

**American Dental Association  
Minutes of the Council on Government Affairs (CGA)  
Washington, D.C.  
February 9-11, 2017**

**Call to Order:** The Council on Government Affairs meeting was called to order by Dr. Mark Bronson, chair, at 4:30 p.m., Thursday, February 9, 2017, at the ADA Washington Office, 1111 14<sup>th</sup> St NW, Washington, DC 20005.

**Roll Call:** Drs. Craig Armstrong, K. Jean Beauchamp, Deborah Bishop, Mark Bronson, Daniel Cheek, Mark Desrosiers, Phillip Fijal, Marty Garrett, Frank Graham, Rhonda Hennessey, Charles Incalcaterra, Zacharias Kalarickal, Lauro Medrano-Saldana, David Minahan, Scott Morrison, Ariane Terlet and David White were in attendance

**The Liaisons to the Council in attendance were:** Dr. Gary Jeffers, Trustee- Liaison, Dr. Richard Andolina, Chair, American Dental Political Action Committee, Mr. Eddie Lee, American Student Dental Association, Dr. Andrew Soderstrom, Chair, Council on Advocacy for Access and Prevention, and Ms. Janette Sonnenberg, Alliance of the American Dental Association.

**Staff present for all or part of the meeting:** Mss. Janice Kupiec, Jennifer Fisher, Margo Klosterman, Mindi Walker, Lauren Kyger, Sarah Milligan, Jennifer Garvin, and Dr. Jane Grover; Messrs. Thomas Spangler, Michael Kendall, Michael Graham, Robert Burns, Chad Olson, Jeff Troupe, Dave Preble, Christopher Tampio, Peter Aiello, and Dr. Frank Kyle.

**Adoption of Agenda:** The agenda was adopted as written.

Reports

**CGA Chair:** Dr. Bronson welcomed the new CGA members, outlined key aspects of the meeting agenda, and encouraged full participation.

**Trustee-Liaison:** Dr. Jeffers stated he appreciates the role of CGA in reviewing legislative and regulatory issues affecting dentistry and offered his assistance as the Board of Trustee's liaison. Dr. Jeffers' reviewed Dr. Gary Roberts', ADA President, three initiatives.

**ADPAC Chair:** Dr. Andolina noted the importance that CGA and ADPAC work together to reach maximum effectiveness on Capitol Hill – advocating for the dental profession. Dr. Andolina highlighted the success of having four member dentists elected to Congress and the importance of attending the upcoming ADA Dentist and Student Lobby Day.

**AADA Liaison:** Ms. Sonnenberg presented the Alliance of the American Dental Association's purpose and details from their annual convention, which was held in conjunction with the ADA in Denver CO. AADA's leadership conference is scheduled for April 26-29 in Salt Lake City. AADA continues to provide hundreds of "Healthy Smiles from the Start" kits in over 31 states and four countries.

**CAAP Liaison:** Dr. Soderstrom discussed CAAP's priorities, such as community water fluoridation, CDHC, Medicaid, ER Referral and that CAPIR has set metrics to measure the effectiveness of the initiatives. Dr. Soderstrom reviewed the CAAP subcommittees (Access and Advocacy, Prevention) and introduced the new subcommittee "Action for Dental Health Prime".

**NDC Liaison:** Dr. Nguyen shared the committees concerns regarding licensure mobility and use of live patients for exams, expressing that these are top issues for new dentists.

**ASDA Liaison:** Mr. Lee communicated the importance of incorporating and involving dental students in organized dentistry early in their career.

### Establishment of CGA Workgroups

Dr. Bronson created three workgroups for Council members to examine three issue areas more in depth and provide a report at the August meeting. The workgroups were assigned as follows:

#### **Workgroup 1: Review Small Business tax issues and incentives**

Assigned members: Drs. Bronson, Graham, Cheek, Minahan, Hennessey, Fijal and Bishop (Chair)

#### **Workgroup 2: Repeal and Replace ACA**

Assigned members: Drs. Bronson, Graham, Incalcaterra, Morrison, Terlet, Desrosiers, Beauchamp and White (Chair)

#### **Workgroup 3: Veterans Affairs Dental Issues**

Assigned members: Drs. Bronson, Graham, Armstrong, Garrett, Medrano-Saldana, Nguyen and Kalarickal (Chair)

Interim meetings will be scheduled in order to prepare for updates to be provided to the full Council during the August meeting.

### ACA Repeal and Replace

At the time of the CGA meeting, the Senate and House passed budget legislation -- containing very general Affordable Care Act (ACA) "repeal and replace" instructions for two House (Ways and Means and Energy and Commerce) and two Senate (Finance and Health, Education, Labor and Pensions) committees.

The "repeal and replace" bill will be moved via the "budget reconciliation" process because it requires only 51 votes in the Senate for passage. Using the reconciliation process limits what can go into the bill. The rules for budget reconciliation in the Senate restrict the procedure to provisions related to taxes, spending or long-term debt.

About a dozen Republican Senators have publicly expressed concerns about repealing the law without a replacement or at least adequate guidance on replacement. The best guess at this time is that a "replace" bill will not be ready until this spring or summer and that many of the provisions would take two years or more to implement.

### ADA Position

In a January 11 letter to Congress on ACA "repeal and replace" legislation, the ADA stated that:

- Future changes to the current U.S. healthcare system should not result in Americans losing dental coverage gained under the ACA.
- Any changes made that affect the insurance market should foster competition while ensuring consumers can purchase high-quality, comprehensive oral health coverage that includes a separate dental deductible, first-dollar coverage for preventive services, and limits patient out-of-pocket costs.
- Any replacement legislation should provide tax credits for both individuals and small businesses to help with the purchase of health insurance coverage, including dental plan coverage.
- Tax preferred accounts, such as Health Savings Accounts (HSAs) and Flexible Spending Accounts (FSAs), should be expanded.
- Any changes to Medicaid should preserve the existing requirement for oral health services for children up to age 21 and increase access to oral health services for low-income adults, vulnerable elders and low-income pregnant women.

- U.S. consumers deserve greater plan transparency so that they can be empowered to make personally-responsible decisions about their healthcare. Such transparency can be fostered through the use of quality metrics at the plan level that have been endorsed by the Dental Quality Alliance, consumer satisfaction ratings, and easy-to-use and accurate participating provider lookup tools.
- The ADA supports federal tort reform legislation designed to rectify the problems in the current system which we believe unnecessarily contribute to the cost of health care.
- The ADA also supports a repeal of the McCarran-Ferguson antitrust provision that currently grants health insurance plans an exemption from certain antitrust laws.
- The expansion of Title VII training programs for dentistry, additional funding authorization for the National Health Service Corps, and funding for community health centers (CHCs) should be preserved to ensure a strong public health infrastructure.

### Implications for the States

The Council was also provided with a National Academy for State Health Policy (NASHP) chart detailing the impact of ACA repeal on consumers and health insurance markets. The chart is attached for your review.

- States are the primary regulator of insurance and as such had laws in place prior to the enactment of ACA that impacted health and dental benefits. Some states repealed those laws and replaced them with ACA provisions, while other states revised their laws but left existing, preempted laws on the books. Sorting through these laws and regulations to have a coherent system of insurance regulation after an ACA repeal will be a complex undertaking in every state.
- There is a need to proceed thoughtfully with enough predictability to enable insurance carriers to develop rates and plan designs in a timely fashion. The chart looks at what states would likely need to do to comply if the ACA is repealed. Because no clear agreement exists on what a replacement strategy would look like, the chart makes no assumptions about the impact of possible replacement that might address state challenges.
- Also important to note, the budget reconciliation process can repeal only provisions that directly impact the federal budget. So, using budget reconciliation to repeal ACA could leave other provisions intact, particularly those related to insurance regulation. As a result, the timing of when any ACA provisions are repealed is important to states.

**Action:** The Council discussed in some detail the implications of changes to the Medicaid program and confirmed that the Association must continue to strongly advocate for comprehensive dental services under this program for children and access for adults. Dr. Bronson established a workgroup to work more closely with staff on these issues.

### Overview of ADA Dentist and Student Lobby Day 2017

Regarding the 2017 ADA/ASDA Lobby Day, the Council heard from Dr. Andolina, chair, ADPAC; Ms. Milligan, director, ADPAC; Mr. Aiello, manager, grassroots and online advocacy. An overview of the significant changes was provided, including the use of a third party vendor to schedule Congressional visits for attendees. The expectation is that nearly 1,000 member dentists and dental students will attend this year's meeting.

**Action:** The Council approved the three issues to be lobbied during the 2017 Lobby Day: health care reform ("repeal and replace" the Affordable Care Act); amendments to the Higher Education Act to address the student loan debt problem; amending the McCarran-Ferguson Act.

## Outlook for the 115<sup>th</sup> Congress and ADA Priorities:

Mr. Graham, Mr. Tampio, Ms. Fisher, Ms. Walker and Ms. Klosterman provided the council with an inside perspective on how the new session will impact the ADA's legislative priorities.

### **Student Debt / Higher Education**

The Council reviewed the ADA's proposed plan to address student debt during the 115th Congress by focusing on the issues listed below, as part of the legislative process to reauthorize the Higher Education Act.

- Lower the interest rates on federal Direct Unsubsidized Stafford Loans, as well as the total amount of interest that can accrue on federal graduate student loans.
- Reinstate eligibility for graduate and professional degree students to use federal Direct *Subsidized* Stafford Loans to finance their graduate education.
- Permit federal graduate student loans to be refinanced more than once to take advantage of lower interest rates and better economic conditions.
- Extend the period of deferment for repaying federal graduate student loans to the maximum extent practicable.
- Simplify and add more transparency to the federal graduate student loan application process.
- Remove the barriers that prohibit those with private graduate student loans from taking advantage of federal student loan forgiveness/service payback programs.

**Action:** The Council supported the above approach.

### **Regulatory Reform**

The ADA is seeking both legislative and regulatory solutions to several key regulatory reform initiatives during the 115<sup>th</sup> Congress. In a December 15, 2016, letter to President-Elect Trump and Vice President-Elect Pence (which was also sent to key House and Senate leaders), the ADA identified the following four issues we would like to address in Regulatory Reform Legislation in the 115<sup>th</sup> Congress.

- **Ordering and Referring (Medicare):** Providers who order covered clinical laboratory services or imaging services for Medicare-eligible patients must be enrolled in Medicare's Provider Enrollment, Chain and Ownership System (PECOS) or opt-out of Medicare. *The ADA recommends that dentists who are not participating in Medicare be exempt from the Medicare Ordering and Referring requirements.*
- **Medicare Part D:** There is no need to require dentists to go through the enrollment process to ensure CMS has the information necessary to address fraud and abuse concerns. *The ADA supports excluding dentists and other health care professionals not participating in Medicare from the Medicare Part D enrollment requirements.*
- **Regulation Implementing Section 1557 (ACA):** The U.S. Department of Health and Human Services, Office for Civil Rights (OCR) released the final rule on Section 1557 providing for nondiscrimination in health care. *The ADA recommends 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 exception (25 employees or fewer).*

- **Requirement for Providers Participating in Medicare Advantage Programs to Enroll in Medicare:** This final rule will require providers or suppliers that furnish health care items or services to a Medicare enrollee who receives his or her Medicare benefit through a Medicare Advantage (MA) organization to be enrolled in Medicare and be in an approved status. *ADA seeks repeal of this rule to ensure that providers of covered services in Medicare Advantage plans but who are not in-network providers may continue to treat patients who make the choice to see these out-of-network providers. Repeal will also ensure that out-of-network providers will not be subject to Medicare enrollment requirements in the future.*

**Action:** The Council supported this dual approach.

### **Medicare Medically Necessary Care Coverage**

On November 7, 2016, Dr. Larry Coffee, Founder and CEO of the Dental Lifeline Network, sent a letter to the ADA asking the Association to join a group of stakeholders interested in advancing Medicare coverage for “medically necessary dental care.”

In a November 17 response, the ADA stated it would be pleased to work with the group. Seeking Medicare coverage for medically necessary dental care is consistent with ADA policy and could especially benefit the disabled and medically fragile.

#### ADA Policy

#### **Elimination of Disparities in Coverage for Dental Procedures Provided Under Medicare (Trans.1993:705)**

**Resolved,** that the Association seek legislation to provide fair and equitable treatment to all Medicare recipients by eliminating disparities in coverage for dental procedures, and be it further

**Resolved,** that the Association seek legislation which would provide for payment of dental services under Part B of Medicare in cases where the dental procedure is necessary and directly associated with a medical procedure or diagnosis.

#### Discussion of Medically Necessary Care Advocacy

One of the challenges to successfully advocating for an expansion of medically necessary dental services in the Medicare program is addressing the considerable cost of providing such services. A line of reasoning used by advocates has been that targeted dental services could save Medicare money under the right conditions.

The Pacific Dental Services Foundation funded a January 4, 2016, study conducted by Avalere Health that projects a savings of \$63.5 billion over a ten-year period if Medicare provides a new benefit covering the initial and ongoing treatment of periodontal disease for Medicare beneficiaries with diabetes, coronary artery disease, or cerebrovascular disease. The study’s projections are based on several claims-based retrospective studies, which demonstrated substantially lower medical costs for individuals who receive treatment for periodontal disease, especially for those individuals with chronic conditions. (See attachment)

#### Additional ADA Activity on Medicare

In addition to the medically necessary care activities mentioned above, Dr. Dave Preble, Vice President of ADA’s Practice institute, will address the Council to discuss other Medicare-related activities. Dr. Preble asked the Council if it would support a recommendation to the Board of Trustees to spend \$30,000 to help underwrite a symposium on Medicare.

**Action:** The Council voted not to support the expenditure of \$30,000 to help underwrite a Medicare symposium but did support the ADA’s continuing to be present at such meetings.

### **Presentation, Michael Graham on behalf of Dr. Kathleen O'Loughlin**

Mr. Graham provided the council with an update from Dr. Kathy O'Loughlin, executive director, on the ADA strategic plan, membership, core values and finances.

### **Action for Dental Health Update**

CAAP Chair, Dr. Soderstrom, and CAAP Director, Dr. Grover, provided the Council with an update of the Action for Dental Health Campaign, including community water fluoridation, ER referrals, Medicaid reforms and the growing Community Dental Health Coordinator program.

### **Tax Reform Discussion**

Rachel Jones, one of the ADA's outside lobbyists from the Nickels Group, led the council in a discussion of tax reform in the 115<sup>th</sup> Congress. The Council was provided with the current ADA Tax Policies approved by the House of Delegates and "The Better Way Forward" a blueprint prepared by the Republican Congress in 2016 which serves as a template for tax reform discussions in the 115<sup>th</sup> Congress

**Action:** The Council provided some suggestions to expand the education and increase advocacy specific to the use of tax preferred accounts for dental services. Dr. Bronson created a workgroup for Council members to examine tax issues further.

### **State Government Update and 2017 Legislative Outlook**

An update was provided by Mr. Olson and Mr. Troupe on the ADA's legislative priorities in the states and the outlook for the 2017 legislative session.

### **State Public Affairs Oversight Workgroup Report**

An update on the SPA workgroup was provided by Mr. Graham and Mr. Troupe.

### **Adoption of ADA's Legislative and Regulatory Priorities for 2017 & CGA Meeting Dates for 2018**

Each year, the CGA develops a list of legislative and regulatory priorities that is subsequently submitted to the Board of Trustees for approval.

**Action:** The Council approved the list of legislative and regulatory priorities.

### **Meeting Dates for 2018**

The Council approved the following meeting dates for 2018:

- March 1-3
- August 16-18

### **Meeting with Federal Dental Services' Chiefs**

The CGA's Bylaws duties include serving as liaison with federal agencies that employ federal personnel. To help execute that duty, at the first meeting of each year the CGA meets with representatives of the federal dental services. In addition, the last several years the council has invited the chief dental officer for the TRICARE Dental Office in the Defense Health Agency who manages the TRICARE dental insurance programs for the Department of Defense.

#### **CGA Council Members:**

Dr. Dr. Mark Bronson, Chair, OH  
Dr. Frank Graham, Vice-Chair, NJ  
Dr. Craig Armstrong, TX  
Dr. K. Jean Beauchamp, TN  
Dr. Deborah Bishop, AL  
Dr. Daniel Cheek, NC  
Dr. Mark Desrosiers, CT  
Dr. Philip Fijal, IL  
Dr. Marty Garrett, LA  
Dr. Rhonda Hennessy, MI  
Dr. Charles Incalcaterra, PA  
Dr. Zacharias Kalarickal, FL  
Dr. Lauro Medrano-Saldana, NY  
Dr. David Minahan, WA  
Dr. Scott Morrison, NE  
Dr. Ariane Terlet, CA  
Dr. David White, NV

#### **Liaisons:**

Dr. Gary Jeffers, Trustee- Liaison, Ninth Trustee District, MI  
Dr. Robin Nguyen, New Dentist Committee, FL  
Dr. Richard Andolina, Chair, American Dental Political Action Committee, VA  
Mr. Eddie Lee, American Student Dental Association, UT  
Dr. Andrew Soderstrom, Council on Advocacy for Access and Prevention, CA  
Ms. Janette Sonnenberg, Alliance of the American Dental Association, UT

**Council on Government Affairs (CGA)  
Unofficial Report of Major Actions  
February 9-11, 2017**

**Establishment of CGA Workgroups**

Dr. Bronson created three workgroups for Council members to examine three issue areas more in depth and provide a report at the August meeting. The workgroups were assigned as follows:

**Workgroup 1: Review Small Business tax issues and incentives**

Assigned members: Drs. Bronson, Graham, Cheek, Minahan, Hennessey, Fijal and Bishop (Chair)

**Workgroup 2: Repeal and Replace ACA**

Assigned members: Drs. Bronson, Graham, Incalcaterra, Morrison, Terlet, Desrosiers, Beauchamp and White (Chair)

**Workgroup 3: Veterans Affairs Dental Issues**

Assigned members: Drs. Bronson, Graham, Armstrong, Garrett, Medrano-Saldano, Nguyen and Kalarickal (Chair)

Interim meetings will be scheduled in order to prepare for updates to be provided to the full Council during the August meeting.

**ACA Repeal and Replace**

At the time of the CGA meeting, the Senate and House passed budget legislation -- containing very general Affordable Care Act (ACA) "repeal and replace" instructions for two House (Ways and Means and Energy and Commerce) and two Senate (Finance and Health, Education, Labor and Pensions) committees.

The "repeal and replace" bill will be moved via the "budget reconciliation" process because it requires only 51 votes in the Senate for passage. Using the reconciliation process limits what can go into the bill. The rules for budget reconciliation in the Senate restrict the procedure to provisions related to taxes, spending or long-term debt.

About a dozen Republican Senators have publicly expressed concerns about repealing the law without a replacement or at least adequate guidance on replacement. The best guess at this time is that a "replace" bill will not be ready until this spring or summer and that many of the provisions would take two years or more to implement.

**ADA Position**

In a January 11 letter to Congress on ACA "repeal and replace" legislation, the ADA stated that:

- Future changes to the current U.S. healthcare system should not result in Americans losing dental coverage gained under the ACA.
- Any changes made that affect the insurance market should foster competition while ensuring consumers can purchase high-quality, comprehensive oral health coverage that includes a separate dental deductible, first-dollar coverage for preventive services, and limits patient out-of-pocket costs.
- Any replacement legislation should provide tax credits for both individuals and small businesses to help with the purchase of health insurance coverage, including dental plan coverage.



- Tax preferred accounts, such as Health Savings Accounts (HSAs) and Flexible Spending Accounts (FSAs), should be expanded.
- Any changes to Medicaid should preserve the existing requirement for oral health services for children up to age 21 and increase access to oral health services for low-income adults, vulnerable elders and low-income pregnant women.
- U.S. consumers deserve greater plan transparency so that they can be empowered to make personally-responsible decisions about their healthcare. Such transparency can be fostered through the use of quality metrics at the plan level that have been endorsed by the Dental Quality Alliance, consumer satisfaction ratings, and easy-to-use and accurate participating provider lookup tools.
- The ADA supports federal tort reform legislation designed to rectify the problems in the current system which we believe unnecessarily contribute to the cost of health care.
- The ADA also supports a repeal of the McCarran-Ferguson antitrust provision that currently grants health insurance plans an exemption from certain antitrust laws.
- The expansion of Title VII training programs for dentistry, additional funding authorization for the National Health Service Corps, and funding for community health centers (CHCs) should be preserved to ensure a strong public health infrastructure.

#### Implications for the States

The Council was also provided with a National Academy for State Health Policy (NASHP) chart detailing the impact of ACA repeal on consumers and health insurance markets. The chart is attached for your review.

- States are the primary regulator of insurance and as such had laws in place prior to the enactment of ACA that impacted health and dental benefits. Some states repealed those laws and replaced them with ACA provisions, while other states revised their laws but left existing, preempted laws on the books. Sorting through these laws and regulations to have a coherent system of insurance regulation after an ACA repeal will be a complex undertaking in every state.
- There is a need to proceed thoughtfully with enough predictability to enable insurance carriers to develop rates and plan designs in a timely fashion. The chart looks at what states would likely need to do to comply if the ACA is repealed. Because no clear agreement exists on what a replacement strategy would look like, the chart makes no assumptions about the impact of possible replacement that might address state challenges.
- Also important to note, the budget reconciliation process can repeal only provisions that directly impact the federal budget. So, using budget reconciliation to repeal ACA could leave other provisions intact, particularly those related to insurance regulation. As a result, the timing of when any ACA provisions are repealed is important to states.

**Action:** The Council discussed in some detail the implications of changes to the Medicaid program and confirmed that the Association must continue to strongly advocate for comprehensive dental services under this program for children and access for adults. Dr. Bronson established a workgroup to work more closely with staff on these issues.

## **Overview of ADA Dentist and Student Lobby Day 2017**

Regarding the 2017 ADA/ASDA Lobby Day, the Council heard from Dr. Andolina, chair, ADPAC; Ms. Milligan, director, ADPAC; Mr. Aiello, manager, grassroots and online advocacy. An overview of the significant changes was provided, including the use of a third party vendor to schedule Congressional visits for attendees. The expectation is that nearly 1,000 member dentists and dental students will attend this year's meeting.

**Action:** The Council approved the three issues to be lobbied during the 2017 Lobby Day: health care reform ("repeal and replace" the Affordable Care Act); amendments to the Higher Education Act to address the student loan debt problem; amending the McCarran-Ferguson Act.

## **Outlook for the 115<sup>th</sup> Congress and ADA Priorities:**

Mr. Graham, Mr. Tampio, Ms. Fisher, Ms. Walker and Ms. Klosterman provided the council with an inside perspective on how the new session will impact the ADA's legislative priorities.

### **Student Debt / Higher Education**

The Council reviewed the ADA's proposed plan to address student debt during the 115th Congress by focusing on the issues listed below, as part of the legislative process to reauthorize the Higher Education Act.

- Lower the interest rates on federal Direct Unsubsidized Stafford Loans, as well as the total amount of interest that can accrue on federal graduate student loans.
- Reinstatement eligibility for graduate and professional degree students to use federal Direct *Subsidized* Stafford Loans to finance their graduate education.
- Permit federal graduate student loans to be refinanced more than once to take advantage of lower interest rates and better economic conditions.
- Extend the period of deferment for repaying federal graduate student loans to the maximum extent practicable.
- Simplify and add more transparency to the federal graduate student loan application process.
- Remove the barriers that prohibit those with private graduate student loans from taking advantage of federal student loan forgiveness/service payback programs.

**Action:** The Council supported the above approach.

### **Regulatory Reform**

The ADA is seeking both legislative and regulatory solutions to several key regulatory reform initiatives during the 115<sup>th</sup> Congress. In a December 15, 2016, letter to President-Elect Trump and Vice President-Elect Pence (which was also sent to key House and Senate leaders), the ADA identified the following four issues we would like to address in Regulatory Reform Legislation in the 115<sup>th</sup> Congress.

- **Ordering and Referring (Medicare):** Providers who order covered clinical laboratory services or imaging services for Medicare-eligible patients must be enrolled in Medicare's Provider Enrollment, Chain and Ownership System (PECOS) or opt-out of Medicare. *The ADA*

*recommends that dentists who are not participating in Medicare be exempt from the Medicare Ordering and Referring requirements.*

- **Medicare Part D:** There is no need to require dentists to go through the enrollment process to ensure CMS has the information necessary to address fraud and abuse concerns. *The ADA supports excluding dentists and other health care professionals not participating in Medicare from the Medicare Part D enrollment requirements.*
- **Regulation Implementing Section 1557 (ACA):** The U.S. Department of Health and Human Services, Office for Civil Rights (OCR) released the final rule on Section 1557 providing for nondiscrimination in health care. *The ADA recommends 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 exception (25 employees or fewer).*
- **Requirement for Providers Participating in Medicare Advantage Programs to Enroll in Medicare:** This final rule will require providers or suppliers that furnish health care items or services to a Medicare enrollee who receives his or her Medicare benefit through a Medicare Advantage (MA) organization to be enrolled in Medicare and be in an approved status. *ADA seeks repeal of this rule to ensure that providers of covered services in Medicare Advantage plans but who are not in-network providers may continue to treat patients who make the choice to see these out-of-network providers. Repeal will also ensure that out-of-network providers will not be subject to Medicare enrollment requirements in the future.*

**Action:** The Council supported this dual approach.

### **Medicare Medically Necessary Care Coverage**

On November 7, 2016, Dr. Larry Coffee, Founder and CEO of the Dental Lifeline Network, sent a letter to the ADA asking the Association to join a group of stakeholders interested in advancing Medicare coverage for “medically necessary dental care.” (See attachment)

In a November 17 response, the ADA stated it would be pleased to work with the group. Seeking Medicare coverage for medically necessary dental care is consistent with ADA policy and could especially benefit the disabled and medically fragile. (See attachment)

#### ADA Policy

### **Elimination of Disparities in Coverage for Dental Procedures Provided Under Medicare (Trans.1993:705)**

**Resolved,** that the Association seek legislation to provide fair and equitable treatment to all Medicare recipients by eliminating disparities in coverage for dental procedures, and be it further

**Resolved,** that the Association seek legislation which would provide for payment of dental services under Part B of Medicare in cases where the dental procedure is necessary and directly associated with a medical procedure or diagnosis.

#### Discussion of Medically Necessary Care Advocacy

One of the challenges to successfully advocating for an expansion of medically necessary dental services in the Medicare program is addressing the considerable cost of providing such services. A line of reasoning used by advocates has been that targeted dental services could save Medicare money under the right conditions.

The Pacific Dental Services Foundation funded a January 4, 2016, study conducted by Avalere Health that projects a savings of \$63.5 billion over a ten-year period if Medicare provides a new benefit covering the initial and ongoing treatment of periodontal disease for Medicare beneficiaries with diabetes, coronary artery disease, or cerebrovascular disease. The study's projections are based on several claims-based retrospective studies, which demonstrated substantially lower medical costs for individuals who receive treatment for periodontal disease, especially for those individuals with chronic conditions. (See attachment)

#### Additional ADA Activity on Medicare

In addition to the medically necessary care activities mentioned above, Dr. Dave Preble, Vice President of ADA's Practice institute, will address the Council to discuss other Medicare-related activities. Dr. Preble asked the Council if it would support a recommendation to the Board of Trustees to spend \$30,000 to help underwrite a symposium on Medicare.

**Action:** The Council voted not to support the expenditure of \$30,000 to help underwrite a Medicare symposium but did support the ADA's continuing to be present at such meetings.

#### Presentation, Michael Graham on behalf of Dr. Kathleen O'Loughlin

Mr. Graham provided the council with an update from Dr. Kathy O'Loughlin, executive director, on the ADA strategic plan, membership, core values and finances.

#### Action for Dental Health Update

CAAP Chair, Dr. Soderstrom, and CAAP Director, Dr. Grover, provided the Council with an update of the Action for Dental Health Campaign, including community water fluoridation, ER referrals, Medicaid reforms and the growing Community Dental Health Coordinator program.

#### Tax Reform Discussion

Rachel Jones, one of the ADA's outside lobbyists from the Nickels Group, led the council in a discussion of tax reform in the 115<sup>th</sup> Congress. The Council was provided with the current ADA Tax Policies approved by the House of Delegates and "The Better Way Forward" a blueprint prepared by the Republican Congress in 2016 which serves as a template for tax reform discussions in the 115<sup>th</sup> Congress

**Action:** The Council provided some suggestions to expand the education and increase advocacy specific to the use of tax preferred accounts for dental services. Dr. Bronson created a workgroup for Council members to examine tax issues further.

#### State Government Update and 2017 Legislative Outlook

An update was provided by Mr. Olson and Mr. Troupe on the ADA's legislative priorities in the states and the outlook for the 2017 legislative session.

#### State Public Affairs Oversight Workgroup Report

An update on the SPA workgroup was provided by Mr. Graham and Mr. Troupe.

## **Adoption of ADA's Legislative and Regulatory Priorities for 2017 & CGA Meeting Dates for 2018**

Each year, the CGA develops a list of legislative and regulatory priorities that is subsequently submitted to the Board of Trustees for approval.

**Action:** The Council approved the list of legislative and regulatory priorities.

### **Meeting Dates for 2018**

The Council approved the following meeting dates for 2018:

- March 1-3
- August 16-18

### **Meeting with Federal Dental Services' Chiefs**

The CGA's Bylaws duties include serving as liaison with federal agencies that employ federal personnel. To help execute that duty, at the first meeting of each year the CGA meets with representatives of the federal dental services. In addition, the last several years the council has invited the chief dental officer for the TRICARE Dental Office in the Defense Health Agency who manages the TRICARE dental insurance programs for the Department of Defense.

### **CGA Council Members:**

Dr. Dr. Mark Bronson, Chair, OH  
Dr. Frank Graham, Vice-Chair, NJ  
Dr. Craig Armstrong, TX  
Dr. K. Jean Beauchamp, TN  
Dr. Deborah Bishop, AL  
Dr. Daniel Cheek, NC  
Dr. Mark Desrosiers, CT  
Dr. Philip Fijal, IL  
Dr. Marty Garrett, LA  
Dr. Rhonda Hennessy, MI  
Dr. Charles Incalcaterra, PA  
Dr. Zacharias Kalarickal, FL  
Dr. Lauro Medrano-Saldana, NY  
Dr. David Minahan, WA  
Dr. Scott Morrison, NE  
Dr. Ariane Terlet, CA  
Dr. David White, NV

### **Liaisons:**

Dr. Gary Jeffers, Trustee- Liaison, Ninth Trustee District, MI  
Dr. Robin Nguyen, New Dentist Committee, FL  
Dr. Richard Andolina, Chair, American Dental Political Action Committee, VA  
Mr. Eddie Lee, American Student Dental Association, UT  
Dr. Andrew Soderstrom, Council on Advocacy for Access and Prevention, CA  
Ms. Janette Sonnenberg, Alliance of the American Dental Association, UT

**American Dental Association  
Minutes of the Council on Government Affairs (CGA)  
Washington, D.C.  
August 17-19, 2017**

**Call to Order:** The Council on Government Affairs meeting was called to order by Dr. Mark Bronson, chair, at 5:00 p.m., Thursday, August 17, 2017, at the ADA Washington Office, 1111 14<sup>th</sup> St NW, Washington, DC 20005.

**Roll Call:** Drs. Craig Armstrong, K. Jean Beauchamp, Deborah Bishop, Mark Bronson, Daniel Cheek, Mark Desrosiers, Phillip Fijal, Marty Garrett, Frank Graham, Rhonda Hennessey, Charles Incalcaterra, Zacharias Kalarickal, Lauro Medrano-Saldana, David Minahan, Scott Morrison, Ariane Terlet and David White were in attendance.

**The Liaisons to the Council in attendance were:** Dr. Gary Jeffers, Trustee-Liaison, Dr. Gerald Bird, Chair, American Dental Political Action Committee, Dr. Andrew Soderstrom, Chair, Council on Advocacy for Access and Prevention, Robin Nguyen, New Dentist Committee, and Ms. Janette Sonnenberg, Alliance of the American Dental Association.

**Staff present for all or part of the meeting:** Mss. Janice Kupiec, Megan Mortimer, Lauren Kyger, Sarah Milligan, Jennifer Garvin, Dr. Kathy O'Loughlin, and Dr. Jane Grover; Messrs. Thomas Spangler, Michael Kendall, Michael Graham, Dr. Gary Roberts (president), Robert Burns, Chad Olson, Paul O'Connor, Christopher Tampio, Peter Aiello, Dr. Krishna Aravamudhan (by phone) and Dr. Frank Kyle.

**Adoption of Agenda:** The agenda was adopted as written.

### **Reports**

**CGA Chair:** Dr. Bronson welcomed the new CGA members, outlined key aspects of the meeting agenda, and encouraged full participation.

**Trustee-Liaison:** Dr. Jeffers provided the council with a brief update on Board activities, including the Frog design project.

**ADPAC Chair:** Dr. Bird provided the council with an update on ADPACs giving levels, goals for fundraising and the use of independent expenditures. Dr. Bird also discussed the ADA-ASDA Dentist and Student Lobby Day meeting, its success and the intent to host a similar even in 2018. He stressed the important partnership between ADPAC board members and CGA members.

**AADA Liaison:** Ms. Sonnenberg provided the council with an update on changes within AADA, including the hiring of two executive staff members who have been tasked with growing membership and achieving designated goals. The Alliance will hold its annual convention in conjunction with the ADA meeting in Atlanta, October 19-21. The Alliance will continue its "Head-to-Toe Project", assembling 1500 personal hygiene supplies into kits that will go to an Atlanta-based non-profit. The AADA president-elect is Sharon Bryant from Texas.

**CAAP Liaison:** Dr. Soderstrom provided the council with an update on CAAP's recent council meeting, priority items and stressed the collaborative relationship CAAP has with CGA. Action for Dental Health remains a high priority to increase access.

**NDC Liaison:** Dr. Nguyen provided an update on recent activities of the NDC, including advising the Board of Trustees on the following: licensure, career resources, leadership opportunities, promotion of the Laurel

Road refinancing program (formerly DRB) and outreach for new dentists. The New Dentist Conference will take place October 19-21 in Atlanta. A report on the timing of the conference to coincide with the annual meeting will be submitted to the 2017 HOD.

**ASDA Liaison:** ASDA did not have a representative at the meeting in person but submitted a written report for the council. The 2017 National Leadership Conference is scheduled for November 17-19 in Chicago and ASDA administered a survey to attendees of the Lobby Day meeting. Survey results will be shared with the 2018 Lobby Day Workgroup.

## **District Reports**

**District 1:** Dr. Desrosiers shared that the issue of Medicaid provider audits was addressed through a broad-based coalition effort in Connecticut. Rhode Island considered a tax on sugary drinks that failed to obtain a final floor vote. The Vermont Technical College School of Hygiene is in the process of developing a CODA-approved dental therapy program. Vermont is also exploring ways to address collective bargaining with third party payers. Massachusetts is opposed to a mid-level bill that is supported by PEW. They have introduced their own bill which provides for a maters level mid-level Provider that provides care in a community health setting or treats 100% MassHealth patients.

**District 2:** Dr. Medrano-Saldana informed the council that a new \$100,000 grant was received for the NYSDA's charitable demonstration project to provide free dental care in FQHCs and in Article 28 facilities. Dr. Medrano-Saldana also stated that \$10 million was included in the state's 2017 budget for the promotion of fluoride in drinking water. The NYSDA was able to ensure Medicaid funding was maintained, to ensure both children and adults have access to dental services. Dr. Medrano-Saldano noted that the state is permitted to alter program spending if changes occur with federal Medicaid funding.

**District 3:** Dr. Incalcaterra stated that the PDA continues to work on assignment of benefits legislation to require insurers to permit patients to assign benefits directly to dentists. PDA is also working on regulating mail-order orthodontics. A bill was introduced that would prohibit dental technicians and dental labs operating in Pennsylvania from furnishing orthodontic appliances without the completion of an initial examination by a dentist.

**District 4:** Dr. Graham stated that the New Jersey legislature passed legislation to address opioid and addiction issues.

**District 5:** Dr. Bishop stated that Alabama is seeking to change the structure of its Medicaid dental program from the current fee for service managed care to a capitated managed care structure. Despite the success of the current program, the Governor asked the Medicaid agency to draft an RFP for interested managed care companies. The Governor has also requested that the Alabama Dental Association submit recommendations on reasons to maintain the current program. A final decision will be included in the State's 2018 General Fund Budget.

**District 6:** Dr. Beauchamp informed the council that a lot of attention in Tennessee this year was focused on a bill that would allow hygienists to conduct exams and place sealants on children in pediatrician offices under general supervision. The bill was stalled and will rollover to 2018. A Water District bill was also passed this session that will regulate fluoride levels in the water.

**District 7:** Dr. Bronson stated that non-covered services legislation was reintroduced in the Senate earlier this year. Similar legislation had passed the House in 2015 but did not make it through the Senate. Dr. Bronson also discussed the dental therapist legislation that was reintroduced in the Senate. The bill would create a new midlevel provider, expand duties for hygienists, dental assistants and EFDAs, and add two seats to the dental board that will be reserved for dental therapists.

**District 8:** Dr. Fijal stated that Illinois tried again to add an adult dental benefit to its Medicaid program but it ultimately did not pass. The ISDS advocated for legislation, which did pass, to create an expanded

function dental assistant. Dr. Fijal also discussed the ongoing budget problems in Illinois and the reality that many providers who serve both Medicaid and/or state employees have not been paid in months.

**District 9:** Dr. Hennessey discussed ongoing certificate of need issues for dental services in Michigan. She also discussed advocacy by MDA to educate lawmakers on why dental therapists are not needed in the state despite efforts to introduce midlevel legislation. Dr. Hennessey also discussed the state budget and the funding required for the Healthy Kids Dental Program, which will have been available for the entire state for one year in October.

**District 10:** Dr. Morrison discussed efforts by the Nebraska Dental Association to pass legislation that would license dental assistants and expand the scope of practice for dental hygienists. He also discussed efforts in North Dakota that would have created a new dental therapist provider who would have been permitted to perform restorative dentistry and simple extractions. The NDDA opposed the bill and was successful in having it defeated.

**District 11:** Dr. Minahan shared with the council the tremendous benefit SPA dollars have had in the district. Most recently assisting Montana in its effort to address legislative efforts to cut Medicaid funding. He stated that there has not been much activity between the Alaska Dental Society and the SNAP director on the issue of using food stamps to purchase added sugar products and he did not believe there would be a resolution addressing this issue as the council had previously seen. Dr. Minahan discussed Washington's efforts to pass legislation that would protect patients' rights under DSOs.

**District 12:** Dr. Garrett stated that Louisiana passed legislation to address opioid prescribing this year. A number of health care groups, including the LDA, worked to ensure requirements were not overly burdensome for providers. The new law requires all health care providers with a CDS permit to include 3 hours of approved CE on opioid prescribing among the hours required to renew their licenses. The requirements are effective for the first license renewal after January 1, 2018.

**District 13:** Dr. Terlet updated the council on activities in California. Proposition 56, the tobacco tax, has provided a financial benefit for oral health programs. Over \$1 billion has been allocated for increased provider payments for dentists and physicians who treat Medi-Cal patients with an additional \$30 million will be provided to boost the state oral health program. The 15 pilot programs were selected earlier this year as part of the four domains for the Dental Transformation Initiative waiver. Dr. Terlet referenced the sedation legislation but will address the issue later on the agenda.

**District 14:** Dr. White stated that Arizona was active on the dental therapy issue this year. The state also restored its adult emergency dental benefit in Medicaid. The benefit will be capped at \$1,000 annually and be available October 1. Colorado passed non-covered services legislation this year. The bill prohibits dental plans from setting fees for services that are not covered by a patient's specific plan. The bill took effect August 9.

**District 15:** Dr. Armstrong updated briefly updated the council on dental anesthesia issues in Texas, which were addressed later on the agenda. The legislature reauthorized the state dental board for another 12 years and reduced its size, from the current 15 members to 11 members. The 11 members consist of 6 dentists, 3 dental hygienists, and two public members. The board will also include antitrust as part of their training. Dr. Armstrong also indicated that Texas may have a fourth dental school at Texas Tech.

**District 16:** Dr. Cheek stated that South Carolina's legislature passed an opioid bill that will require all medical providers to obtain two hours of CE in opioid abuse every two years. North Carolina also has opioid legislation which passed both the House and Senate. One of the provisions will mandate e-prescribing though it has been delayed until 2020. The NC legislature considered legislation this session that would expand the scope of practice for nurse classes. The NCDA opposed the legislation, which would have provided more autonomy to nurse anesthetists.

**District 17:** Dr. Kalarickal stated that the FDA was successful in efforts to have its legislative priorities included in the budget during this year's session. The budget includes \$100,000 to fund two full-time



coordinators and operating expenses for the Florida Donated Dental Services; and \$200,000 for community water fluoridation efforts. The FDA also collaborated with the Department of Health to secure dental services for foster children in eight counties. As part of the Action for Dental Health initiative, Florida graduated 10 CDHCs from the state's program and the CDHCs are now working in their own communities.

### **Presentation, Dr. Kathleen O'Loughlin**

Dr. O'Loughlin provided the Council with an update on the current state of the dental market; demographic trends; and ADA priorities, including an overview of the Frog Design project aimed to provide the Board of Trustees with recommendations to move forward with improving member value. Dr. O'Loughlin also provided an update on the ADA's credentialing service, which is scheduled to launch in the fall 2017, and the ADA's work with the Center for Affordable Quality Healthcare (CAQH).

### **Environmental Protection Agency (EPA) Amalgam Separator Rule**

Dr. Minahan provided an update on the EPA's final rule governing the management of dental amalgam discharges into sewer systems, which was finalized on June 9. The rule requires dental offices that place or remove amalgam (except in de minimus amounts) to have a certified amalgam separator installed. The final rule closely follows the ADA's best management practices for amalgam waste. It also meets the nine principles established by the ADA House of Delegates as a condition for ADA support for a national rule. The ADA spent more than a decade communicating with agency officials, testifying at public hearings, and submitting written comments for the record.

### **Health Care Reform**

Dr. White and ADA staff provided an update on Congressional activities focused on health care reform and repeal of the Affordable Care Act. Senators Lamar Alexander (R-TN) and Patty Murray (D-WA), chair and ranking member of the Health, Education, Labor and Pensions Committee, announced plans the week of August 1 to hold hearings in early September on health care reform. The senators have expressed a commitment to create bipartisan legislation that will aim to address market stabilization when Congress returns in September. Senators Bill Cassidy (R-LA) and Susan Collins (R-ME), who introduced their own legislation early in the year (The Patient Freedom Act) also continue to be involved in working towards a bipartisan bill.

**The ADA opposed funding changes to Medicaid that would negatively impact access to dental services for children, low-income adults, disabled individuals and pregnant women eligible to receive benefits under the program.**

The House-passed bill included significant funding changes to Medicaid and proposed to change the current funding mechanism from the Federal Medical Assistance Percentage (FMAP) formula, to one which caps the federal funding for state programs. The new funding would either be a block grant or a per capita cap mechanism which caps funding based on designated populations. While the Early Periodic Screening, Diagnosis and Treatment Program (EPSDT), which provides dental services to enrolled children, is not specifically mentioned in the legislation, states would likely be granted additional flexibility in order to operate under the new per capita cap or block grant funding. There is concern that states will be unable to fulfill the EPSDT requirement under a reduced funding scenario. The ability of states with adult dental services to continue to provide such services may be impacted with less funding available from the federal government.

**Action:** The Council agreed that the Health Care Reform workgroup will continue to engage on reform efforts once Congress returns to assess the impact on dentistry, regarding both commercial coverage and public coverage.

### Veterans Affairs Workgroup Update

At the February Council meeting, Dr. Bronson appointed a Veterans' Affairs workgroup to examine dental issues affecting veterans. Members include: Dr. Kalarickal (chair) and Drs. Bronson, Graham, Armstrong, Garrett, Medrano-Saldana and Nguyen. Dr. Kyle serves as the staff liaison. Conference calls were held April 28 and May 12. Drs. Kalarickal and Kyle also participated in a conference call with Dr. Patricia Arola, Assistant Under Secretary for Health for Dentistry, Department of Veterans Affairs; Dr. Gregory M. Smith, Director of Dental Operations, Department of Veterans Affairs; and Dr. Terry G. O'Toole, Director of Dental Informatics and Analytics, Department of Veterans Affairs on May 17.

The workgroup considered four issues:

- 1) ADA position on H.R. 1749: the Veterans Early Care for Chronic Ailment Resurgence through Examinations (VETCARE). The bill directs the VA to conduct a 4-year pilot program of at least 1,500 eligible (diagnosed with type 2 diabetes and other factors) veterans. Two thirds of the veterans will be treated with initial periodontal therapy and maintenance while one third will remain the control group. The pilot programs seeks to test the hypothesis that investments in oral health care, particularly periodontal therapy, can yield a higher rate of financial return in the cost of managing systemic inflammatory diseases in the VA health system.
- 2) Change the law to allow VA dental clinic personnel to work with local communities and dental societies to provide assistance to veterans not otherwise eligible for dental treatment in VA dental clinics. Currently, VA attorneys have ruled that such assistance is not permitted.
- 3) Expand the VA eligibility for dental care by reducing the required disability rating, currently at 100 percent.
- 4) Consider changing the eligibility for the VA Dental Insurance Program (VADIP) to allow family members to be enrolled with the eligible veteran. This program is designed for veterans not eligible for direct dental treatment and does not affect those who receive their care in VA dental clinics.

The Council discussed the issue at length.

**Actions:** The Council agreed to support the concept of the pilot program outlined in H.R. 1749 and instructed ADA staff to communicate with Representative Bilirakis's office regarding the following concerns: VA issues; patient follow-up concerns and funding mechanisms. The Council requested a report back to the CGA at the March 2018 meeting.

The Council confirmed the workgroup's recommendation not to pursue a change in eligibility.

The Council supported a change in the law to allow VA dental clinic personnel to work with local communities and dental societies to provide assistance to veterans not otherwise eligible for dental treatment in VA dental clinics.

### Medicare Discussion

Dr. Frank Kyle provided the Council with an update on enrollment activities related to Part D prescribing issues for dentists. On August 2, Dr. Kyle, along with representatives from the National Association of Dental Plans and the Delta Dental Plans of America, met with Mr. Demetrios Kouzoulas, principal deputy administration of the Centers for Medicare and Medicaid Services (CMS), regarding the Medicare Part C enrollment requirement. A meeting was held the same day with Ms. Alexandra Pryor Campau, Senior Health Care Advisor for the Administration and Mr. Tampio.

Drs. Desrosiers, Cheek, Aravamudhan (director, Council on Dental Benefit Programs) and Ms. Kupiec provided an overview of the Oral Health America 2017 Symposium held in July focused on advocacy for a dental benefit in Medicare. The symposium focused on current activities OHA has engaged in as well as

other dental and consumer advocates to achieve a comprehensive dental benefit in Medicare. Council members were provided with current ADA policy on Medicare and recommendations from the ADA Board of Trustees for the CDBPs, CGA and the Health Policy Institute to work together on examining the potential for a dental benefit in Medicare, designating CDBP as the lead agency. Dr. Aravamudhan provided the Council with an update on the Council on Dental Benefit Program's activities focused on a dental benefit in Medicare. CDBP will meet in November and have an in-depth discussion on Medicare dental issues.

Drs. Kalarickal, Desrosiers and Cheek presented the Council with a proposed resolution to consider:  
Background:

As a multitude of stakeholders are currently engaged in discussions regarding a comprehensive dental benefit in Medicare, the ADA, America's leading oral health advocate, has the opportunity to guide deliberations on the various strategies for improving oral health of elders.

While stakeholders develop various possible models of a prospective Medicare dental benefit program to consider as an alternative to, or in conjunction with, other elder care benefit options, fundamental patient protection principles must be maintained. Such principles facilitate a sustainable care delivery model prioritizing favorable health outcomes.

Of specific concern, is the preservation of the patient's opportunity to be presented with all treatment options by and in consultation with his/her doctor. Furthermore, the limitations of any prospective Medicare dental benefit should not restrict patients' access to care that is not covered by the plan. Medicare provider contracts must allow patient payment for non-covered treatment options selected by the patient. In order to preserve treatment options in a free market, the value of services not covered by the benefit plan must not be dictated by the benefit plan.

Ultimately, any dental benefit plans developed for elder care in either Medicare or any other format, must be designed to be sustainably effective in helping patients obtain positive health outcomes.

**Proposed resolution:**

**Resolved,**

The ADA must advocate for the protection of patients' rights to select treatment options for optimal health through consultation with their doctors in any dental benefit plan that may be developed in any future Medicare programs.

**Action:** The Council did not move the resolution. After discussion the Council agreed to wait for further communication from the CDBP before taking further action on a Medicare dental benefit. Efforts will continue to address the ADA's opposition to the Part D enrollment requirement for prescribing purposes.

**CGA Representation on ADA Workgroups**

Dr. Graham provided the Council with an update on the Dental Quality Alliance activities. The DQA is working to rewrite its governance rules. Two Dental Service Organizations have requested membership and were granted associate memberships, which do not provide for voting privileges.

**Action:** Dr. Graham will continue to serve on the DQA will appoint a liaison from the Council to serve once Dr. Graham's term ends in 2018.

**American Indian/Alaska Native Oral Health Care Advocacy**

The Council was provided with a status report for the reauthorization of the Indian Health Care Improvement Act (IHCIA). Current law remains in place which prevents dental health aide therapists from being included in any expansion of the Community Health Aide Program into the lower 48 states from

Alaska. There is no timetable to move reauthorization legislation forward. On May 4, the ADA sent a letter to Representative Cole, chairman of the House Budget Committee, which provides suggested language for any amendments to section 119 of the IHCA.

On June 13, ADA President-Elect, Dr. Joseph Crowley, testified before the Senate Indian Affairs Committee in support of the medical credentialing system provision included in proposed SB 1250, the Restoring Accountability in the Indian Health Service Act of 2017. The provision calls for the Indian Health Service (IHS) to implement a centralized system to credential licensed health care professionals who seek to provide health care services at any IHS facility. Dr. Crowley also emphasized the ADA's support for the implementation of a 10 year Health and Wellness plan, designed to reduce oral disease by 50 percent among the Navajo Tribal communities. Lastly, his testimony focused on the Community Dental Health Coordinator (CDHC) program which enables greater community outreach, community education, and preventive services. Sixteen CDHC's work in tribal facilities, including clinics serving the Chickasaw Nation Division of Health, Wewoka Indian Health, and the Muskogee Creek Nation.

On August 15 and 16, ADA representatives (Mr. Graham, Dr. Grover (director, Council on Access, Advocacy and Prevention Programs), and Ms. Fisher attended the 2017 American Indian/Alaska Native Oral Health Disparities Strategic Planning Meeting at IHS Headquarters. The purpose of the meeting was to develop a strategic plan that outlines specific strategies and timelines for addressing oral health disparities in the 0-5, 6-9, and 13-15 year old age groups for this population, utilizing a combination of federal and private partnerships. Dr. Grover will attend a meeting of the IHS dental chiefs scheduled in October to discuss the CDHC program.

**Action:** The Council confirmed the need to continue to monitor reauthorization of the IHCA.

### **State Public Affairs Oversight Workgroup Update**

Mr. Olson and Mr. O'Connor provided the Council with an update on the State Public Affairs Oversight Workgroup. The ADA SPA project continues to provide strategic direction, support and day-to-day oversight for public affairs activities undertaken by state dental societies in 29 states. Collectively, the project helps guide public affairs programs within the states, assisting state societies in identifying their own proactive solutions for expanding access to oral healthcare, helping them counter efforts to remove fluoride from municipal water supplies and providing resources to tackle these and other emerging issues for the dental profession at the state level. This ongoing engagement has enhanced the effectiveness of state public affairs programs and shared learning between states, while allowing each state to pursue campaigns and tackle public affairs challenges in a manner appropriate to its own needs.

Additionally, the SPA program has developed into one of the primary vehicles for coordination and support for the ADA's **Action for Dental Health** (ADH) project, an initiative to effectively reduce barriers to oral health care both locally and nationally by developing workable projects to: provide care now; strengthen the dental safety net; and enhance prevention and education.

SPA continues to manage the **Native American Project** and that program's strategic direction and ensures all participating states (**Arizona, New Mexico, North Dakota, South Dakota, Oregon and Washington**) are sharing information. This includes development of the first 10 year Oral Health plan for the Navajo Nation and supporting the education of tribal CDHCs.

### **Sedation Discussion**

Drs. Terlet and Armstrong provided the Council with an update on legislative activities focused on dental sedation in California and Texas. Two bills were introduced this year in the California General Assembly, AB 224 and SB 501. AB 224 did not move through the full committee process. SB 501, sponsored by Senator Glazer, amends the California Business and Professions Code to incorporate recommendations from the California State Dental Board for the administration of anesthesia/conscious sedation. The bill

also calls for a study on cost and access implications of placing a requirement for a separate anesthesia provider when general anesthesia or deep sedation is administered to children under age seven. The California Dental Association and the California Association of Oral and Maxillofacial Surgeons support SB 501.

The Texas State Board of Dental Examiners (TSBDE) Anesthesia Committee reviewed the sedation and anesthesia rules in place during the 2017 legislative session and considered rule changes designed to improve patient safety and protection. The TSBDE began auditing anesthesia permit holders to confirm applicants' education and anesthesia course providers to ensure that course content matched existing rule requirements. The Anesthesia Committee met August 11 to review existing law and consider new rules to implement the sedation/anesthesia section of Texas SB 313.

SB 313 does the following: (1) clarifies the TSBDE's authority to regulate and inspect anesthesia permit holders; (2) retains and simplifies dentists' abilities to provide portable anesthesia services; (3) requires additional training for dentists administering anesthesia to children (younger than 13 years of age) and high-risk patients (patient with ASA 3 or 4 classification); (4) requires capnography during the administration of Level 4 anesthesia; and (5) authorizes the board to establish minimum emergency preparedness standards and ensures dentists with anesthesia permits maintain written emergency plans and have automated external defibrillators at each location where a permit holder is providing services. The Texas Dental Association was heavily engaged on SB 313 and was pleased with the patient safety protections.

#### **Action for Dental Health Update**

Dr. Grover provided the Council with an update on Action for Dental Health activities and the expansion of educational opportunities for the Community Dental Health Coordinator.

#### **ADA Foundation Presentation**

Dr. Bill Calnon, Board President and Interim Executive Director, provided the Council with an update on Foundation activities, including the Scholastic partnership program.

#### **ADA Lobby Day**

Ms. Milligan and Mr. Aiello provided the Council with a post Lobby Day report.

**Action:** The Council agreed to continue the partnership with the American Student Dental Association for the 2018 Lobby Day meeting. Drs. Bronson and Graham appointed Drs. Fijal and White to serve on the planning workgroup for the 2018 meeting.

#### **Election for Chair and Vice-Chair positions**

Dr. Bronson conducted the election for the chair and vice chair positions.

**Action:** The Council voted to elect Dr. Frank Graham to serve as chair for the 2017-2018 term and Dr. Craig Armstrong to serve as Vice-Chair.

**CGA Council Members:**

Dr. Mark Bronson, Chair, OH  
Dr. Frank Graham, Vice-Chair, NJ  
Dr. Craig Armstrong, TX  
Dr. Jeanne Beauchamp, TN  
Dr. Deborah Bishop, AL  
Dr. Daniel Cheek, NC  
Dr. Mark Desrosiers, CT  
Dr. Phillip Fijal, IL  
Dr. Marty Garrett, LA  
Dr. Rhonda Hennessey, MI  
Dr. Charles Incalcaterra, PA  
Dr. Zacharias Kalarickal, FL  
Dr. Lauro Medrano-Saldano, NY  
Dr. Dave Minahan, WA  
Dr. Scott Morrison, NE  
Dr. Ariane Terlet, CA  
Dr. David White, NV

**Liaisons:**

Dr. Gary Jeffers, Trustee-Liaison, Ninth Trustee District, MI  
Dr. Robin Nguyen, New Dentist Committee, FL  
Dr. Jerry Bird, Chair-Elect, American Dental Political Action Committee, FL  
Dr. Andrew Soderstrom, Council on Advocacy for Access and Prevention, CA  
Ms. Janette Sonnenberg, Alliance of the American Dental Association, UT

The Council on Government Affairs will meet March 1-3, 2018 in Washington.

**Council on Government Affairs (CGA)  
Unofficial Report of Major Actions  
August 17-19, 2017**

**Presentation, Dr. Kathleen O'Loughlin**

Dr. O'Loughlin provided the Council with an update on the current state of the dental market; demographic trends; and ADA priorities, including an overview of the Frog Design project aimed to provide the Board of Trustees with recommendations to move forward with improving member value. Dr. O'Loughlin also provided an update on the ADA's credentialing service, which is scheduled to launch in the fall 2017, and the ADA's work with the Center for Affordable Quality Healthcare (CAQH).

**Environmental Protection Agency (EPA) Amalgam Separator Rule**

Dr. Minahan provided an update on the EPA's final rule governing the management of dental amalgam discharges into sewer systems, which was finalized on June 9. The rule requires dental offices that place or remove amalgam (except in de minimus amounts) to have a certified amalgam separator installed. The final rule closely follows the ADA's best management practices for amalgam waste. It also meets the nine principles established by the ADA House of Delegates as a condition for ADA support for a national rule. The ADA spent more than a decade communicating with agency officials, testifying at public hearings, and submitting written comments for the record.

**Health Care Reform**

Dr. White and ADA staff provided an update on Congressional activities focused on health care reform and repeal of the Affordable Care Act. Senators Lamar Alexander (R-TN) and Patty Murray (D-WA), chair and ranking member of the Health, Education, Labor and Pensions Committee, announced plans the week of August 1 to hold hearings in early September on health care reform. The senators have expressed a commitment to create bipartisan legislation that will aim to address market stabilization when Congress returns in September. Senators Bill Cassidy (R-LA) and Susan Collins (R-ME), who introduced their own legislation early in the year (The Patient Freedom Act) also continue to be involved in working towards a bipartisan bill.

**The ADA opposed funding changes to Medicaid that would negatively impact access to dental services for children, low-income adults, disabled individuals and pregnant women eligible to receive benefits under the program.**

The House-passed bill included significant funding changes to Medicaid and proposed to change the current funding mechanism from the Federal Medical Assistance Percentage (FMAP) formula, to one which caps the federal funding for state programs. The new funding would either be a block grant or a per capita cap mechanism which caps funding based on designated populations. While the Early Periodic Screening, Diagnosis and Treatment Program (EPSDT), which provides dental services to enrolled children, is not specifically mentioned in the legislation, states would likely be granted additional flexibility in order to operate under the new per capita cap or block grant funding. There is concern that states will be unable to fulfill the EPSDT requirement under a reduced funding scenario. The ability of states with adult dental services to continue to provide such services may be impacted with less funding available from the federal government.

**Action:** The Council agreed that the Health Care Reform workgroup will continue to engage on reform efforts once Congress returns to assess the impact on dentistry, regarding both commercial coverage and public coverage.

## Veterans Affairs Workgroup Update

At the February Council meeting, Dr. Bronson appointed a Veterans' Affairs workgroup to examine dental issues affecting veterans. Members include: Dr. Kalarickal (chair) and Drs. Bronson, Graham, Armstrong, Garrett, Medrano-Saldana and Nguyen. Dr. Kyle serves as the staff liaison. Conference calls were held April 28 and May 12. Drs. Kalarickal and Kyle also participated in a conference call with Dr. Patricia Arola, Assistant Under Secretary for Health for Dentistry, Department of Veterans Affairs; Dr. Gregory M. Smith, Director of Dental Operations, Department of Veterans Affairs; and Dr. Terry G. O'Toole, Director of Dental Informatics and Analytics, Department of Veterans Affairs on May 17.

The workgroup considered four issues:

- 1) ADA position on H.R. 1789: the Veterans Early Care for Chronic Ailment Resurgence through Examinations (VETCARE). The bill directs the VA to conduct a 4-year pilot program of at least 1,500 eligible (diagnosed with type 2 diabetes and other factors) veterans. Two thirds of the veterans will be treated with initial periodontal therapy and maintenance while one third will remain the control group. The pilot programs seeks to test the hypothesis that investments in oral health care, particularly periodontal therapy, can yield a higher rate of financial return in the cost of managing systemic inflammatory diseases in the VA health system.
- 2) Change the law to allow VA dental clinic personnel to work with local communities and dental societies to provide assistance to veterans not otherwise eligible for dental treatment in VA dental clinics. Currently, VA attorneys have ruled that such assistance is not permitted.
- 3) Expand the VA eligibility for dental care by reducing the required disability rating, currently at 100 percent.
- 4) Consider changing the eligibility for the VA Dental Insurance Program (VADIP) to allow family members to be enrolled with the eligible veteran. This program is designed for veterans not eligible for direct dental treatment and does not affect those who receive their care in VA dental clinics.

The Council discussed the issue at length.

**Actions:** The Council agreed to support the concept of the pilot program outlined in H.R. 1789 and instructed ADA staff to communicate with Representative Bilirakis's office regarding the following concerns: VA issues; patient follow-up concerns and funding mechanisms. The Council requested a report back to the CGA at the March 2018 meeting.

The Council confirmed the workgroup's recommendation not to pursue a change in eligibility.

The Council supported a change in the law to allow VA dental clinic personnel to work with local communities and dental societies to provide assistance to veterans not otherwise eligible for dental treatment in VA dental clinics.

## Medicare Discussion

Dr. Frank Kyle provided the Council with an update on enrollment activities related to Part D prescribing issues for dentists. On August 2, Dr. Kyle, along with representatives from the National Association of Dental Plans and the Delta Dental Plans of America, met with Mr. Demetrios Kouzoulas, principal deputy administration of the Centers for Medicare and Medicaid Services (CMS), regarding the Medicare Part C enrollment requirement. A meeting was held the same day with Ms. Alexandra Pryor Campau, Senior Health Care Advisor for the Administration and Mr. Tampio.

Drs. Desrosiers, Cheek, Aravamudhan (director, Council on Dental Benefit Programs) and Ms. Kupiec provided an overview of the Oral Health America 2017 Symposium held in July focused on advocacy for a dental benefit in Medicare. The symposium focused on current activities OHA has engaged in as well as



other dental and consumer advocates to achieve a comprehensive dental benefit in Medicare. Council members were provided with current ADA policy on Medicare and recommendations from the ADA Board of Trustees for the CDBPs, CGA and the Health Policy Institute to work together on examining the potential for a dental benefit in Medicare, designating CDBP as the lead agency. Dr. Aravamudhan provided the Council with an update on the Council on Dental Benefit Program's activities focused on a dental benefit in Medicare. CDBP will meet in November and have an in-depth discussion on Medicare dental issues.

Drs. Kalarickal, Desrosiers and Cheek presented the Council with a proposed resolution to consider:  
Background:

As a multitude of stakeholders are currently engaged in discussions regarding a comprehensive dental benefit in Medicare, the ADA, America's leading oral health advocate, has the opportunity to guide deliberations on the various strategies for improving oral health of elders.

While stakeholders develop various possible models of a prospective Medicare dental benefit program to consider as an alternative to, or in conjunction with, other elder care benefit options, fundamental patient protection principles must be maintained. Such principles facilitate a sustainable care delivery model prioritizing favorable health outcomes.

Of specific concern, is the preservation of the patient's opportunity to be presented with all treatment options by and in consultation with his/her doctor. Furthermore, the limitations of any prospective Medicare dental benefit should not restrict patients' access to care that is not covered by the plan. Medicare provider contracts must allow patient payment for non-covered treatment options selected by the patient. In order to preserve treatment options in a free market, the value of services not covered by the benefit plan must not be dictated by the benefit plan.

Ultimately, any dental benefit plans developed for elder care in either Medicare or any other format, must be designed to be sustainably effective in helping patients obtain positive health outcomes.

**Proposed resolution:**

**Resolved,**

The ADA must advocate for the protection of patients' rights to select treatment options for optimal health through consultation with their doctors in any dental benefit plan that may be developed in any future Medicare programs.

**Action:** The Council did not move the resolution. After discussion the Council agreed to wait for further communication from the CDBP before taking further action on a Medicare dental benefit. Efforts will continue to address the ADA's opposition to the Part D enrollment requirement for prescribing purposes.

**CGA Representation on ADA Workgroups**

Dr. Graham provided the Council with an update on the Dental Quality Alliance activities. The DQA is working to rewrite its governance rules. Two Dental Service Organizations have requested membership and were granted associate memberships, which do not provide for voting privileges.

**Action:** Dr. Graham will continue to serve on the DQA will appoint a liaison from the Council to serve once Dr. Graham's term ends in 2018.

**American Indian/Alaska Native Oral Health Care Advocacy**

The Council was provided with a status report for the reauthorization of the Indian Health Care Improvement Act (IHCIA). Current law remains in place which prevents dental health aide therapists from being included in any expansion of the Community Health Aide Program into the lower 48 states from Alaska. There is no timetable to move reauthorization legislation forward. On May 4, the ADA sent a

letter to Representative Cole, chairman of the House Budget Committee, which provides suggested language for any amendments to section 119 of the IHCA.

On June 13, ADA President-Elect, Dr. Joseph Crowley, testified before the Senate Indian Affairs Committee in support of the medical credentialing system provision included in proposed SB 1250, the Restoring Accountability in the Indian Health Service Act of 2017. The provision calls for the Indian Health Service (IHS) to implement a centralized system to credential licensed health care professionals who seek to provide health care services at any IHS facility. Dr. Crowley also emphasized the ADA's support for the implementation of a 10 year Health and Wellness plan, designed to reduce oral disease by 50 percent among the Navajo Tribal communities. Lastly, his testimony focused on the Community Dental Health Coordinator (CDHC) program which enables greater community outreach, community education, and preventive services. Sixteen CDHC's work in tribal facilities, including clinics serving the Chickasaw Nation Division of Health, Wewoka Indian Health, and the Muskogee Creek Nation.

On August 15 and 16, ADA representatives (Mr. Graham, Dr. Grover (director, Council on Access, Advocacy and Prevention Programs), and Ms. Fisher attended the 2017 American Indian/Alaska Native Oral Health Disparities Strategic Planning Meeting at IHS Headquarters. The purpose of the meeting was to develop a strategic plan that outlines specific strategies and timelines for addressing oral health disparities in the 0-5, 6-9, and 13-15 year old age groups for this population, utilizing a combination of federal and private partnerships. Dr. Grover will attend a meeting of the IHS dental chiefs scheduled in October to discuss the CDHC program.

**Action:** The Council confirmed the need to continue to monitor reauthorization of the IHCA.

#### **State Public Affairs Oversight Workgroup Update**

Mr. Olson and Mr. O'Connor provided the Council with an update on the State Public Affairs Oversight Workgroup. The ADA SPA project continues to provide strategic direction, support and day-to-day oversight for public affairs activities undertaken by state dental societies in 29 states. Collectively, the project helps guide public affairs programs within the states, assisting state societies in identifying their own proactive solutions for expanding access to oral healthcare, helping them counter efforts to remove fluoride from municipal water supplies and providing resources to tackle these and other emerging issues for the dental profession at the state level. This ongoing engagement has enhanced the effectiveness of state public affairs programs and shared learning between states, while allowing each state to pursue campaigns and tackle public affairs challenges in a manner appropriate to its own needs.

Additionally, the SPA program has developed into one of the primary vehicles for coordination and support for the ADA's **Action for Dental Health (ADH)** project, an initiative to effectively reduce barriers to oral health care both locally and nationally by developing workable projects to: provide care now; strengthen the dental safety net; and enhance prevention and education.

SPA continues to manage the **Native American Project** and that program's strategic direction and ensures all participating states (**Arizona, New Mexico, North Dakota, South Dakota, Oregon and Washington**) are sharing information. This includes development of the first 10 year Oral Health plan for the Navajo Nation and supporting the education of tribal CDHCs.

#### **Sedation Discussion**

Drs. Terlet and Armstrong provided the Council with an update on legislative activities focused on dental sedation in California and Texas. Two bills were introduced this year in the California General Assembly, AB 224 and SB 501. AB 224 did not move through the full committee process. SB 501, sponsored by Senator Glazer, amends the California Business and Professions Code to incorporate recommendations

from the California State Dental Board for the administration of anesthesia/conscious sedation. The bill also calls for a study on cost and access implications of placing a requirement for a separate anesthesia provider when general anesthesia or deep sedation is administered to children under age seven. The California Dental Association and the California Association of Oral and Maxillofacial Surgeons support SB 501.

The Texas State Board of Dental Examiners (TSBDE) Anesthesia Committee reviewed the sedation and anesthesia rules in place during the 2017 legislative session and considered rule changes designed to improve patient safety and protection. The TSBDE began auditing anesthesia permit holders to confirm applicants' education and anesthesia course providers to ensure that course content matched existing rule requirements. The Anesthesia Committee met August 11 to review existing law and consider new rules to implement the sedation/anesthesia section of Texas SB 313.

SB 313 does the following: (1) clarifies the TSBDE's authority to regulate and inspect anesthesia permit holders; (2) retains and simplifies dentists' abilities to provide portable anesthesia services; (3) requires additional training for dentists administering anesthesia to children (younger than 13 years of age) and high-risk patients (patient with ASA 3 or 4 classification); (4) requires capnography during the administration of Level 4 anesthesia; and (5) authorizes the board to establish minimum emergency preparedness standards and ensures dentists with anesthesia permits maintain written emergency plans and have automated external defibrillators at each location where a permit holder is providing services. The Texas Dental Association was heavily engaged on SB 313 and was pleased with the patient safety protections.

#### **Action for Dental Health Update**

Dr. Grover provided the Council with an update on Action for Dental Health activities and the expansion of educational opportunities for the Community Dental Health Coordinator.

#### **ADA Foundation Presentation**

Dr. Bill Calnon, Board President and Interim Executive Director, provided the Council with an update on Foundation activities, including the Scholastic partnership program.

#### **ADA Lobby Day**

Ms. Milligan and Mr. Aiello provided the Council with a post Lobby Day report.

**Action:** The Council agreed to continue the partnership with the American Student Dental Association for the 2018 Lobby Day meeting. Drs. Bronson and Graham appointed Drs. Fijal and White to serve on the planning workgroup for the 2018 meeting.

#### **Election for Chair and Vice-Chair positions**

Dr. Bronson conducted the election for the chair and vice chair positions.

**Action:** The Council voted to elect Dr. Frank Graham to serve as chair for the 2017-2018 term and Dr. Craig Armstrong to serve as Vice-Chair.

**CGA Council Members:**

Dr. Mark Bronson, Chair, OH  
Dr. Frank Graham, Vice-Chair, NJ  
Dr. Craig Armstrong, TX  
Dr. Jeanne Beauchamp, TN  
Dr. Deborah Bishop, AL  
Dr. Daniel Cheek, NC  
Dr. Mark Desrosiers, CT  
Dr. Philip Fijal, IL  
Dr. Marty Garrett, LA  
Dr. Rhonda Hennessey, MI  
Dr. Charles Incalcaterra, PA  
Dr. Zacharias Kalarickal, FL  
Dr. Lauro Medrano-Saldano, NY  
Dr. Dave Minahan, WA  
Dr. Scott Morrison, NE  
Dr. Ariane Terlet, CA  
Dr. David White, NV

**Liaisons:**

Dr. Gary Jeffers, Trustee-Liaison, Ninth Trustee District, MI  
Dr. Robin Nguyen, New Dentist Committee, FL  
Dr. Jerry Bird, Chair-Elect, American Dental Political Action Committee, FL  
Dr. Andrew Soderstrom, Council on Advocacy for Access and Prevention, CA  
Ms. Janette Sonnenberg, Alliance of the American Dental Association, UT

The Council on Government Affairs will meet March 1-3, 2018 in Washington DC.