



## President's Report

by Lee J. Harris, DDS

It is at this time of our association's year that I customarily take time to reflect on the past year and look forward to the one ahead. This past year has not been devoid of the challenges that face our industry on a continual basis.

CADP's activity in the legislative and regulatory arena continues to be our primary focus. To that end, the CADP Board of Directors, Executive Director and contracted lobbyists have worked diligently to avoid being included in some legislation more appropriately aimed at the medical side of healthcare, while working to modify language and the scope of other bills so as to limit the potential negative effects to the dental benefits industry.

We continue to maintain an active role in the discussions surrounding many bills that are still pending, including:

- AB1600 – Private right of action – proposed language would allow enrollees and providers to bring complaints (other than those regarding enrollee grievances concerning claims, quality, etc.) directly to the Director of DMHC, if there is an alleged or imminent violation of the Knox – Keene Act.
- SB 686 – Fee assessments – this revision of fee assessments following the Bureau of State Audits' Report would lower the assessment of specialized

plans to support the DMHC from its current 52% / 48% (full service / specialized) split to a method that is more representative of the level of workload. The proposed new assessment levels are currently in negotiation to arrive at a phased-in approach that would serve to meet the DMHC needs and to minimize the immediate negative impact to full service plans and others.

- SB1461 – 'Discount clubs' – the most recent amendments to this bill now call for 'medical discount clubs' to register with the Attorney General's Office. The AG would be required to: conduct periodic audits and reviews and to further monitor and oversee the activities of the discount club. It would also allow the AG to bring action against any entity violating the provisions. Clubs would be required to: provide discounts and to disclose dollar amounts regarding particular procedures; prohibit providers from charging members more than the discounted rates in the agreement; audit provider records; be prohibited from charging a fee to a provider; and, provide specific disclosure statements. Knox-Keene plans would be excluded from these provisions. However, the bill is silent on whether or not a Knox-

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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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## President's Report

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Keene licensed plan could apply for a discount club under these provisions. It appears that a plan could elect to do so or remain under DMHC.

In addition, we continue to provide input and comment with regard to pending regulations, including AB 1455, the prompt pay bill.

CADP has, after an effort of more than 10 years, achieved consensus with the California Dental Association and Delta Dental Plan of California on a minimum standard audit tool for Dental Quality of Care Audits. The tool and supporting criteria will be jointly presented to the Department of Managed Health Care in July. It is the hope of all concerned parties that the tool will become the default standard for use by DMHC as a part of the routine survey process.

So, what does the future look like for our association? In July of every year, your Board of Directors gets together for a Strategic Planning Retreat. Our current Strategic Plan has three major initiatives, and supporting goals and tactics. These initiatives are:

- Be recognized as a pro-active dental benefits authority.
- Provide an active regulatory and legislative presence for member plans.
- Establish guidelines that improve quality management systems.

While I continually receive feedback from our member plans, I again wish to solicit your input before our annual strategic planning session. Should you feel that your association should modify its focus or stay the course, I would like to hear from you. My personal thanks go out to Jackie Miller, Troy Becker, the CADP Board, the Quality Management Committee's dedicated Dental Directors, our lobbyist, Jo-Linda Thompson, and legal counsel Mary Powers Antoine, both of Nossaman, Guthner, Knox & Elliott, LLP, and all the other volunteers that have been a part of CADP's success this past year. Please join me as well to welcome our newest elected Board members: John Gaebel, DDS, CEO, Pacific Union Dental; Ronald E. Inge, DDS, VP, Professional Services, PMI Dental Health Plan; and Sam Gruenbaum, CEO, Western Dental Services. Have a safe and fun-filled summer.

## In the News . . .

- ▶ **Prompt Payment Regulations in Comment Period** – The Department of Managed Health Care has released proposed regulations relating to claims settlement practices and dispute resolution mechanisms required by the passage of AB 1455 (Scott) in 2000. The proposed regulations would define terms relating to claims settlement and reimbursement and provide procedures for plans and providers to prevent unreasonable delays in payment of provider claims. In addition, they clarify the meaning of unfair payment practices. A copy of the proposed regulations is available at DMHC's website, [www.dmhc.ca.gov](http://www.dmhc.ca.gov). Comments must be sent by 5:00 pm on July 29, 2002, to Lyn Amor Macaraeg, via e-mail at [lmacaraeg@dmhc.ca.gov](mailto:lmacaraeg@dmhc.ca.gov), or via FAX at (916) 324-6459.
- ▶ **CDA Executive Steps Down** – Dr. Steve Chan, President of the California Dental Association, recently announced that Timothy Comstock, Executive Director of the California Dental Association for the past four years, has stepped down. Dr. Chan also announced that Robert Will, President and CEO of CDA subsidiary 1201 Financial & Insurance Services, will serve as Interim Executive Director while retaining his current position with the subsidiary company.
- ▶ **DBC Proposes CE Requirements** – The Dental Board of California has proposed regulations which would reduce the number of required continuing education units in infection control, currently four units, and California law, currently three units. Agency contact: Errol Chisom; (916) 263-2300.
- ▶ **Annual Conference Presentations Online** – Annual Conference speaker presentations are now available online, at CADP's website, [www.caldentalplans.org](http://www.caldentalplans.org). Thanks goes to Dr. Dee FitzGerald, conference co-chair, who obtained speaker agreements and presentations to allow for online access.
- ▶ **NADP Schedules Annual Conference** – NADP's 14th Annual Conference will take place September 18-20 at the Fairmont Hotel New Orleans. The conference theme is "Thriving in a Consumer Driven World." For additional information, contact NADP at (972) 458-6998 or [www.nadp.org](http://www.nadp.org).

# Dots and Dashes

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

"Who'd a' thunk it?" I'm unsure of who is credited with this quote. I want to say Yogi Berra (I know it isn't Joni Mitchell). But it provides a fitting start to this quarterly column because so much has happened that was unexpected.

Delta Dental Plan of California, a staunch CADP member, took the lead and finalized agreement with CDA over a site-audit tool. This allowed consensus agreement on an Excel spreadsheet form and criteria rationale between CADP/CDA/Delta at our Annual Conference in May.

By the time you read this, the above three entities will have presented the document to the Department of Managed Health Care and the Department of Health Services. The expectation is that these regulatory agencies will use the audit instrument as a minimum evaluation tool in assessing plan oversight of dental offices.

Anticipating this, WellPoint and other member plans have modified their computer data gathering programs to literally standardize the format used to analyze a dental office and charts for quality. Member dental directors have received or will receive electronic copies of the consensus tool as well as information from a vendor who has prepared an Access software program that accommodates the tool.

Additionally, CADP is working on avenues to warehouse completed audits and hopes to have a mechanism in place soon for those plans wishing to retrieve this information. There are, however, cost and confidentiality issues left to work out.

One consequence of a consensus document is that there is increased interest in the CADP auditor calibration course since we will of necessity work towards consensus in the evaluation process. Our September 18 course will use the tool for the first time in one of the case studies. Both CDA and DMHC have expressed interest in attending.

On a separate topic, the DMHC previewed a draft Technical Assistance Guide for Routine Dental Surveys at the Annual Conference. Since then, the Guide has undergone at least three revisions while at the same time actively used in the survey process of three member plans. Debra Burgess, DMHC Senior Healthcare Analyst, recently shared

that she is hopeful the final document will be available from [www.iceforhealth.com](http://www.iceforhealth.com), where the Medical Survey equivalent now resides. Access to the Guide will be of great assistance to plans in preparing for the survey process.

What might we see in the future? One clue might be the heightened interest by the DMHC's Advisory Committee on Managed Health Care. In their June meeting they implied that two areas of concern and interest are:

- Access to care
- Preventive services

Dental may be asked to determine meaningful criteria and measurement for both, a somewhat daunting challenge. What are preventive services that have positive effects on health? How do we separate access to needed care from access to elective procedures? Questions I never heard before. "Who'd a' thunk it?"

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# Legislative Update

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

Summer in Sacramento in this second year of the two-year legislative session, means only one thing. . . .no budget. Although the Senate passed its version of the budget and promptly recessed until early August, the Assembly is still wrangling. The budget bill passed by the Senate did retain Medi-Cal optional benefits, including adult dental, which had been on the chopping block. In order to receive the support of termed-out Senator Maurice Johannessen (R-Redding), the lone Republican who voted for the budget, the Senate eliminated the proposed upper-income tax increase. However, it doubled the vehicle license fee and increased tobacco taxes by 63 cents, which the Governor had proposed increasing by 50 cents.

Earlier action by the budget conference committee reduced the number of yearly dental visits/cleanings for adults from two to one but maintained the two-year visits/cleanings for children. The Senate also rejected co-payments for Medi-Cal recipients; however, language in the budget bill returned provider reimbursement rates to those in effect from 1985-2000. It should be noted that AB 3006, a budget trailer bill, would rescind the Medi-Cal provider rate cuts. It also passed the Senate during the budget deliberations; its fate in the Assembly is unclear at this writing.

Although the new fiscal year began on July 1, at this point no one believes that there are four Republican votes in the Assembly for the tax increases presently on the table, so a budget deal remains elusive. Making things more difficult are rumblings by some Assembly Democrats about the depth of the cuts in health and social services. And the

fiscal news is not getting better – the upshot: this could be a long, hot summer for all of us.

The following is an update on legislation followed on behalf of CADP:

▶ SB 686 (Ortiz) – Sponsored by Vision Service Plan and supported by specialized plans, this bill would correct the inequitable fee assessments levied by the DMHC on health plans. As we discussed at our meeting in the desert, the state Auditor was charged by the Joint Legislative Audit Committee with doing a study of the fee assessments; the report concluded that full service plans account for 78% of the DMHC's workload, while specialized plans account for about 22% of the workload. The Auditor also reported that specialized plans currently pay 48% of the fees assessed to fund the DMHC, while full service plans pay 52%.

The current formula is based on the number of enrollees, not division of workload. The full service plans have agreed that the current 52/48 split is inequitable, and are working with the specialized plans to come to a compromise agreement. CADP and the other specialty plans are also working diligently to create a formula that is fair to the different specialized plan types (dental, vision, chiropractic, behavioral health, etc.). Because the Senate has recessed, the bill won't be heard until August. Assembly Member Helen Thomson, Chair of the Health Committee, has strongly suggested the parties reach a compromise and draft a bill reflecting that compromise.

▶ AB 1600 (Keeley) – AB 1600, the infamous "anybody can sue a plan" bill and one of the most hotly contested measures in this session, was recently removed from

the Assembly Inactive File, where it had been parked since last September. The author announced his intent to send the bill to a conference committee, where it will likely be heard in August. The bill gathered significant opposition last year, including CADP, CAHP, medical groups, and several labor organizations.

Proposed amendments would allow an enrollee to file a complaint with the director who, at his/her discretion, could investigate the complaint or forward it to a new external review entity, whose duties would be set forth in the bill. Other proposed amendments would allow a health care professional (including a dentist), who regularly renders care to at least 50 enrollees of a licensee, to request referral of a complaint to the director or to independent external review, such review to be completed within 90 calendar days from the date of submittal to the reviewer.

Because specialized plans are included within the bill's parameters, please let us know how these proposals would impact your plan. We have concerns about the creation of yet another DMHC administrative structure whose cost would be borne by the plans.

▶ AB 1522/ SB 103 (Thomson/Speier) – These two bills were the hotly-contested continuity of care bills from last year. Originally they would have required a provider organization to continue to provide healthcare services to patients for one year if a contract is not renewed with a health care service plan. Now the bills simply say that continuity of care must be provided for patients. CADP does not believe inclusion of dental plans in the continuity of care discussion is warranted. In late June, the bills were resurrected and sent to conference. A meeting of all the

interested parties had been set by the Health Committee Chair on June 27; however, it was cancelled and is not yet rescheduled.

▶ SB 1461 (Speier) – This bill is another attempt to regulate discount programs. The legislation has gone through substantial amendment and now refers to those businesses selling discount programs as “discount clubs.” This is a long and complex bill; it remains controversial and, because of concerns about it, won’t be heard until August. Knox-Keene plans remain specifically exempted, which is the intent of the author. An additional wrinkle: Senator Speier has indicated that she is willing to drop the bill if firm regulatory and policing practices get too watered down.

CADP was opposed to earlier versions, unless they included Knox-Keene discount programs in the bill. However, as the bill becomes more and more burdensome and the Attorney General’s role is established, we are re-thinking this position. As drafted, major provisions include the following:

- Clubs would be required to register with the Attorney General’s office and submit their advertising and marketing materials for review. The Attorney General’s office would be given various rights and powers to regulate the clubs. It would require the Attorney General to create an Office of Medical Discount Clubs, staff a toll-free telephone number to provide information, and receive complaints about medical discount clubs.
- Clubs would be required to disclose, in their advertising and marketing materials, the Medicare rate of reimbursement for the discounted product or service, if applicable.
- For products and services where Medicare rates are not available, clubs would be required to disclose,

in their advertising and marketing materials, the average amount received by providers for those products or services. The average amount would be determined by the Attorney General’s office through surveys.

- Clubs would be required to contract for an audit of their own business at least once every two years, conducted at random. The audit would be available to the Attorney General’s office.
- Clubs would be required to maintain an escrow account for refunds, with consumers entitled to refunds under specified circumstances.
- Clubs would be required to enter into written contracts with providers, with numerous terms specified in statute.
- Clubs’ enrollment materials would be required to contain various disclosures.
- Clubs’ advertising and marketing materials would be required to contain certain disclosures, and certain statements would be prohibited in those materials.
- Clubs would be required to maintain a record of all consumer complaints, written and oral, with access to that data available to the public.
- Clubs would be required to maintain a toll-free telephone number for members, which would also be available for members to submit complaints.
- Clubs would be required to pay an annual unspecified fee.
- It would permit any person to bring an action against a club, or a provider who has entered into a club agreement, to enjoin any ongoing act that is in violation of the bill’s provisions.
- For violations of the bill’s provisions, clubs would be subject to treble actual damages, civil penalties for misleading statements, and punitive

damages for willful or intentional violations.

- It would permit the Attorney General, with or without notice, to audit any provider that has entered into an agreement with a club, and would require the provider be deemed to consent to such audit.
- It would permit the Attorney General to impose administrative penalties for violations of this bill in the same manner as authorized by certain provisions of the Knox-Keene Act.
- Provisions would sunset January 2, 2008.

According to industry sources, more than 45 companies have enrolled as many as 12 million uninsured and underinsured Californians in discount programs. Senator Speier introduced the bill in order to provide regulation to this rapidly expanding segment of the health care system. Other states which have sought to authorize plans to offer discount programs are Georgia, Illinois, Indiana, Kentucky and Texas.

If you believe that because of its current provisions, this measure should address only “stand-alone” programs or you have other concerns regarding this bill, please let us know.

▶ AB 2907 (Thomson/Cohen and others) – This bill is sponsored by the California Medical Association. As discussed during the Annual Business Meeting, this bill was introduced as a result of the Governor’s announcement in a speech that he supported a “Doctors’ Bill of Rights.” Unfortunately it has now been amended to create a “Providers’ Bill of Rights” covering licensed professionals, including dentists.

The author believes that this bill is necessary to insure that providers are

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## Legislative Update

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treated fairly in their contractual relations with HMOs. The author notes that many in the medical community argue there is an imbalance in negotiating power that has resulted in provider contracts that do not meet the fair and reasonable standard in existing law. The bill explicitly sets out provisions of contracts that are unfair and that would violate existing law and makes it clear that it is unfair for providers to be forced to sign contracts that allow health plans to unilaterally change the contract terms. The authors and sponsors are negotiating with the Administration; we expect amendments to this bill when it is heard in Senate Appropriations, most likely in August.

▶ SB 1955 (Figueroa and others) – This bill essentially regulates the Medical Board of California, but includes provisions relative to the Dental Board of California, as well. It declares legislative intent to codify the scope of practice of dental hygienists and to create an independent board that would regulate their practice (specifics of the anticipated scope is outlined in another bill recently amended, SB 2022).

SB 1955 would also change the circumstances under which certain explanatory fact sheets must be given to patients. Specifically, it would revise a provision of law which exempts certain dental tools from a requirement that the Dental Board of California develop and distribute a fact sheet on restorative materials, by specifying that the restorative materials fact sheet requirements do not apply to surgical, endodontic, periodontic, or orthodontic dental procedures in which dental restorative materials are used. It would also revise the definition of "dental restorative materials," to mean any structure or device placed into a patient's mouth with the intent that it remain there for an indefinite period beyond completion of the dental procedure, including

material used for filling cavities in, or rebuilding or repairing the organic structure of, a tooth, but excluding synthesized structures or devices intended to wholly replace an extracted tooth, such as implants.

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.

### Thanks to our 13th Annual Conference sponsors and exhibitors! Once again, the meeting was highly successful!

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# CADP Elects New Board Members at Annual Meeting; Board Elects Staff Model Representative

During the Annual Business Meeting which took place on May 8, CADP delegates elected or re-elected four members to three-year terms on the Board of Directors: Jeff Album, Delta Dental Plan of California; John Gaebel, DDS, Pacific Union Dental; Lee J. Harris, DDS, Harris Dental Solutions; and Ronald E. Inge, DDS, PMI Dental Health Plan. They join holdover board members Susan Klarner, Health Net Dental & Vision; Len Matuszak, United Concordia Dental Plans of California; Candee Bolyog, Managed Dental Care of California/The Guardian; D.E. FitzGerald, DDS, WellPoint Dental Services; and Bryan Geremia, Aetna Dental Care of California Inc.

During the Board of Directors' meeting following the Annual Meeting, Susan Klarner and Len Matuszak were re-elected to one-year terms as Vice President and Secretary-Treasurer, respectively. Dr. Lee Harris remains as Presi-

dent, a two-year term. Also during the meeting, the Board determined that the make-up of the Board did not fully reflect the make-up of the membership at large; as a result, it voted to revise the Bylaws to allow the Board to add a board seat to allow for appropriate representation, as long as the maximum number of positions allowed by the Bylaws is not exceeded (the maximum number is currently 11). Following the meeting, nominations were solicited for election of a staff model plan representative; Steve Bilt of Newport Dental Plan and Sam Gruenbaum of Western Dental Services formally indicated their interest. Subsequently, the Board voted to elect Sam Gruenbaum of Western Dental Services to a three-year position.



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