

# 2016 Lobbying Accomplishments/Activities



## FOR YOUR DENTAL PRACTICE

**EPA Final Rule on Amalgam Separators Consistent with ADA Policy.** The U.S. Environmental Protection Agency (EPA) released a [final rule](#) Dec. 15 requiring dental practices nationwide to install amalgam separators. The new rule meets the nine principles [established by the ADA House of Delegates](#) as a condition for ADA support for a national rule. The date for compliance for most dentists will be three years from now, at the end of 2019.

**Medicare Part D Prescriber Requirement.** As the rule stands today, all providers who write prescriptions to Medicare beneficiaries who have Part D coverage must be enrolled in (or opted-out of) Medicare Part B prior to January 1, 2019 in order for the prescription to be covered by the beneficiaries' Part D plans. The ADA continued to aggressively seek to exclude dentists and other health care professionals not participating in Medicare from the Medicare Part D requirements with the help of Rep. Kenny Marchant (R-TX) and Rep. Earl Blumenauer (D-OR) through H.R. 4062.

**Section 1557 (ACA).** On July 18, 2016, compliance began on the Office for Civil Rights (OCR) final rule on nondiscrimination (Section 1557 of the ACA). The ADA strongly supports nondiscrimination in health care and equal access to health care for all patients. In a Nov. 2, 2015 comment letter on the proposed rule, we noted concerns that the proposed rule is confusing, duplicative and burdensome, as well as unnecessary. As part of regulatory reform legislation to be considered in 2017, the ADA has proposed that OCR simply enforce §1557 as written, which can be done without the promulgation of regulations. If the regulation is not rescinded, the Association recommends a small business exemption (25 employees or fewer).

**Ordering and Referring (Medicare).** By this rule change not only do providers that perform services covered by Medicare have to be enrolled in Medicare but also any provider that only orders tests or imaging services. As part of regulatory reform legislation to be considered in 2017, the ADA is seeking changes to the rule to exclude dentists who are not participating in Medicare from the Medicare Ordering and Referring requirements.

**SAMHSA Recordkeeping/Confidentiality Mandate.** The Substance Abuse and Mental Health Services Administration (SAMHSA) issued a proposed rule on February 9, 2016, to expand federal regulations regarding the confidentiality of patient records associated with substance abuse. This expansion could affect dentists who provide screening, brief intervention and referral services. The ADA asked for a dental exemption. The ADA will also lobby to have this issue addressed in regulatory reform legislation being considered by Congress in 2017.

**Antitrust Reform (McCarran-Ferguson).** The Senate Judiciary Committee on April 15 held a hearing on unfair methods of competition. The ADA submitted comments for the record urging committee members to reexamine the antitrust exemption enjoyed by health insurance companies as a result of the 1945 McCarran-Ferguson law. In a [Sept. 15 letter](#) to Chairman Rep. Bob Goodlatte (R-Va.), Rep. Paul Gosar (R-AZ) asked that the House Judiciary Committee officially request that the Government Accountability Office (GAO) study the health insurance industry's exemption. The ADA also supports inclusion of the provisions of H.R. 494, the Competitive Health Insurance Reform Act, in ACA "replace and repeal" legislation in 2017.

**Health Reimbursement Arrangements Reinstated.** With the signing of the 21st Century Cures Act into law, small businesses are once again permitted to offer ADA-supported Health Reimbursement Arrangements (HRAs) to their employees.

## FOR THE DENTAL PROFESSION

**Potential Reduction of Rank for Chief Dental Officers.** The ADA has fought for more than a decade to maintain current law which allows the Army and Air Force Dental Corps Chiefs to retain the rank of two-star generals (current law allows the Navy Dental Corps Chief to serve as a one-star). Despite the ADA's best lobbying efforts, the 2017 Defense Authorization bill's conference report would allow each branch to determine the rank of the dental corps chiefs (instead of an absolute reduction in rank as sought last year).

**Appropriations for Federal Dental Programs.** Congress passed a stopgap spending bill that will fund the government through April 28, 2017. Federal dental programs were funded at current levels.

**IHS Loans Tax Free and Easing Credentialing Obstacles.** Rep. Kristi Noem (R-S.D.) introduced ADA-supported legislation, "Helping Ensure Accountability, Leadership, and Trust in Tribal Healthcare Act" (H.R. 5406), that make student loans received from the Indian Health Service (IHS) Loan Repayment Program tax free. The legislation would also streamline credentialing for dentists wishing to volunteer on Indian reservations and Indian Health Service (IHS) facilities. Senator Thune (R-SD) worked to ensure the credentialing provisions were also included in the package considered by the Senate Indian Affairs Committee (S. 2953) designed to overhaul the IHS.

**Protect Military Dental Research.** The ADA successfully defeated a proposal in the Senate to seriously restrict oral health research at military facilities. Such research has been critical in maintaining the health and fitness of the Armed Forces and in treating battle wounds.

## FOR YOUR PATIENTS AND THE PUBLIC

**Community Water Fluoridation Increase.** According to an April 2016 CDC report, the 2014 Fluoridation Census shows that at the end of 2014, 74.7 percent of the U.S. population (214.2 million people) had access to optimally fluoridated water. This is the seventh consecutive increase since 2000, when 65 percent of the U.S. population on community water supplies — 161.9 million people — received optimally fluoridated water.

**FDA Food Labeling Requirements (Added Sugar).** In May, the Food and Drug Administration finalized new requirements for Nutrition Facts labels, which for the first time require food manufacturers to declare the amount of added sugars in packaged foods. The new labeling requirements also include a recommendation that consumers limit added sugar intake to less than 10 percent of daily caloric intake. The ADA has been lobbying for this change since 2014.

**FDA Tobacco Deeming Rule.** In May, the Food and Drug Administration issued a final rule that expands the agency's authority to regulate the latest generation of tobacco products, such as electronic cigarettes, e-cigarette cartridges, dissolvable tobacco, tobacco gels, hookah tobacco, and other products. The ADA has been lobbying for this rule since 2014. Find out more at [ADA.org/tobacco](http://ADA.org/tobacco).

**Comprehensive Addiction and Recovery Act (CARA).** In July, the ADA-supported Comprehensive Addiction and Recovery Act was signed into law. Find out more at [ADA.org/opioids](http://ADA.org/opioids).

**Older Americans Act.** The Older Americans Act was signed into law on April 19, 2016. For the first time, the law allows area aging agencies to use funds for oral health screenings.

**Health Savings Accounts and Flexible Savings Accounts.** The ADA and nine other groups in the Organized Dentistry Coalition asked Congress to lift the ACA's limit on individual contributions to flexible spending accounts (FSAs). As part of ACA "replace and repeal" legislation in 2017, the ADA will support an expansion of HSAs and FSAs, which will, at a minimum, lift the ACA restrictions.

**Dental Chapter in Health Care Report.** Rep. Robin Kelly (D-Ill.), chair of the Congressional Black Caucus Foundation's subcommittee on health care, authorized the publication of individual chapters of last year's report on the state of minority health care, including the [chapter on dental health](#).