



President's Report

by Lee J. Harris, DDS

First and most important, I would like to extend my deepest sympathies not only to the families of those who were victims of the September 11 terrorist attacks but to any others who may have been affected by these tragic events. As with the nation, CADP and its members will recover, though we will never forget these devastating events which have affected each and every one of us. In the upcoming year, we will push ahead with our planned projects and programs.

During the summer, the CADP Board of Directors met to chart the course of the Association for the next several years. CADP has matured into an association focused primarily on the legislative and regulatory issues facing our industry. That narrow focus keeps our Board of Directors, lobbyists, executive director, dental directors and other volunteers continually challenged and energized.

Additionally, with our industry in a consolidation and minimal growth period, it is projected that the association revenues will remain flat.

With these realities in mind, the CADP Board made significant enhancements to our strategic plan. Modifications to the plan centered on those initiatives that support our primary focus. In this report, I hope to share some of these initiatives with you.

CADP has established three (3) major initiatives for our 2001-2002 Strategic Plan:

- 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.

Careful examination of these initiatives, and the objectives that support them, reveals that overall, they are in alignment with the Association's primary focus. To illustrate, some of the supporting objectives are:

- Establish areas where the Association is identified as a primary source of information and communication. This involves promotion of our industry through public relations, our website, and other communications vehicles.

- Maximize CADP's influence on the regulatory process and assist member plan compliance. This objective includes, in addition to our annual legislative and regulatory conference and regular updates, outreach to other lobbyists and the California Association of Health Plans, to highlight the issues that particularly affect specialized plans.

- Develop opportunities to harness member resources to improve quality management systems. This objective is very important to our Association's collaborative efforts with others in the dental industry including CDA, NCQA, and others. More importantly, it will expand the role of our strong group of Dental Director leaders.

These initiatives and objectives are only a glimpse at CADP's Strategic Plan, and are a complement to the legislative and regulatory activities that are our daily staple.

To maintain CADP's diligence to its core goals and limited resources, some hard choices are ahead. CADP's progress can succeed only with the hard work of all our volunteers. Thank you for your continued support. The Board, Executive Director and I look forward to a very productive and rewarding year ahead.

What's Inside

Legislative Update

Page 2

DMHC Update

Page 3

In the News

Page 4

Dots and Dashes

Page 5



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

▶ The first half of the 2000-2002 legislative session turned out to be three sessions, and before today, could have been four! Not only was the regular session gaveled into existence last December but two additional “emergency” sessions running concurrently with the general session were also created over the first half of the year. Each session had its own set of bills; different colored paper was used by the state printer for each session, helping the lobbyist corps identify which bills went with what. Unfortunately, each session started with the same number (negating the helpful impact of the different colors). The bills for special sessions were all “X-rated,” marked with one X for the first and XX for the second, while the general session simply used plain numbers. We had to keep track of AB 1, SB 1, AB 1X, SB 1X, AB1 XX, etc., etc. As you can imagine, for many, many reasons, lobbyists and legislative staff members were greatly relieved to see Southern California Edison bravely take on its own debt repayment obligations without the help of the California taxpayer, thus avoiding the third special (XXX) session that was set to begin on October 9.

As we await the Governor’s action on the hundreds of bills still on his desk, legislators are setting quite a few interim hearings. Controversial subjects and bills often are sent to interim study to give legislators more information and more time to consider their options. Hearings that are of interest to the health plans include the following as of this writing:

- Thursday, October 18 - Mental Health Parity Implementation
- Tuesday, October 23 - Nursing Shortage in California
- Tuesday, October 30 - Continuity of Care (AB 1522 Thomson, SB 103 Speier)
- Tuesday, November 13 - Health Care Service Plans (AB 1600 Keeley)

These dates are tentative; we will update you as things change. Jackie Miller is arranging for witnesses and is providing data to the committee on behalf of CADP for the hear-

ings currently scheduled on Continuity of Care and AB 1600. Call her at the CADP Sacramento office if you are interested in participating.

The majority of the bills listed below have been sent to the Governor but others await additional hearings at the beginning of the second year of the legislative session in January. Only bills that have passed their house of origin survive, but to complete the process, they must be heard by January 25, 2002. The remaining bills introduced this year have died; however, many will be reintroduced by tenacious authors, starting the whole process over again.

▶ **AB 1600 (Keeley)**— AB 1600, a CMA-sponsored bill, was held by the author on the final day of the session and is a two-year bill. As you know, CADP opposed this measure, which has been a source of extreme controversy between health plans and physicians. In its current form, AB 1600 would allow physicians, other health care providers, and patients a private right of action to sue health plans for violations or threatened violations of the Knox-Keene Act, if the Department of Managed Health Care (DMHC) does not act on the complaint. The Department has taken an Oppose unless Amended position on the bill. The scheduled interim hearing should produce a lively debate between plans and providers.

▶ **AB 1522 (Thomson), SB 103 (Speier)**— These two measures, dealing with the topic of continuity of care, also became two-year bills during the final week of the session after a great deal of work by CADP representatives. Proposed amendments were controversial and came so late in the session that both authors agreed to carry them over to 2002. These bills are the focus of one of the interim hearings mentioned above.

▶ **SB 686 (Ortiz)**— During the waning days of the legislative session, the Joint Legislative Audit Committee unanimously approved a request by Senators Deborah Ortiz (author of SB 686) and Jackie Speier (Chair, Insurance Committee), and Assembly Member Helen Thomson (Chair, Health Com-

mittee) that the Bureau of State Audits study the fee assessment structure of the Department of Managed Health Care. SB 686 is intended to serve as the vehicle to carry out the audit recommendations or recommend changes to the existing assessment structure. The audit should result in fee assessments that more closely reflect the level of regulatory costs associated with oversight of the plans and ensure adequate funding for the department to meet its statutory responsibilities. We are requesting that the study be completed by May 2002.

▶ **AB 1428 (Aanestad)**— This bill would authorize the Dental Board of California to issue licenses by reciprocity to applicants who satisfy specified requirements. Status: sent to the Governor.

▶ **SB 26 (Figueroa)**— Among other provisions, this measure would require the Director of Consumer Affairs to appoint an enforcement monitor to monitor and evaluate the dental disciplinary system of the Dental Board of California. It would also require the Department and the Joint Legislative Sunset Review Committee to review the scope of practice of dental auxiliaries and report to the Legislature by September 2002. Status: sent to the Governor.

▶ **SB 134 (Figueroa), AB 447 (Firebaugh)**— Among other provisions related to the practice of dentistry, SB 134 would dissolve the current Dental Board of California and reconstitute it effective January 1, 2002. Senator Figueroa introduced this legislation in light of actions taken by the Board subsequent to its negative review by the Joint Legislative Sunset Review Committee. AB 447 (Firebaugh) is a companion bill regarding the makeup of the Board’s dentist appointees. Status: signed by the Governor.

▶ **SB 826 (Margett)**— This measure would allow the Director of Consumer Affairs to designate additional peace officers for assignment to the Dental Board as well as a study of the need for the Board to use sworn peace officers in its investigations unit. Status: sent to the Governor.

continued on page 5

DMHC Update

▶ **Consumer Discount Health Care Service Program Regulations**—In July, Mary Antoine of Nossaman, Guthner, Knox & Elliott wrote to the Department on behalf of CADP, stating that the proposed regulations placed an “unfair, undue, and most likely unconstitutional burden” on licensed plans. CADP President Lee J. Harris, DDS, testified at the July 18 Regulatory, Implementation and Structure Subcommittee meeting reiterating CADP’s position that “stand-alone” and discount programs offered by health plans should be treated equally and that a legislative solution appeared to be the most satisfactory one, in light of the Director’s recent opinion that the Department has no authority over “stand-alone” discount programs.

Although the Department has not formally responded to the correspondence, their most recent revised draft significantly narrowed the scope of the regulations. First, the definition of “provider” has been modified to mean “any person or entity that provides health care services or products to members of the discount program but who is not required to be licensed pursuant to Division 2 of the Business and Professions Code (change underlined). Second, language has been added specifying that the regulations are not intended to supercede current law, including but not limited to Business & Professions Code Section 650 and Health & Safety Code Section 445 (these codes refer to a prohibition of for-profit referrals or discounts to individuals licensed pursuant to Division 2 of the Business and Professions Code.)

In other words, the proposed regulations would now apply only to discount programs which offer services for which licensure is not required. Examples of such services include massage therapy, yoga, stress management, vitamins and nutritional supplements, spa/fitness clubs, etc.

Although the Department indicated its intent to submit the regulations to the Office of Administrative Law, as a result of questions raised concerning the need for the regulations, this action may be delayed. In addition, some are suggesting that the regulations be rescinded. CADP will be involved in any discussions in this regard.

▶ **DMHC Releases Revised Independent Medical Review/Grievance Regulations**—The Department of Managed Health Care has released amended regulations regarding a plan’s grievance system and independent review of disputed health care services. A copy of the regulation, including the notice, proposed text, and statement of reasons, is available at:

Notice of Proposed Action:

<http://www.dmhc.ca.gov/library/regulations/proposed/ls0300/notice.pdf>

Proposed Text:

<http://www.dmhc.ca.gov/library/regulations/proposed/ls0300/text.pdf>

Initial Statement of Reasons:

<http://www.dmhc.ca.gov/library/regulations/proposed/ls0300/reasons.pdf>

Comments are due to the DMHC on or before 5:00 p.m. on Monday, November 12, 2001, as outlined in the Notice of Proposed Rulemaking. As indicated during the September 25 meeting of the Regulatory Implementation and Structure Subcommittee, the Department intends to hold a public hearing for public comment; however, it has not yet been scheduled.

▶ **DMHC Policy Committee**—The Department has created a new Policy Committee, intended to provide greater continuity and consistency. This committee, which is internal to the Department, will be co-chaired by Joy Higa, Deputy Director for Plan and Provider Relations, and Jim Tucker, Chief Deputy Director. Other committee members include Lew Chartrand, Office of Legal Services; Jack Toney, Office of Health Plan Oversight; Joan Cavanaugh, Office of Health Plan Oversight; and Bobbie Reagan, HMO Help Center.

▶ **DMHC Enforcement Activities on Increase**—The Department of Managed Health Care has increased its enforcement activities in recent months. It recently seized two companies, Los-Angeles based Maxicare and Long-Beach based Tower Health, both of which could be dissolved by the end of the year and their enrollees transferred to other plans. It also took action against Watts-based UHP Healthcare.



Welcome New Members!

BCE Emergis (Associate)

Jacob Pai, DDS (Individual)

James Loos, DDS (Individual)

Mark the Dates!

November 13, 2001

Quality Management Committee meeting, Delta Dental, San Francisco

November 14, 2001

Board of Directors’ meeting, Delta Dental, San Francisco

Legislative Conference

January 22-23, 2002

Hyatt Regency Sacramento



Lower Room Rates than ‘01!

March 19, 2002

Quality Management Committee meeting, location TBA

March 20, 2002

Board of Directors’ meeting, location TBA

Annual Conference

“Getting Back to Basics”

May 8-11, 2002

Renaissance Esmeralda Resort
Indian Wells



Lower Room Rates than ‘01!

In the News

▶ **HMO Report Card Released**— The Office of Patient Advocate, in conjunction with the Department of Managed Health Care, has released the first HMO report card. Available on the DMHC website and in several languages, 14 health plans were rated in the initial program. Plans were rated on the following: Staying Healthy, Getting Better, Living with Illness, Doctor Communication and Service, and Plan Service. All ranged from Fair to Good. To view the report card, go to www.dmhc.ca.gov.

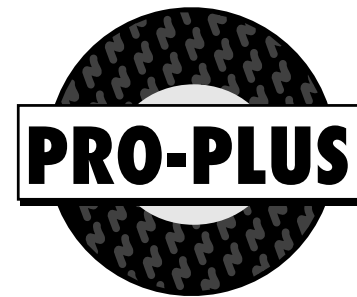
▶ **State Budget Revisions a Possibility**— When he announced the creation of a bipartisan task force to examine the impact of the September 11 terrorist attacks on the state's public safety and economic well-being, Assembly Speaker Robert Hertzberg (D-Sherman Oaks) acknowledged that depending on the panel's findings, lawmakers may need to revise the state's spending plan for the current fiscal year. This, added to the financial uncertainties brought on by the energy crisis, has created some gloomy cost estimates, with some predicting that the state could face a \$9-\$10 billion shortfall in the 2002-2003 fiscal year.

▶ **Gallegos New Patient Advocate**—Former Assembly Member Martin Gallegos, DC, was recently appointed Patient Advocate for the Business, Transportation and Housing Agency. The Office of Patient Advocate works closely with the Department of Managed Health Care in the development of the HMO report card. The office is also responsible for planning, organizing and implementing the Gallegos-Rosenthal Patient Advocate Program to ensure that enrollees secure health care services to which they are entitled. Gallegos is a former chair of the Assembly Health Committee and authored the legislation establishing the Department of Managed Health Care.

▶ **CMA Wins First Round in Suit Against DMHC**— The California Medical Association has won the first round of a lawsuit against the Department of Managed Health Care (DMHC) for its planned October 1 release of physician groups' financial data. The CMA sued to block the release of such data until a judge decides how much financial information should be made public. According to the CMA, releasing that data would expose medical groups to greater risk of insolvency by giving health plans an unfair advantage in contract negotiations. The Department argued that disclosing the records would give patients and doctors an early warning when a medical group is near bankruptcy. Sacramento Superior Court Judge Gail Ohanesian allowed the Department to continue gathering data but temporarily barred the release of detailed financial information.

▶ **OAL Request for Determination of DMHC Policy**— The Office of Administrative Law (OAL) has received a request to determine whether an "alleged policy" of the Department of Managed Health Care (DMHC) meets the definition of 'regulation' under the Government Code. Filed by Modesto attorney Mary Lynn Belsher, the challenged rule is the "alleged policy of the Department that California health care providers who undertake to arrange for the provision of health care services within the scope of their licenses as health care providers to subscribers or enrollees, or to pay for or to

reimburse any part of the cost for those services, in return for a pre-paid or periodic charge paid by or on behalf of the subscribers or enrollees, and who receive such prepayment or periodic payment from a health care service plan which is licensed to contract for such services, are themselves exempt from the licensing requirement of Health and Safety Code sections 1349 and 1353." Copies of the request may be obtained by contacting Melvin Fong, Office of Administrative Law, 555 Capitol Mall, Suite 1290, Sacramento, CA 95814-4602; (916) 324-7952; e-mail address mfong@aol.ca.gov.



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Dots and Dashes

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

Although the term “sea change” may be overused and overworked, it is hard to imagine a better term for the latest meeting of the CADP Quality Assurance Committee/Dental Directors meeting. The newly christened “Quality Management Committee” listened attentively as I explained the direction of the Board’s new strategy: greater involvement, broader base, national scope.

Four new sub-committees were organized:

- Data Collection
- CDA/Council on Dental Care Liaison
- NCQA Liaison
- AAP/AAO/AAOMS Liaison

The intent of all this is to form collaborative projects to meet common requirements: HIPAA, state licensing mandates, regulatory requirements for organizations other than third-party payers, and opportunities for payers to proactively prepare for oncoming mandates.

The encouraging point is that five or more representatives volunteered for each of the committees. The fact that several of those volunteered were plan representatives not in attendance that day spoke more to the authority of the Directors and their knowledge of available resources than to an effort to avoid commitment. CADP welcomes the breadth of new activity.

Let me briefly outline expected product deliverables:

- Collection of aggregate data to support meaningful outcome analysis components and meaning-

ful utilization review of dental procedures and to justify whether certain mandated requirements for dental are necessary.

- Common audit criteria, standards, tools and sequence for plans and dentists in the state, resulting in common audits: a legislative requirement.
- UR dental-specific standards, which may be available for plans to adopt and/or accept as credentialing standards and licensing criteria.
- Preparation for plans to meet EDI standards for specialty services that will meet HIPAA requirements. Also, opportunities to collaborate with the recognized specialties to provide the ADA with mutually acceptable codes for services provided.
- Collaboration with CDA and its Council on Dental Care on issues of mutual concern.

Aetna, Care 1st, CIGNA, Delta, DentiCare, MDC, PacifiCare, PacificUnion, PMI, and WellPoint have all volunteered for first level commitment. The remaining member plans have indicated they are available as needed. Nothing in my experience has been more solidly embraced than this project. CADP applauds the support of our member plans.

But this is just the start. We envision that within the next 12 months, with little or no additional financial commitment from our membership, we will benefit from a truly collaborative effort to share in the things we should share in, and compete in the areas where our differences are meaningful to our members.

▶ **SB 168 (Bowen)**— Among its provisions, SB 168 would limit the use of social security numbers as identifiers. Those provisions relevant to health care service plans are phased in over several years.

- January 1, 2003 - health plans must comply with most of the provisions of the law as they relate to individual policyholders.
- January 1, 2004 - health plans must comply with all the provisions as they relate to individual policyholders and new employer groups.
- July 1, 2004 - health plans must comply with all the provisions as they relate to Healthy Families and Medi-Cal programs, and all policyholders, except that individual and employer group policyholders in existence prior to January 1, 2004, shall comply upon their renewal date, but no later than July 1, 2005.

It requires that a health plan NOT:

- Publicly post or publicly display to the general public an individual’s social security number.
- Print an individual’s social security number on any card required for the individual to access products or services.
- Require an individual to transmit his/her social security number over the Internet unless the connection is secure or the number is encrypted.
- Require an individual to transmit his/her social security number to access an Internet web site, unless a password or PIN is required to access the web site.
- Print a social security number on any materials that are mailed to the individual unless state or federal law requires the health plan to do so. However, applications and forms sent by mail may include social security numbers.

Given the legislative and public attention to issues of privacy, this is probably the least onerous provision we could achieve. The Legislature also created a new section within the Department of Consumer Affairs devoted to privacy and identity theft issues. Privacy will remain an important concern until Californians feel that their records and identities are protected.

If you have any questions, please feel free to contact Jackie Miller at the CADP administrative office.

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