

California Association of

Dental Plans

LEGISLATIVE REPORT

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Jo-Linda Thompson

of

**NOSSAMAN, GUTHNER, KNOX
& ELLIOTT, LLP**

The 2000-2002 legislative session turned out to be three sessions and could have been four concurrent legislative sessions. Not only was the regular session gaveled into existence last December but two additional "emergency" sessions running 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, the general session simply stayed with 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, all of the lobbyists and legislative staff members were greatly relieved to see Southern California Edison bravely take on it's 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.

While the Governor completed action on the hundreds of bills that went to 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 hearings currently scheduled on Continuity of Care and AB 1600. Call her at the CADP Sacramento office if you are interested in participating.

PENDING LEGISLATION

The majority of the bills listed below were 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 come out of their house of origin and made it into the second house survive, but to complete the process, they must be heard by January 25, 2002. The remaining bills introduced this year have died, however, many of them will be re-introduced by tenacious authors, starting their whole process over.

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 opposes this bill, 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 does not act on the complaint. The Department of Managed Health Care (DMHC) 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 measures 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 Committee) 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: signed by the Governor.

SB 26 (Figueroa)-- Among other provisions, this measure would require the Director of Consumer Affairs to appoint dental board 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: signed by 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 is a companion measure regarding the makeup of the Board's dentist appointees. Status: both measures signed by the Governor.

SB 826 (Margett)-- This bill 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: signed by the Governor.

SB 168 (Bowen)-- Among its provisions, SB 168 would limit the use of social security numbers as identifiers. Status: signed by the Governor.

The following provisions of SB 168 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 health plan NOT:

- Publicly post or publicly display to the general public an individual's SS#.
- Print an individual's SS# on any card required for the individual to access products or services.
- Require an individual to transmit his/her SS# over the Internet unless the connection is secure or the number is encrypted.
- Require an individual to transmit his/her SS# to access an Internet web site, unless a password or PIN is required to access the web site.
- Print a SS# 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 send by may include SS#s.

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 department

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.

DMHC UPDATE

Consumer Discount Health Care Service Program Regulations-- In July, Mary Antoine of Nossaman 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 44 (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 may be delayed. In addition, a suggestion has been raised that the regulations be rescinded. CADP will be involved in any discussions in this regard.

Independent Medical Review/Grievance Regulations-- The Department has forwarded the regulatory package to the Office of Administrative Law. As part of the official rulemaking process, a 45-day comment period commences upon formal publication, which began September 28. A public hearing is anticipated, as well. The proposed regulations are available on the Department's website, at www.dmhc.ca.gov.

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.

If you have any questions, please feel free to contact Jackie Miller at CADP in Sacramento.