for those who do would typically exceed the \$679 a week (\$35,308 per year) threshold being proposed.

Thank you for providing us the opportunity to comment. If you have any questions, please contact Mr. Robert J. Burns at 202-789-5176 or burnsr@ada.org. Information is also available at ADA.org/advocacy.

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Sincerely,

/s/

Jeffrey M. Cole, D.D.S., M.B.A., F.A.G.D.
President

JMC:KTO:rjb

/s/

Kathleen T. O'Loughlin, D.M.D., M.P.H.
Executive Director