

For Those Who Weren't There

Jeff Album, Interim President

In Memoriam



Leonard Matuszak

March 6, 1945 • September 19, 2008

► The scene: Pierce Brothers Valley Oaks Griffin Memorial Park, Westlake Village California, October 4, 2008

The cool breeze, wet drizzle and grey clouds overhead all matched the somber mood that swept over perhaps a hundred of us only a few Saturdays ago. We were seated under a large canopy, looking out over a peaceful, grassy knoll in Lindero Canyon in Westlake Village. The occasion: Len Matuszak's memorial service.

Prior to taking our seats, Jo-Linda Thompson and I, (we caught a car together from Burbank Airport) approached the canopy after parking

my rental, and took in the assorted groupings of family members, friends, co-workers and familiar acquaintances, all speaking in respectful, hushed tones.

"He was so excited about his job... We just met with him the day before... He and Gayle were so close." Exactly how many comments like this I heard in the background, it's hard to say. But they were reflective of the shock, dismay and surreal aspect of the occasion – the strangeness that goes with working together with someone one day, attending his memorial service the next.

While Jo-Linda and I approached, Len's wife Gayle saw us. Instead of shying away as many a new widow might, she came right up and commented on the evening she, Len and the rest of the CADP board had spent together, just two days prior to Len's passing.

"I will always remember him like that," Gayle said to us. She was referring to Len's laughter, his animated conversation, and his complete comfort and enjoyment with the whole situation of the evening. We had just completed strategic planning, working hard, and sorting through a myriad of issues. He was now celebrating its completion with colleagues and friends, his adoring wife by his side. He was happy and content. The image of his face in that

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The CADP News is published quarterly. Your suggestions and/or comments are encouraged. Please write or call:

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For Those Who Weren't There (continued)

moment was still alive for Gayle, as it was for me.

▶ Once seated under the canopy and the service now commenced, there was ample opportunity to take in what a complete, loving, honest, capable and extraordinary individual Len had been. Len's children – both of whom are successful professionals and parents themselves now – offered moving accounts of what it was like having Len for a dad. Several friends stood up and shared funny or charming stories, each shining a new light on Len's past, and attesting to his steady good humor and uncommonly calm nature. Much was shared regarding Len's commitment to excellence and how he encouraged the best in all who surrounded him.

Sam Gruenbaum, Western Dental's CEO and Len's boss of late, stood up and delivered an eloquent and powerful eulogy. Sam spoke of Len's profoundly deep character and professionalism, and how Len had made a big difference, both on a professional and personal level, on

dozens of Western staff, not to mention the company overall. Western's Wayne Butts also shared how he had talked to Len about his mother's passing, only a few days earlier, and how Len had helped him at that difficult period.

Jackie Miller and I stood up to take a turn too – we did it together because it seemed too difficult to go it alone. Jackie recounted the board dinner, her memory of Len's wisdom and successful run in his role as president of our association. I invited the family to recognize and appreciate just what Len meant to so many in his professional life, which people often shield from their families and friends. I asked all in attendance who knew Len from his long career in dental benefits to raise their hands. The front row of family and friends turned their heads to see a virtual army of 75 or more people with their arms extended high.

"That wouldn't happen for just anyone," I noted.

As I recount this all for you, I am mindful that many of you were there and

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Dots and Dashes

Charles Stewart, DMD, Chair, CADP Quality Management Committee

▶ The untimely loss of CADP President Len Matuszak on September 19 sent shock waves through the industry. But in light of this unfortunate events, most in business realize that the show must go on. This was the case for CADP, as a long-planned QA Consultant Training took place on September 24 and 25.

The training was held at Western Dental, where Len had worked for nearly two years, and it was a difficult time, as the employees were reeling from the shock of this news. Many of the attendees, most of whom were Western Dental Consultants, shared special times and remembrances of Len. I can attest to the fact that this course was one of the best ever, with a spirit of consensus achieved in a more timely fashion than any previous training session. Could it be the impact and influence of a man described as being larger than life? I feel this is the most likely factor in this, and I know that Len's influence will continue to permeate throughout this organization in the coming years.

The establishment of the Shared Quality Assurance Assessment Warehouse would not have occurred without guidance and direction from Len. The current Strategic Plan has Len's vision for this organization as its guiding principles. The outreach of the Quality Management Committee has been promoted by Len.

Those of you who knew Len personally, consider yourselves fortunate. Those who did not, have the opportunity to benefit from his influence, through all the wonderful programs that he so greatly influenced. Len will be missed.

The next meeting of the CADP Quality Management Committee will be held at Delta Dental in Cerritos on November 18. I hope to see you there.

Regulatory Update

Mary Powers Antoine, Nossaman LLP

On behalf of CADP I attend the Department of Managed Health Care's HPO/Plan Roundtable meetings that are held on a regular basis. (This group used to be called the "Ad Hoc Committee.") The following highlights from its most recent meeting have applicability to dental plans:

▶ Health Plan Oversight Division Update.

Tim LeBas, Assistant Deputy Director, Office of Health Plan Oversight, advised us on the following updates from the Health Plan Oversight Division of the Department:

- Pending Bills: The Department is monitoring a number of bills pending before the Legislature (this meeting took place before the end of the session). During September and October, the Department will work with CAHP and CADP regarding implementation recommendations for the bills that are signed by the Governor.
- Claims Payment: The Department is focusing its financial oversight exams and resources on claims payment issues.
- Plan Assessments: Plans will need to ensure accuracy in data submitted to the Department as it relates to enrollment numbers for assessment fees. Going forward, once a plan has filed the enrollment numbers with the Department, there will not be an opportunity for the plan to request an adjustment to the enrollment numbers. OTI will develop the online reminder message for assessment submission.

▶ Licensing Division Update.

Maureen Strumpfer provided the following licensing personnel update:

- Amy Krause has returned from maternity leave and has accepted a promotion to Staff Counsel III, Supervisor (there is now an open position for Staff Counsel III due to Amy's promotion).
- Melissa Moon is scheduled to return from maternity leave and will work part-time in the LA office.
- Mike Punja continues to maintain part-time status in the LA office.

▶ Request for Confidentiality.

Linda Azzolina provided the following update on requests for confidentiality of plan submissions:

- The problems encountered with the current method of submitting a request for confidentiality have caused the Department to revise the existing template in order to assist plans with confidential filings. A number of items from the Department were brought up during discussion:
 - 1- How does the Request for Confidentiality impact the filing as a whole from the plan's perspective?
 - 2- Is it possible for plans to request confidentiality for a portion of an exhibit or provide a redacted exhibit for the general public and the original exhibit for confidential treatment?
 - 3- Is the "five year period" request a standard for plans or is this a necessary period in order for plans to move forward in the business operations and/or nature of business without hardship?
- The Department confirmed the confidentiality template may be used for any type of filing requesting confidential treatment of any document submitted by the plan. The Department originally created and has since revised the template in order to assist plans in requesting confidential treatment of documents. However, the template is an explanation and not mandated or required to be used by plans. The Department will review its policy and procedure to ensure that information listed in any exhibits that have been approved for confidential treatment is excluded in comment letters to plans.
- Comment letters from the Department are public documents and are available once they are added to the e-Filing system.
- The Confidentiality instructions once finalized will be posted on the Department's web-portal.

▶ Retroactive Terminations.

Warren Barnes and Jeff Kral provided the following update:

The Department has drafted two possible options for regulating the retroactive termination of group subscriber contracts.

Option one is a mirrored model of the regulations promulgated by the Department of Insurance. It essentially prohibits retroactive termination of group contracts. Option two is to maintain the current conditional approval process. Both options would eliminate the requirement of submitting reports to the Department. Most plans seemed to be in favor of option one. The six full service plans currently authorized to impose retroactive terminations were requested to review both options in greater detail and provide feedback to Warren Barnes and Jeff Kral.

▶ Advertising Checklist.

Elaine Paniewski led the discussion of revisions to a draft advertising checklist and a proposed change to Rule 1300.46. The discussion surrounded the advertising of "value-added services" (which are free services related to wellness and the promotion of health) and price advertising. The combination of value-added services in the same ad as price advertising is prohibited.

- The revisions to 1300.46 are currently on hold due to the Department's Regulation Review Project. (See more on this Project in the chart below.) The Department had hoped to include clean-up language in the statute to specifically authorize the advertising of value-added services, but the Health Care Reform bill failed this year. One option under consideration is to put the bill on the calendar for next year. Another option is to address the issue through the Department's Regulation Review Project.
- The Department will review its current policy as it relates to small advertisement mailers containing price information, such as postcards, and whether value-added services can be included in them.
- The Department will review comments provided by various meeting participants and the advertising checklist will continue to be discussed at the next HPO/Plan Roundtable meeting.

▶ Revised Financial Statements.

Mark Wright provided the following update and discussion:

- Financial Statements: Forms are now accessible on the Department's website. There were minimal changes to the financial statements forms.
- Profile Database: This database is still in progress with the Department's IT department. In this database, plans may log-in to add and update information as needed. The profile database will be highly useful for the supplemental schedules.
- Flash Report: This tool has been modified and simplified and made easier to use, including the ability to change date ranges.
- Schedule H: The Department confirmed that plans do not have to use billed vs. paid amounts.
- Projected programming changes are estimated to be completed by October of 2008 with training to be provided sometime in November-December of 2008. Implementation is expected to begin in January of 2009.



Below is a chart updating the latest information on the Department of Managed Health Care's currently pending regulations and regulations under consideration.

CURRENTLY PENDING REGULATIONS

Regulation	Status	Remarks	
AB 2179 – Timely Access to Health Care Services (Adds Rule 1300.67.2.2)	<p>The Department instituted an intense process involving four concentrated days of stakeholder meetings to discuss all the major issues involved in the development of timely access regulations. These meetings concluded on September 11, 2008. Tim LeBas, Assistant Deputy Director, Rick Martin, Deputy Director, Braulio Montesino, Assistant Deputy Director, and Ed Heidig, Chief Deputy Director, were the Department representatives. Jackie Miller, Mary Antoine, and Jeff Album took turns representing CADP and other specialized plans. The other entities represented at the table were CAHP, CAPG, Western Center for Law and Poverty, Health Access, CMA, CHA, CPEHN, the California Coalition for Mental Health Advocacy and AHIP.</p> <p>As part of this process, CADP also submitted extensive written recommendations, and commented on the recommendations of others. The meetings focused on identifying the indicators of timeliness of access that should be included in the regulations, what factors the Department should consider when drafting the regulations, the appropriateness of time-elapsd standards, screening and triage services, safe harbors for same day/ advanced access, inclusion of language assistance in the timely access regulation, provider and plan reports, and network adequacy.</p>	<p>Braulio Montesino and Suzanne Chamhout will be drafting the regulations. We anticipate seeing a draft sometime in October. Director Ehnes intends to have these regulations adopted by the end of the year, so they are on a "fast track" adoption timetable.</p>	
Regulation	Unfair Billing Patterns (Adds Rule 1300.71.39)	<p>A new, streamlined regulation was issued on March 28, 2008. The Department held a series of public comment hearings in Northern and Southern California in mid-May. The comment period closed June 3, 2008. The regulations were submitted to the Office of Administrative Law, which subsequently approved them.</p>	<p>These regulations define an "unfair billing pattern" as the practice of balance billing an enrollee by a provider of emergency services. They apply only to hospitals and hospital-based physicians. Following approval, the CMA and CHA filed a lawsuit challenging the regulations.</p>

REGULATIONS CURRENTLY IN DRAFTING PROCESS

Regulation	Status	Remarks
Independent Dispute Resolution Process – Proposed Revisions to Rules 1300.71.38 and 1300.71: Criteria for Determining Reasonable and Customary Payment for Non-Contracted Providers	<p>These regulations had been coupled with the balance billing regulations, but were withdrawn early in 2008. They were not re-issued when the Unfair Billing Pattern regulations described above were re-issued.</p>	<p>CADP will review the new regulations when they are released to evaluate their impact on dental plans.</p>
Discount Plan Regulations – Addition of Rule 1300.49.1, et seq.	<p>On February 11, 2008, the Department released an informal draft of its discount plan regulations for review and comment by stakeholders. The deadline for submission of comments was March 10, 2008.</p> <p>We have heard nothing more from the Department on these regulations.</p>	<p>CADP submitted comments to the Department, including a request for clarification regarding the applicability of the regulations to discount products offered by dental plans.</p> <p>There will be at least one, and probably more, opportunities to provide comments to the Department on these regulations as they wend their way through the regulatory approval process.</p>

REGULATIONS CURRENTLY IN DRAFTING PROCESS

Regulation	Status	Remarks
Licensing Applications – Revisions to Rules 1300.51 and 1300.52	<p>This project has turned into what the Department is calling their Regulations Review Process. This process is being undertaken at the direction of the Department’s umbrella agency, the Business and Transportation Agency.</p> <p>On June 25, 2008, the Department sent out the following email message:</p> <p>“During the next 3 months, Licensing and Financial Oversight are conducting a more comprehensive review of all regulations adopted under the Knox-Keene Act. The goal is to identify any regulations that pose an undue economic impact on California businesses with a focus on streamlining regulations. Licensing is approaching this assignment as a way to look at 1300.51 and 1300.52 with “fresh eyes” and allow for additional thoughts and suggestions. Accordingly, Licensing will postpone sending out the draft of 1300.51 or 1300.52, which we discussed, until this project is completed.”</p>	This Regulation Review Project is near completion by the Department. Until it is complete, we will not see any further drafts of revisions to Rules 1300.51 or 1300.52.
Regulation	<p>The Department issued informal draft regulations addressing medical underwriting and prohibiting post-claims underwriting practices in early Fall of 2007. Since that time, much has happened. The Court of Appeals issued a decision in the <i>Hailey v. California Physicians Service</i> (Blue Shield) case on December 26, 2007. In that case, the court ruled that the health plan could rescind the contract if the subscriber’s omission or misrepresentation was willful or if the plan had made reasonable efforts to ensure the subscriber’s application was accurate and complete.</p> <p>Following the <i>Hailey</i> case, the Department fined a number of full service plans millions of dollars for improperly terminating individual enrollees.</p> <p>The Department had held off on pursuing regulations in light of the introduction of AB 2569 by the Administration. AB 2569 is intended to address part of the issues surrounding rescission of coverage in the individual market. It seeks only to protect the covered family members whose application information did not cause the rescission. It also requires broker/agent attestations and disclosures. AB 2569 was signed by the Governor.</p>	

Legislative Update

Jo-Linda Thompson, Nossaman LLP

What a roller coaster year it has been, on so many levels for so many people and organizations. This two-year legislative session that started with announcements of a serious effort to improve California's education system, completely overhaul California's healthcare environment as well streamline the entire state bureaucracy, ended with a record number of vetoes, little or no change on any substantive issue and a state budget meltdown of historic proportions.

In the face of amazingly complicated budget negotiations and the large and growing state budget deficit, CADP was able to generally achieve our top two priorities, the retention of the Adult Dental program and an effective defense of the Medi-Cal provider rates.

CADP further removed specialized plans from legislation that would have required a minimum of 85% of premiums to be spent on care. In other words a cap of 15% would have been placed on administrative costs and profits. We also removed specialized plans from a bill that would have limited out of pocket costs for insured's and would have forced all plans into five categories with a regulatory mechanism to control premiums.

We worked with our coalition for the entire two-year session to defeat a bill that would have regulated all premiums for healthcare services of any kind. The bill (AB 1554) was killed a number of times but kept coming back and this tenacious author will likely return with a similar attempt in January.

Finally, we cooperated with CDA to amend their bill that clarified the provider overpayment issue, clearing up a confusing process with a standardized approach for overpayment notification and process. This was one of the few bills the Governor signed this year.

After everything that happened this year, what's next? (This is a question we'll be exploring at our Legislative Conference in January.) Meanwhile, there's much talk about whether the

Governor will call a special session to deal with the growing state deficit. If so, when will he call it? Will he call a session prior to the election? A lame duck session, after the election but prior to the new members swearing in? After the new members are in, during Christmas? No clear answers at this writing.

Today the Governor is also quietly looking at borrowing money from transportation and education funds. Predictably, the transportation and education lobbyists and campaigners are meeting across the street to devise a defensive strategy. The insurance industry will be doing the same thing over the next several weeks. No one wants their industry to be the tax target and yet we realize that all of us are in the cross hairs, and change is in the air. The results of the November election, along with the severity and magnitude of this recession, should decide how serious a new round of tax and/or fee proposals will become and how severe the inevitable next round of budget cuts will be.

If we look at contested races that will affect the debate next year, in the Assembly, Democrats are predicting a pick-up of three seats, especially if there is a big voter turnout for Senator Obama. Republicans believe they will hold their current seats and pick up one in the Central Valley. To control the budget process, one party will have to hold 54 seats out of the full 80; it is unlikely that either party can take 54, but it could get closer.

In the Senate, very few seats are up for grabs – really just one potential race could change. The Santa Barbara contest appears up for grabs: Hannah Beth Jackson (D) against Tony Strickland (R) for the seat recently vacated by Senator Tom McClintock. A win for the Democrats would give them 26 seats, just one shy of the 27 necessary to pass a budget in the Senate.

Finally, last year the Republicans held a press conference announcing that nearly all of them had signed a "No New Taxes" pledge. The Democrats are now considering a "No New Borrowing" pledge. It could be a long year!

For Those Who Weren't There (continued)

witnessed it all first hand. Our association was well represented, and for good reason; many of us not only wanted to pay our respects, but needed some help figuring out what to do with our sense of loss and grief. I can tell you that for me, at least, hearing the funny stories and the many charming recollections of a life well lived helped immensely. I left the event thinking to myself how Len died a happy, contented, accomplished, peaceful man, and with no major incompletions in his rich and full life. I should be so lucky!

And I also left Westlake Village that day understanding that my sense of loss was not for Len at all, but for myself because of the simple fact that I will miss him.

CADP can and certainly will move forward, even without Len's leadership and wisdom. We will all work together to face the challenges that await us. As for exactly how we go about this, I for one plan to pause a few times and ask myself, "what would Len have counseled?" Odds are good that the answer will light our way.

In the News . . .

▶ **Employer-based Health Coverage Declines**—The proportion of the population covered through work — either their own or a family member's employer — declined last year for the seventh year in a row, according to a new study by the Economic Policy Institute in Washington, D.C. Employer-based coverage remains the most prominent form of health insurance in the U.S., with 62.9 percent of people under the age of 65 covered this way. But the rate has fallen every year since 2000, when 68.3 percent of this population had employer-sponsored health insurance.

In California, the percentage dropped to 56.3 percent in 2006-07 from 59.7 percent in 2000-01. In other words, 220,957 fewer people had employer-sponsored insurance in 2006-07, according to the report.

The state with the highest percentage of population covered by employers in 2006-07 was New Hampshire, at 75.4 percent. New Mexico was the lowest, at 50.7 percent.

▶ **Many Children in Medicaid Have Untreated Tooth Decay**—An estimated 6.5 million U.S. children ages two through 18 who are enrolled in Medicaid have untreated tooth decay, according to a report released in September by the Government Accountability Office. For the report, GAO analyzed two national surveys.

The report found that about one-third of the 20 million children in Medicaid had no dental care in the last 12 months, compared with more than half of children with private health insurance. The report also states that about one in eight children enrolled in Medicaid never visits a dentist. The report also concluded that 1.1 million children aged 2-18 had conditions that warranted seeing a dentist within two weeks and that, compared to children with private insurance, children in Medicaid were more than four times as likely to be in urgent need of medical care.

▶ **Health Care Costs to Rise in 2009**—U.S. workers with job-based health insurance can expect to spend 8.9% more

for their health care in 2009, according to a study released in September by Hewitt Associates, Inc. The cost to businesses of providing health-care benefits will rise by 6.4% on average in 2009, bringing the average annual premium cost per employee to \$8,863, up from \$8,331. Hewitt predicts employees on average will contribute \$1,946, or 22%, toward health-insurance premiums in 2009, compared with \$1,806, or 21.6%, now. In addition, employees will likely face steeper out-of-pocket costs — through higher co-pays, annual deductibles and co-insurance — of \$1,880 next year, compared with \$1,707 now. Overall, employees can expect to pay \$3,826, or 8.9% more, in 2009 for health care than in 2008, the study says. Hewitt's projections are calculated with data from more than 300 major employers and more than 13 million health-plan participants, and they are reported as an average per individual worker.

▶ **Consumers Cut Health Spending**—An analysis of claims from 250,000 people in several dozen mid-Atlantic employer health plans suggests even people with coverage are cutting back on care. The study, conducted for The Wall Street Journal by research firm D2Hawkeye, found that a number of preventive or non-acute areas of care saw declines despite little change in benefits or employee cost-sharing. Knee replacements per 1,000 people fell 18.6% between March 2008 and March 2007, pap smears fell 6%, and the number of prescriptions filled fell 0.5% in the first quarter and a steeper 1.97% in the second, compared with the same periods in 2007, the first negative quarters in at least a decade. In addition, the number of physician office visits has also declined since the end of 2006. Between July 2007 and 2008, the most recent month for which data are available, visits fell 1.2%, according to IMS Health. Laboratory Corp., the country's second-largest clinical lab-testing company by sales after Quest Diagnostics Inc., says the number of blood tests and other types of lab work it does for uninsured customers fell 8% in the second quarter, compared with the 1% quarterly growth it usually sees.

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