



## President's Report

by Lee J. Harris, DDS

With another successful Annual Conference behind us and the summer ahead, all of us are looking forward to some time off and a little relaxation. Your Board of Directors, however, has some serious work ahead this summer. Each year in July, the CADP Board gets together for its Strategic Planning Retreat.

As your new President and Board, we must not only reflect on where our association has been, but its future. To take full advantage of this opportunity, your Board needs your help. Is CADP's current focus and direction meeting all your needs? Are areas of interest to you overlooked? Could we do better in other areas? Please take a few minutes to reflect on the past several years and the challenges your Association faces from regulatory, legislative, consumer, provider or other constituents. Let us know how CADP can better serve your needs or should we stay the course.

Reflecting on our current circumstance, some of the external challenges we face include:

- Maintaining a proactive relationship with DMHC;
- Potential publication of dental emergency regulations;
- Discount plan regulations (or legislation);
- DMHC plan assessments;
- Securing a voice on the DMHC Advisory Committee;
- Developing a working relationship with CDA; and
- Coordination of efforts with NADP.

Within CADP, we must also continue to communicate with our membership, promote our industry, and continually enhance our Dental Directors Group. A full agenda to be sure.

At this time, we must also thank CADP Board members whose terms have expired. Dennis Spain has served CADP well over a very long time. Reza Abbaszadeh also contributed to CADP's initiatives during his tenure on the Board. Their leadership and volunteer efforts on behalf of our industry will not be forgotten. Thank you Reza and Dennis.

I'd also like to thank Troy Becker for his leadership as CADP's President during a period of both growth and influence of the Association. Fortunately, we'll continue to have the benefit of his experience on the Board in his position as Past President.

Have a safe and fun-filled summer.



## Welcome New Members!

Pacific Dental Services, Inc.  
(Associate)

Elwood J. Streeter, DDS  
(Individual)

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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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# Legislative Update

By Jo-Linda Thompson, Esq., Nossaman, Guthner, Knox & Elliott, LLP

▶ As you know, energy issues in California have affected the normal flow of business for the State and for the Legislature. Many non-energy-related bills that would have moved toward the Governor's office this year have made limited progress, and will be with us for the entire two-year session. The cost of the energy problem will also significantly affect the State budget, which is also behind schedule. Many pending bills with even a minor fiscal impact will be delayed because of the fiscal uncertainty created by the huge and ultimately unknown cost of energy through the summer.

The Department of Managed Health Care has been studying the issue of discount plans and released draft regulations earlier this month. We have been involved in this issue on behalf of CADP for the past nine months and are currently reviewing the draft regulations in order to comment to the Department.

In addition, the following is an update of measures followed on behalf of CADP.

▶ **SB 686 (Ortiz) – Health Care Service Plans: Fees.** CADP supports this bill to address the current inequity between the fees charged by DMHC to full service and specialty health plans. Every year the specialty plans pay more than they should pay to run the Department. This bill would require a new and potentially more equitable fee schedule for the specialized plans as well as a new fee schedule for full service plans. We continue to build bipartisan support and hopefully momentum for some fee adjustment. It was the hope of the specialized plans that the Department would agree to draft a new fee schedule without the need for a bill. The full service plans are unhappy about this bill and opposed to the most recent amendments. Proponents intend to continue discussions with the full-service plans to reach accommodation on this issue. Update: The bill passed the Senate on a 33-1 vote on June 4, and is now in Assembly Health.

▶ **SB 103 (Speier) – Health Coverage: Continuity of Care.** This bill was amended to require a plan to provide care to an enrollee of a terminated provider for 180 days

following termination, or until the next open enrollment period, whichever comes first. These time periods can be extended for enrollees with certain medical conditions. This bill would also require that a contract between a plan and a provider must describe the provider's obligations for continuity of care if the relationship between the plan and the provider is terminated, and that this information must be provided to enrollees upon request. If the bill passes, affected provider contracts must be modified to reflect this new requirement. The bill has passed the Senate and will be heard in the Assembly Health Committee. **AB 1522 (Thomson)** is the Assembly continuity of care bill, also moving, despite opposition, to the Senate. The bill extends the termination notice that plans must give enrollees from 30 to 90 days, and broadens the notice to include instructions on how to find a new provider. It also extends the continuity of care provision to 180 days or the next open enrollment period. CAHP is supportive of this bill. Amendments are likely, as is some

coordination between these two efforts as they move through their respective houses.

▶ **SB 149 (Figueroa) – Healing Arts: Liability.** Currently, if a licentiate is a "bad actor," an 805 report must be filed with the relevant agency. This measure would require that if an individual within a defined organization has the responsibility to file an 805 report, and recklessly fails to do so, AND another patient is harmed in the same or similar way by the "bad actor," the organization that failed to file the 805 report would be liable for damages suffered by the new victim. Update: due to heavy opposition, the author removed the bill from its scheduled Senate Judiciary Committee hearing; it is a two-year bill.

▶ **SB 1037 (Polanco) – Health Care Service Plans.** This is a spot bill that was supposed to have been the vehicle dealing with discount plans. It has not been amended and remains in spot form; it has missed its policy deadline and would need a rule waiver to move forward.

*continued on page 5*

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# DMHC Issues Discount Plan Opinion, Draft Regulations

On June 7, the Department of Managed Health Care released its much-anticipated review of issues relating to consumer discount health care service plans. It also issued Director's Opinion 01/1, which stated that such programs are NOT health care service plans as defined by the Knox-Keene Health Care Service Plan Act of 1975 and that therefore the Department does not have direct jurisdiction over such programs. The opinion also stated that the Department would continue to regulate discount programs offered by health care service plans. At the same

time, the Department released draft regulations regarding those programs.

At a follow-up meeting on June 13, the Department met with interested parties, at which several dental plan representatives, including CADP, were in attendance. Herb Schultz, Deputy Director for External Affairs, indicated that although the Department had determined that it had no direct authority over independent discount plans, it did not mean that such programs do not warrant regulation. He stressed, however, that this issue remained separate from those programs

offered by Knox-Keene plans.

In response to numerous questions, Mr. Schultz urged attendees to forward comments regarding the draft regulations as quickly as possible. It should be noted that the draft regulations will go through the normal regulatory process, with a 45-day comment period and public hearing following the comment period.

The Director's opinion and draft regulations are available at DMHC's website, at [www.dmhc.ca.gov/library/#opinions](http://www.dmhc.ca.gov/library/#opinions), or on CADP's website, at [www.caldentalplans.org](http://www.caldentalplans.org).

## CADP Elects New Board Members at Annual Meeting

During its Annual Meeting which took place on May 16, CADP delegates elected or re-elected four members to three-year terms on its Board of Directors: Candee Bolyog, Managed Dental Care of California/The Guardian; Bryan Geremia, Aetna US Healthcare Dental Plan of California; Susan Klarner, DentiCare of California; and Len Matuszak, United Concordia Dental Plans of California. They join holdover members Troy Becker, dentalxchange.com; R. Steven Bull, DDS; D.E. FitzGerald, DDS, WellPoint Dental Services; Sam Gruenbaum, Western Dental Services; and Lee J. Harris, DDS, PacifiCare Dental.

During the Board of Directors' meeting following the Annual Meeting, Dr. Lee Harris was elected to a two-year term as President, while Susan Klarner and Len Matuszak were elected to the positions of Vice President and Secretary-Treasurer, respectively. Both are one-year terms.

**Thanks to our 12th Annual Conference sponsors and exhibitors!  
You made the meeting one of our most successful!**

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Aetna US Healthcare Dental Plan of California

Sam Gruenbaum  
Western Dental Services

# In the News

▶ **DMHC Releases HMO Complaint Data**— The Department of Managed Health Care has released its 2000 HMO complaint data, which once again shows few complaints against dental plans. A total of 367 complaints were submitted to the department from the 15.1 million dental plan enrollees in the State, or 0.2427 complaints per 10,000 enrollees. Nearly 44 percent of those complaints were for benefits/coverage or billing/financial issues, while 27 percent were for quality of care issues. The report is available on DMHC's website, at [www.dmhc.ca.gov/library/reports/complaint/final2000.pdf](http://www.dmhc.ca.gov/library/reports/complaint/final2000.pdf).

▶ **DMHC Issues Opinion Regarding Gramm-Leach-Bliley Act**— On May 16, the Department of Managed Health Care issued an opinion regarding the applicability of the Gramm-Leach-Bliley Act (GLB) to health care service plans in California. The opinion stated, "The Department has determined that Knox-Keene licensed health care service plans do not fall within the scope of insurers governed by the GLB Act. Therefore, the GLB Act is not applicable to Knox-Keene licensees."

Congress passed the GLB Act in 1999 to enhance competition in the financial services industry by providing a framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers. The GLB Act applies to financial institutions and their affiliates, including "insurers." The Act imposes privacy and notice requirements on insurers to protect nonpublic personal information.

▶ **Delta Dental Receives \$6.8 Million Grant for Healthy Families**— The state agency responsible for Healthy Families, California's low-cost health insurance program for children, has awarded \$6.8 million to Delta Dental Plan of California to benefit children in special populations and rural areas of the state. Delta will disburse the funds over a two-year period beginning July 1, earmarking most of the funds to expand dental staffing, extend clinic hours and purchase equipment and supplies to 23 rural dental clinics and several mobile dental treatment vans. Nearly \$1 million of the award is for special rate enhancements that help fund clinics serving special populations, including children of migrant and seasonal farm workers, fishing and forestry workers and Native Americans.

▶ **State Officials Threaten to Dissolve Dental Board**— State Senator Liz Figueroa (D-Fremont) intends to introduce legislation that would remove the Dental Board of California's funding effective July 1, because it has failed to approve a consumer fact sheet to be used by dentists in patient discussions to describe various materials, including mercury, used in fillings. The legislation was mandated by 1992 legislation but has never been implemented to the satisfaction of state officials. Attorneys within the Department of Consumer Affairs are also reviewing actions it can take against the board.

The Dental Board also received a scathing report in its sunset review process, which took place earlier this year. The Joint Legislative Sunset Review Committee, chaired by the same Senator Figueroa, recommended that the current Board membership be allowed to sunset and reconstituted as of July 1, 2002, and that the Legislature study how the future membership should be recomposed. In addition, the Committee expressed dissatisfaction at what it saw as recalcitrance by the Board relative to expanded scope of practice for dental aux-

iliaries, ignoring legislative intent in enacting legislation, ambivalence regarding the illegal practice of medicine by licensed dentists, excessive delay in enforcement of disciplinary actions, and apparent bias against dental auxiliaries, in particular dental hygienists.

▶ **ADA, CDA Sued on Amalgam Issue**— A lawsuit has been filed by public interest attorneys Shawn Khorrani of Los Angeles and Charles B. Brown of Washington, DC, against the American Dental Association and the California Dental Association, claiming that the two organizations have misled the public about the dangers of dental amalgam containing mercury. The lawsuits allege violation of California's Business and Professions Code and charge that the ADA and CDA have issued rules preventing dentists from discussing the dangers of mercury with patients. The plaintiffs seek civil penalties and are asking the court to stop the ADA and CDA from putting out "false, misleading and inaccurate information" about fillings and stop referring to them as "silver" when they contain mercury. In responding to the suit, ADA indicated that there is no sound scientific evidence supporting a link between amalgam fillings and systemic diseases or chronic illness and that this is a position shared by all major US public health agencies. The full text of the lawsuit can be found at [www.toxicteeth.net](http://www.toxicteeth.net).

▶ **CAHP Fall Conference**— The California Association of Health Plan's Annual Conference will take place October 23-24, 2001, at the Newport Beach Hotel & Tennis Club in Newport Beach. The conference theme is "Building Partnerships for Tomorrow." Call (916) 551-2910 for more information.

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# Dots and Dashes

by D.E. FitzGerald, DDS, Chair, Quality Assurance Committee

What's in a name? Recently I found myself remembering changes that either precipitated a name change or that occurred subsequent to a name change. The impetus for my reflection was President Bush's decision to change the name of our familiar Health Care Financing Administration (HCFA) to the "more appropriate" name: Centers for Medicare and Medicaid Services (CMMS). Although he did not consult with me, I think the President desired to stress the services provided more than the protection of the moneys allotted. The probable desired effect would be improved service to the elderly and needy.

The reconstitution and almost immediate name change of the Department of Managed Health Care (DMHC) from the previous Department of Corporations (DOC) provides another example of a deliberate attempt to change the focus from just financial stability to include oversight of the care provided California consumers. A third example might be the change in name from the Board of Dental Examiners to the more consumer-oriented Dental Board of California. Elimination of the word "Examiners" suggests an increased focus on consumer issues involving dental care. The recommendations of the Joint Legislative Sunset Review Commission (JLSRC), which included reconstitution of the Board, reflect an obvious belief by the Legislature that consumer interests have not been met. One can only speculate as to who will populate the new Board.

Our industry faces a huge challenge from legislative activity surrounding national

attention to the federal Patients' Bill of Rights (PBOR). Unlike the above examples, this name was not carefully chosen to reflect intent - rather it was chosen to embody the interests of several diverse and often contradictory interests:

- Trial lawyers, who might name it "Magnificent Opportunity Now to Enjoy Yourself" (MONEY)
- Doctors and dentists, who might name it "Everyone's Greatest Opportunity" (EGO).
- Consumers, who might prefer "Self Interests Strike Home" (SELFISH)
- Payers, who would vote for "Somehow Crushed Against Radical Energy Development" (SCARED)

As active members of CADP, it is incumbent that we use whatever time remains to influence the amendments that will define a true PBOR. At the least:

- Get involved. Learn the issues and the players.
- Leverage your voice through PACs, lobbyists, your company, friends and your own US Representative and Senators Boxer and Feinstein.
- Be objective in your arguments. Appeal to consumer pressure points.

This is in all of our best interests. Senate leader Tom Daschle (D-SD) announced hopes that legislation would be passed by July 4<sup>th</sup>. If he is wrong, you still have time to act. A rose is not necessarily a rose. A PBOR is not necessarily a PBOR.

Legislative Update - continued from page 2

▶ **SB 1092 (Sher) – Health Care Service Plans.** Existing law requires each plan to establish and maintain a system for enrollees to submit their grievances to the plan. This bill would now define "grievance" and "complaint," and would require plans to maintain a log of all complaints. This bill is sponsored by the Western Center on Law and Poverty, and opposed by the full service plans. Update: Passed the Senate and is scheduled to be heard in the Assembly Health Committee, where additional amendments may be expected.

▶ **AB 275 (Aroner) – Medi-Cal: Emergency Dental Care.** This bill would require the Department of Health Services to quickly process all dental service treatment authorizations for Medi-Cal members. The bill would ensure that no plan member who needs emergency care is delayed in getting that care. At this writing the bill is not set for hearing. Update: two-year bill.

▶ **AB 798 (Shelley) – Health Care Service Plans.** This is a bill sponsored by the California Senior Legislature and supported by various senior lobbyists, including AARP. It would require all health care service plans to refer a plan member over 60 to any specialist the member would like to see. The bill will not move this year.

▶ **AB 1379 (Thomson) – Health Care.** This is the vehicle that would study the ramifications of folding insurers, currently regulated by the Department of Insurance, into the Department of Managed Health Care. At this point it is not set for hearing. Update: two-year bill.

▶ **AB 1600 (Keeley) – Health Care Service Plans: Provider Contracts.** Sponsored by CMA, this would allow providers, including dentists, to negotiate collectively. It is an effort to give provider groups more leverage over the plans in the arbitration of disputes involving managed care contracts. It is heavily opposed by the health plans. Update: passed the Assembly and awaits assignment to a Senate committee.

We will continue to monitor bills and amendments as they churn out during the remainder of the legislative session. Please call if you have questions about issues raised in this report; (916) 442-8888.



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