

ADA Council on Governmental Affairs (CGA) Report to NYSDA CGA
April 17, 2023

1. I have served as the ADA 2nd Trustee District Representative to the ADA CGA since 2019 (4-year term which will extend through to the ADA HOD 10/2023). The Council held an in-person meeting on 7/21-23/2022 at the ADA Washington D.C. Office. Meeting minutes are attached. If you have any questions regarding any of the minutes or below topics, I will do my best to answer or definitely find the answer for you, if I am unsure. The next in-person meeting for the ADA CGA Council is scheduled for 7/19-21/2023 in Washington, DC. It will be my last.
2. The Work Groups (WG) on the ADA CGA Council for 2023 are:
 - Private insurance advocacy, which is discussing ERISA, McCarran Ferguson reform, and medical loss ratio (MLR).
 - Public insurance advocacy, which is discussing Medicaid and Medicare.
 - Federal dental services, which is discussing issues affecting the active-duty military, reserve/guard, Public Health Service, and the VA.
 - Policy review, which reviews ADA policy and makes recommendations on retaining, rescinding, or amending the policies.
3. I currently chair the federal Dental Services Working Group (WG) within the CGA. This working group is currently working on:
 - a. New ADA veteran's policy regarding VA dental care access. A resolution developed by this Working Group was recently passed at the ADA HOD that attempted to recommend dedicated funding to VA Dental specifically. A letter that was sent to Congress on 3/27/2023 requesting additional funding and resources for VA Dentistry. This letter implements the new VA policy this workgroup put together last year. The letter requests:
 - \$1.25 billion for VA Dentistry, \$50 million above the FY 2023 level.
 - That Congress direct the VA not to allocate this money elsewhere within the agency
 - That the Assistant Under Secretary for Health for Dentistry be at the same executive level as other Assistant Under Secretaries at the VA, and reports directly to the Under Secretary
 - b. The VA Pilot Project (VETSmile) through the Center for Care and Payment Innovation looking to address the unmet dental needs of veterans that are ineligible for care through the VA system. There have been recent changes to the program and the program has undergone an internal review and modifications in their treatment model. The program was modified from a referral to a pro-bono model.
 - c. Guard/Reserve Panel established to look into issues affecting activated and deployed reservists. The WG hopes to construct a reference guide which will be a go-to information center to provided activated reservist's information regarding rights and benefits established by ADA and component policies, as well as federal and state laws currently in place. This effort will hopefully involve other ADA Councils, Committees and Staff. The goal as of now is to republish and modify the ADA's Federal Dental Services Roadmap originally published in 2011.

4. The ADA Dentist and Student Lobby Day was held in Washington March 5-7, 2023. Over 700 people attended and participated in 325 meetings with Congressional offices. The dentists and students lobbied on the following issues:
- ADA 101: A general introduction to the ADA and dentistry for the more than half of Congress that is new in office since the last full in-person Lobby Day.
 - The Dental and Optometric Care Access (DOC Access) Act: A bill that would prohibit dental and vision plans from setting the fees network doctors may charge for services not covered by insurers.
 - The Medicaid Dental Benefit Act: A bill that would require all states to provide comprehensive adult Medicaid dental benefits.
 - The Strengthening Medicaid Incentives for Licensees Enrolled in Dental (SMILED) Act: A bill that would reduce administrative burdens for Medicaid dentists, including credentialing and audits.
 - The Resident Education Deferred Interest (REDI) Act: A bill that would allow medical and dental residents to defer payments on their federal student loans—and delay the point at which interest begins to accrue—until after completing their residency.

Due to the advocacy by dentists and dental students, the DOC Access, SMILED, and REDI bills were introduced in Congress shortly after Lobby Day.

5. The Medication Access and Training Expansion (MATE) Act includes a new requirement for controlled substance prescribers to complete 8 hours of one-time training on safe controlled substance prescribing as a condition of receiving or renewing a DEA registration. The DEA sent a Mar. 27 email notifying prescribers of the new requirement. The ADA updated our FAQ document to comport with the information from the DEA. This is a living document, so the ADA suggests that members obtain it from our website in lieu of circulating outdated versions as email attachments. The ADA is updating their web page with links to the training. The ADA is seeking clarification from DEA about some of the training that qualifies. Originally the MATE Act's provisions were originally even more strict. The ADA worked to advocate before Congress so that these provisions would be less burdensome.
6. Centers for Medicare and Medicaid Services (CMS) recently established a new code (G0330) to help increase access to dental surgeries in hospital operating rooms. The final Medicare Calendar Year 2023 Hospital Outpatient Prospective Payment System (OPPS) rule was formally published in the Federal Register on November 23, 2022. The OPPS rule addresses payment policies and coding for dental services provided under general anesthesia in hospitals. This facility payment rate is much higher and far more appropriate than what was used in the past.
- As NYSDA's Representative to the ADA's Council on Governmental Affairs, I shared this information with my colleagues who performs the majority of Special Care Dentistry in Western New York. They have difficulty scheduling these cases based on a lack of prioritization due primarily to the low reimbursement rate. This established increase should have helped with this access issue. However, I have been informed that the NYS Department of Health has not implemented this increase. This is due to what has been explained to me, "about the way APG, the system for payment for NYS Article 28 facilities through Medicaid, translated the fee and brought it down to less than \$100 and NYS felt it was not worth it."

My colleagues have been in contact with NYSDA Director of GA, Briana McNamee, Betsy Bray and Jacqueline Donnelly regarding this issue. This should be a difference maker for

facilities, providers and most importantly the patients and families affected by this problem and access to care issue.

Briana McNamee's most recent actions involved a discussion on 3/22/2023 with several representatives from the NYS DOH. They were unaware of the new code (G0330). Following the meeting, background and timeline information was provided to the meeting attendees. She plans to continue to follow-up and provide updates as they are received.

7. I have been appointed to serve on President George Shepley's inaugural "Give Vets a Smile" (GVAS) National Advisory Committee. We held our first meeting virtually on 4/11/2023.

8. Other CGA activities:

Dental Workforce

- The ADA submitted testimony to the Senate Health, Education, Labor, and Pensions Committee's hearing on the health care workforce shortages. The ADA's comments focused on the dental team, including assistants and hygienists; student debt; diversity; and underserved areas.
- The ADA also led an Organized Dentistry Coalition (ODC) letter in response to the Committee's request for information (RFI) on the same topic.

National Health Service Corps

- The ADA endorsed the introduction of the Restoring America's Health Care Workforce and Readiness Act, which would provide historic funding increases to the National Health Service Corps' scholarship and loan repayment programs.

TRICARE

- The ADA worked with the American Academy of Pediatric Dentistry (AAPD), as well as military and veterans organizations, to write to the leaders of the House and Senate Armed Services Committees regarding the groups' concerns about the TRICARE dental contract with United Concordia.
- Congress responded in the 2023 National Defense Authorization Act by requiring functions such as enrollment, eligibility, and premium payment processing to be handled by a third-party administrator, and ensuring that beneficiaries have three dental insurance enrollment options from several carriers. These improvements are intended to address the problems identified by the ADA with provider network adequacy, delayed payments, and lack of access.

Military Spouse Licensing Relief Act

- The ADA supported the Military Spouse Licensing Relief Act, which gives military spouses with valid dental licenses in one state licensure reciprocity in the state where their spouse is serving.
- In January, the Military Spouse Licensing Relief Act became law as part of the Veterans Auto and Education Improvement Act.

Smoking/Vaping

- The ADA joined a coalition led by the Campaign for Tobacco-Free Kids in supporting legislation that would make Veterans Health Administration (VHA) facilities fully smoke-free.

Oral Health Literacy

- The ADA endorsed the reintroduction of the Oral Health Literacy and Awareness Act, which would establish an evidence-based educational campaign to promote oral health literacy among high-risk populations.
- The ADA also met with the Health Resources and Services Administration (HRSA) to discuss how the association can support and promote HRSA's oral health literacy campaign.

National Children's Dental Health Month

- The Congressional Oral Health Caucus sent a "Dear Colleagues" letter in support of National Children's Dental Health Month in February. The letter encouraged members of Congress to make children's oral health a priority.
- The letter also thanked ADA volunteers for their work to improve children's oral health.

World Oral Health Day

- The ADA wrote to Senator Ben Cardin (D-MD) to thank him for introducing a resolution in support of World Oral Health Day on March 20.

Medical Loss Ratios

- Following the victory on the Question 2 ballot measure in Massachusetts, the ADA wrote to the Centers for Medicare and Medicaid Services (CMS) to ask that the agency exercise its oversight responsibilities as they pertain to Medicaid managed care plans and MLR reporting.
- The President's budget included a proposal to require Medicaid and Children's Health Insurance Program (CHIP) managed care plans to meet a minimum MLR of 85 percent. The proposal would also require states to collect remittances from managed care plans if they fail to meet the MLR.

Medicare Advantage

- The ADA provided input to CMS on the agency's proposed regulation on Medicare Advantage (MA).
- The ADA recommended that CMS improve transparency standards in the marketing of MA plans to prevent misleading tactics and said that MA beneficiaries need and deserve more transparency.
- The CMS Administrator has said that increasing transparency in MA dental benefits is a top priority.

Essential Health Benefits

- The ADA and AAPD submitted comments to CMS on the Essential Health Benefits (EHB) RFI.
- The comments focused on the pediatric dental EHB, and supported CMS' efforts to streamline and make consumers' choices easier by differentiating between the plans and making the benefit descriptions easier to understand. They also urged CMS to close the regulatory loopholes that allow pediatric dental benefits to be regarded as optional for families with children.

Notice of Benefit and Payment Parameters

- The ADA and the AAPD submitted comments to CMS on the proposed rule on the Affordable Care Act's Notice of Benefit and Payment Parameters (NBPP) for 2024.
- The ADA and AAPD supported the NBPP's proposed new requirements for stand-alone dental plans, including on uniform age-rating and eligibility methodology, guaranteed rates, networks adequacy, and marketing transparency.

Surprise Billing

- The ADA advocated for CMS to provide clarification on how the requirements in the "No Surprises Act" affect dentists.
- In response, CMS provided more information on when dentists need to provide a good faith estimate to patients.

Online Reviews of Dental Practices

- In January, the ADA responded to a proposed regulation from the Federal Trade Commission (FTC) on deceptive online reviews.
- The ADA expressed concerns about social media reviews that may not be from actual patients of the dental practice or that may misrepresent the patient's experience with the dental practice. Dentists are often constrained from responding to these reviews due to federal and state privacy laws.
- The ADA urged the FTC to create an exception to enforcement and regulations under the FTC Act that would permit health care providers to disclose patient information in response to reviews.

Sugar and Nutrition

- The ADA supported a proposed regulation to reduce, but not entirely eliminate, the Women, Infant, and Children (WIC) program's reliance on juice as a nutrient delivery method.

Substance Use Disorder Records

- The ADA submitted comments to the Department of Health and Human Services (HHS) Office for Civil Rights on the proposed rulemaking on the confidentiality of substance use disorder patient records. HHS is proposing to align two different laws, the Health Insurance Portability and Accountability Act (HIPAA) and Part 2 of Title 42 of the Code of Federal Regulations.
- The ADA comments discussed how the confusing and sometimes conflicting requirements of these two laws affect dentistry, and asked HHS to minimize the burden on dentists.

Information Blocking

- In response to questions from dentist members and state dental associations on the information blocking regulations, the ADA hosted a webinar with the Office of the National Coordinator for Health Information Technology (ONC).

Interoperability and Prior Authorization Proposed Rule

- The ADA and AAPD submitted comments to CMS on the interoperability and prior authorization proposed rule. This letter requested that the agency take into account the differences between medical and dental practices when seeking to promote interoperability and streamline prior authorization.

Attachments Proposed Rule

- The ADA responded to the proposed regulation on health care electronic attachments. In its comments, the ADA asked that CMS recognize the crucial importance of adopting standards that are compatible with dentistry.

Respectfully Submitted,

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ADA CGA – 2nd Trustee District Representative
Chair Military Working Group