**NJDPAC Report**

By now all of you have received your dues statement from NJDA. Hopefully you have taken the time to renew. If not, please do so immediately, as your dues and your PAC contributions provide our profession with the ability to maintain the Profession of Dentistry as we know it; as opposed to what may happen if we loose control over it.

For those that ask, “What does PAC do for me?” I thought I would take a few moments and outline recent legislative affairs which impact on YOUR profession. In the course of my review I will mention the names of the legislators involved. While Jim Schulz and the PAC Board maintain outstanding relationships with these individuals, it is beneficial for you, the practicing clinical dentist, to reach out to these individuals, especially if you know them. They always hear from lobbyists. It’s about time they heard from YOU.

- A.4116/S.2935, legislation sponsored by Assemblymen Vincent Prieto/David Rible and Drs. Senators Jeff Van Drew and Joe Pennacchio, will allow NJ licensed dental hygienists to practice on patients of record without a dentist physically being present in the office (general supervision).

This bill provides that any person who has graduated from a school or college of dental hygiene approved by the Commission on Dental Accreditation of the American Dental Association and holds a current certification in Basic or Advanced Cardiac Life Support by an association approved by the New Jersey State Board of Dentistry may, subject to the supervision of a New Jersey licensed dentist, practice dental hygiene in an office in which general dentistry or any special areas of dentistry recognized by the board is regularly practiced, or in any appropriately equipped school, dental clinic, or institution, except that a New Jersey licensed dentist may, in his sole discretion, require direct supervision in his dental office.

Also, the bill mandates that each licensed dentist may provide supervision to no more than three licensed dental hygienists at one time.  Furthermore, the bill provides that a dental hygienist acting under supervision in a dental office or dental clinic may treat only patients who are existing patients of record.

As provided in the bill, the administration of local anesthesia, the monitoring of a patient administered nitrous oxide, and any other anesthetic procedures that may be designated by the New Jersey State Board of Dentistry, by regulation, shall be performed by a licensed dental hygienist only under direct supervision.

The bill stipulates that a licensed dental hygienist shall not perform any intra-oral service, other than administering preventive measures such as the application of fluorides, pit and fissure sealants as well as other recognized topical agents for the prevention of oral disease or associated discomfort and the detection of caries in a school setting, upon any living person who the dental hygienist reasonably believes has not received an examination by a duly licensed dentist within the immediately preceding 365-day period.  After performing an assessment, a dental hygienist acting under supervision who reasonably believes that a person has either dental caries or some other medical or dental condition requiring diagnosis or treatment by a dentist shall so inform in writing, within seven days, the dentist who is providing the supervision, except if it appears that emergent care is indicated, the dental hygienist shall immediately notify the supervising dentist.

In addition, the bill states that except as otherwise provided in various provisions of current law specified in the bill, no person other than a person duly authorized to practice dentistry in this State shall: (1) make any diagnosis or develop any treatment plan with respect to the dental condition or treatment of any living person in this State; (2) perform any surgical or irreversible procedure, including, but not limited to, the cutting of hard or soft tissue or the extraction of any tooth on any living person in this State; (3) either bill or submit a claim for any service rendered involving the practice of dentistry or dental hygiene in this State; or (4) receive payment for the performance of dental or dental hygienist services from any source other than an employer authorized by law to practice dentistry in this State or any dental clinic, institution, or employment agency that employs licensed dental hygienists to provide temporary dental hygiene services.

- A.3491/S.2577, sponsored by Assemblyman Herb Conaway and Senator Richard Codey, limits where certain cosmetic surgical procedures may be performed in New Jersey.  Specifically, the bill provides that a physician is to perform certain cosmetic procedures only in an office or facility that is accredited by the American Association for Accreditation of Ambulatory Surgery Facilities, the Accreditation Association for Ambulatory Health Care, or The Joint Commission.

The NJDA DGA won amendments to the legislation to clarify the provisions of the bill, which restrict the settings in which certain surgeries may be performed, by stipulating that they apply to an “aesthetic truncal” (rather than a “body”) contouring procedure.   The provisions of the bill are not to be construed to apply to a licensed dentist or dually licensed oral and maxillofacial surgeon practicing in this State as the language has now been made clear that the procedures are outside of the dental scope of practice.

This bill was an action initiated by the plastic surgeons against all “doctor” groups whom perform “cosmetic” surgeries.   The plastic surgeons acquiesced to the NJDA’s amendment demands as the bill’s initial focus was clearly aimed at the physician community and not dentistry.

- A.3646/S.1988, sponsored by Assemblyman Gordon Johnson and Vincent Prieto and Senators Paul Sarlo and Joe Kyrillos, phases out the cosmetic medical procedure gross receipts tax beginning July 1, 2011.

Under the bill, the 6 percent tax rate currently imposed on the gross receipts from cosmetic medical procedures is reduced by two percent per year over a three-year period:  (1) on or after July 1, 2011 but before July 1, 2012 the rate of tax imposed will be 4%, (2) on or after July 1, 2012 but before July 1, 2013 the rate of tax imposed will be 2%, and (3) on or after July 1, 2013 the rate of tax will be 0%.

Under current law, a cosmetic medical procedure is any medical procedure performed on an individual which is directed at improving the procedure subject’s appearance and which does not meaningfully promote the proper function of the body or prevent or treat illness or disease.  Examples of taxable procedures include cosmetic surgery, hair transplants, cosmetic injections (Botox), cosmetic soft tissue fillers, dermabrasion and chemical peel, laser hair removal, laser skin resurfacing, laser treatment of leg veins, sclerotherapy, and in office tooth whitening procedures.

The taxable impact on the dental community is less than $1 million annually.  For all procedures, the tax collects approximately $10 million annually – far less than the projected $26 million annually.  Tax collection and compliance on this matter has been problematic from the beginning.  The Division of Taxation has even indicated support for the elimination of it.  Two legislative sessions ago, the NJDA along with its strategic partner in this fight, the plastic surgeons, passed taxation elimination legislation only to have it vetoed by former Governor Jon Corzine.  This time, Governor Christie’s office has tacitly expressed support for the elimination of this tax.  It will be pushed during the Lame Duck session.

- S.2475, which is sponsored by Senator Linda Greenstein, would prohibit a health care provider from charging a patient a fee for rescheduling or canceling an appointment more than 24 hours in advance.  The bill also prohibits the imposition of any cancellation or rescheduling fees less than 24 hours in advance of an appointment, or failing to appear at a scheduled appointment, unless the patient was given notification at the time when the appointment was made that a fee would apply, and previously canceled or rescheduled an appointment for the same or a similar reason less than 24 hours in advance, or failed to appear at a scheduled appointment, on two previous occasions in the past six months.

 Further, the bill establishes a maximum fee of $25 that could be charged by the doctor for rescheduling, canceling, or failing to appear at a scheduled appointment. The bill carries a penalty provision for violating it of up to $500 for a first offense and up to $1,000 for a second and subsequent offenses.

While the NJDA understands the sponsor’s intention behind the legislation, we stand firmly opposed as drafted. At this time, the legislation has not advanced due to NJDA intervention, and we look forward to ensuring that any bill that may advance will not negatively impact our members’ ability to manage their practices as they see fit.

-S.2317/A.3404, sponsored by Senator Loretta Weinberg and Assemblywoman Valerie Huttle, which establishes the New Jersey Center for Oral Health at the New Jersey Dental School of the University of Medicine and Dentistry of New Jersey, is advancing through the New Jersey Legislature.

The bill provides that the center would:
     \* Develop and facilitate model public and private partnerships for oral health awareness campaigns to improve the access, acceptability and use of oral health services in this state;
     \* Serve as an information and resource center for specific oral health information and data concerning oral health and disseminate such data to interested parties;
     \* In consultation with the Commissioners of Education, Health and Senior Services, and Human Services, review, recommend, and develop appropriate oral health education materials and disseminate the materials to local school districts throughout the state;
     \* In collaboration with the Commissioners of Education and Health and Senior Services, other State agencies, and private organizations, provide assistance to Early Head Start and Head Start programs and local school districts to develop programs in Head Start programs and elementary and secondary schools that stress good nutrition, sound oral hygiene, healthy lifestyles, and the prevention of oral disease;
     \* Serve as an advocate for the adoption and implementation of effective measures to improve the oral health of this state and eliminate disparities among the various racial and ethnic populations of this state concerning access to high-quality oral health care, utilization of oral health care services, and oral health status;
     \* Develop recommendations for the most effective means of providing outreach to communities throughout the state to ensure their maximum participation in publicly-funded oral health programs;
     \* Seek to establish a statewide alliance with community-based agencies and organizations, health care facilities, oral health care provider organizations, and dental insurance companies to promote the objectives of the center;
     \* Evaluate oral health programs in other states to assess their efficacy and potential for replication in this state, and make recommendations regarding the adoption of such programs, as appropriate; and;
     \* Report to the Governor and Legislature annually on the work of the center and the status of oral health in the State.

     The bill’s Assembly sponsor, Valerie Huttle, went on the record to say, "This would be an extensive effort to promote oral health throughout our state.” "Oral health is a window to our overall health, so let's work together to make this a major step toward a healthier New Jersey."

If it was enacted, New Jersey would have become the 39th state with a similar office of oral health and, it would have reestablished that a dentist was the designated dental director in New Jersey. However, New Jersey would have become the first state to create such an entity in a dental school. This was a creative approach that could have enabled this entity to be developed with minimal economic impact to the state.

Unfortunately, Governor Christie Absolute Vetoed the legislation citing concerns about the future of UMDNJ – The State Dental School. However, he did laud the merits of the legislation and felt that it was good public policy to have an office of oral health in New Jersey.

- S.2035, sponsored by Senators Ron Rice (D-Essex) and Joe Vitale (D-Middlesex), provides a gross income tax deduction for the first $200,000 earned by certain new dentists and physicians in their first seven taxable years of practice in New Jersey.  This equates to a $16,000 gross income tax savings per new licensee. The bill does limit the dentists who are eligible for the deduction to those practicing as general dentists or pedodontists.

Recently, the Senate Health Committee unanimously passed the legislation. It is now before the Senate Budget and Appropriations Committee for further consideration.

The purpose of this bill is to encourage new dentists and physicians to begin their career and root in New Jersey so as to prevent shortages of dentists or physicians in the State and to ultimately realize the economic and healthcare benefits associated with the establishment of new dental and medical practices in our communities.

College loan debt and repayment top is a top issue among the NJDA’s newly practicing dentists. This legislation is an out-of-the-box attempt to assist those dentists with the financial challenges associated with new licensure. No state East of the Mississippi has a program similar to this. And, no state in the nation seeks to assist young dentists in this way. Elsewhere, it is limited to physicians.

- S.2218, sponsored by Senator Loretta Weinberg, which clarifies who can administer and monitor of general or regional anesthesia in hospitals and ambulatory surgical centers, has stalled because of concerns among some of the Senate Health Committee members.

The legislation was instigated by the NJ Society of Anesthesiologists as a reprisal to the New Jersey Department of Health and Senior Services proposed new regulations that would remove the physician supervision, which is currently required, for anesthesia delivered in a hospital setting.

New Jersey has proudly been recognized as having the nation’s strongest anesthesia regulations and our patient safety is unmatched. Fortunately, properly trained dentists also enjoy the right to administer anesthesia in hospital and ambulatory surgical centers independent of anesthesiologists.

Recently, the Board of Nursing changed the title of a certified registered nurse anesthetist (CRNA) to an Advanced Practice Nurse (APN).   That title change has prompted the CRNA/APN community to lobby the DHSS to change the hospital licensing standard regulations to permit independent practice by a CRNA/APN to deliver anesthesia.   If these regulations are adopted, a nurse can deliver anesthesia without a physician being present.

The anesthesiologists, the NJDA and the NJSOMS are concerned about this possible change too.

S.2218, however, as drafted, inadvertently omitted properly trained dentists from being able to administer anesthesia. Fortunately, the NJDA has worked with the bill sponsor and the Society to secure amendments to the legislation that would reinstate dentistry current privilege.

- A.3000/S.3000 - FY2010/2011 Budget, the State of New Jersey eliminated a separate budget line item under Medicaid for pediatric orthodontic services as a projected cost-savings measure of nearly $4 million.  However, the state did not eliminate the orthodontic benefit.  Instead, it imposed a new stricter scoring standard for patients to qualify.  New Jersey believed that with a stricter standard it imposed fewer cases would be approved thereby being able to be covered by the existing capitated fee given to the Medicaid HMOs for dental procedures.  The insurers disagreed.

As a result, Medicaid orthodontic services have virtually ceased in NJ, which is contrary to the state’s initial reduction charge.  The NJDA DGA has worked closely with its orthodontist members and the NJ Medicaid Office to ensure that the Medicaid HMOs actually cover the services required by the state.  After a year of work, it is now beginning to pay off.  Indications are such that the insurers are starting to approve cases for orthodontic services.

But we’re not done.  The NJDA DGA is working closely with Medicaid Division to reinstate the lost funds back into the state budget and trying to have mid-year budget revision to assist in covering these services.

- A.4185, sponsored by Assemblywomen Annette Quijano and Grace Spencer, stipulates that a health care professional who places, or causes to be placed, an advertisement for that health care professional’s services shall include in that advertisement the health care professional’s name, State-granted professional license type, and highest level of academic degree.

Additionally, the bill requires health care professionals, who provide information regarding health care services on an Internet website that is directly controlled or administered by that health care professional or that health care professional’s office personnel, to prominently display on that Internet website their name, type of license and highest level of academic degree.

The NJDA expressed concerns about the legislation as it may conflict with standards already set in place by the NJ State Board of Dentistry. The NJDA was able to halt the legislation from further action by the Legislature in order to prepare favorable amendments that would not change the current advertizing practices for NJ licensed dentists.

- A.3378/S.2583, sponsored by Assemblyman Gary Schaer and Senator Joe Vitale, which is designated the "Healthcare Transparency and Disclosure Act," makes various changes to the administration of health benefits plans, regarding: (1) out-of-network payment collection responsibilities by physicians and health care facilities under insured and self-funded health benefits plans; (2) certain consumer disclosures by physicians, health care facilities and health plan providers; and (3) eligibility for participation in health insurance plan networks.

The bill requires physicians and health care facilities delivering out-of-network services to make a good faith and timely effort to collect each covered person’s liability, including any deductible, copayment, or coinsurance owed by the covered person to the physician or health care facility pursuant to the terms of the covered person’s health benefits plan.  The bill provides that a good faith and timely effort to collect means three good faith attempts to collect.

The bill also requires the physician and facilities to retain and make available for inspection by the Department of Banking and Insurance, all records relating to any attempt to collect a covered person’s liability for at least seven years following the date on which the record is made.

The bill provides, however, that a physician or facility delivering out of network services may waive a covered person’s financial responsibility if: (1) the physician or facility determines that the covered person has a medical or financial hardship; and (2) such waivers are not granted routinely or excessively.  Under the bill, a medical hardship means that the covered person is unable to make payment due to a medical condition, physical or behavioral, that has left the covered person unable to make payment, or direct that payment be made, or has left the covered person unable to comprehend that payment is required.

The bill requires the physician or facility to notify the carrier or the entity providing a self-funded health benefits plan whenever the physician or facility waives a covered person’s financial responsibility and retain any records relating to such a decision in the patient’s record.

The bill allows a carrier or entity providing a self-funded health benefits plan, if the carrier or entity determines that a physician or facility has committed a pattern of violations of section 3 of the bill concerning waivers of payment by a covered person, to exempt the physician or facility from the provision of law which gives an out-of-network health care provider the right to receive payment for reimbursement directly through an assignment of benefits.  Under the bill, the carrier or entity is required to notify the physician or facility 30 days in advance of exempting the physician or facility and the exemption is not permitted to exceed a period of one year from the date of the notification.  The bill further provides that a determination imposing the exemption may not be made until six months after the effective date of this bill.

This bill requires providers of health benefits plans to establish and maintain a website to serve as an information clearinghouse for covered persons to obtain information to assist them in their health care needs.  A link to the website must be featured and prominently displayed on the back of each health benefits card issued to covered persons to ensure that they are aware of the website. Specifically, the bill requires the websites to have: (1) links to quality rankings that are produced, audited, and publicly reported by State and federal agencies for physicians, which rankings shall be provided in a manner to be prescribed by the Department of Banking and Insurance, in consultation with the State Board of Medical Examiners, the Division of Consumer Affairs, and the Department of Health and Senior Services; (2) for each health benefits plan offered in this State, a clear and understandable description of the plan’s out-of-network health care benefits, including a covered person’s financial responsibility for those benefits; and (3) any other information that the Department of Banking and Insurance determines is appropriate and necessary to ensure that covered persons receive sufficient information needed to make well-informed health care decisions. The bill also prescribes a minimum font size and location for each link featuring the information prescribed.

This bill requires physicians and health care facilities, when   scheduling an appointment with a covered person, to disclose whether the health care services are in-network or out-of-network with respect to that person’s health benefits plan and that there may be a financial responsibility of the covered person, including applicable deductibles, copayments and coinsurance.  The bill also requires the facility or physician, if providing out-of-network services, to provide to the covered person, in a clear and understandable manner and in the terms the covered person typically understands, the following: (1) a description of the procedure; (2) an estimate of the costs charged by the physician or facility for those services; and (3) a notice to contact their insurance carrier for further consultation on the costs of the procedure.

The NJDA worked tirelessly with the sponsor of the legislation to ensure minimal impact on dentistry with this legislation. The chronic education of legislators that “dental is different” was imperative during this massive insurance disclosure and oversight reform. Ultimately, the NJDA and its coalition partners halted the advancement of this legislation to ensure no net negative impact on dentistry.

- A.201, sponsored by Assemblyman Ralph Caputo, directs the Director of the Division of Consumer Affairs, in consultation with the New Jersey State Board of Dentistry and the Commissioner of Health and Senior Services, to develop an informational brochure that explains the potential advantages and disadvantages of using dental amalgam in dental procedures.

The bill also requires that the brochure explains what alternatives are available to dental amalgam and what potential advantages and disadvantages are posed by the use of those alternatives.  In addition, the director is to include such information that the division feels will contribute to a patient’s ability to make an informed decision, including, but not limited to, comparative information on the durability, cost, aesthetic quality, or other characteristics of the dental amalgam and the alternative materials available.

This bill also requires dentists licensed pursuant to provide a copy of the informational brochure to each patient undergoing a filling procedure, and to offer to each patient undergoing a filling procedure the option of choosing dental amalgam or a composite alternative, when appropriate.

The NJDA is firmly opposed to this anti-amalgamist legislation and has successfully halted its advancement for the past 4 years. We will remain vigilant in doing so in future legislative sessions should the need arise.

- A.1082, sponsored by Assemblyman Reed Gusciora, John Wisnewski, Vincent Prieto, would require coverage for dental composite restorations at the basic service percentage level of the usual, customary and reasonable fee under dental service corporation and dental plan organization contracts approved for issuance or renewal in this State by the Commissioner of Banking and Insurance.

The same coverage would be required under all health benefits plans providing dental expense benefits issued by health insurance carriers, such as health service corporations, individual and group health insurers, health maintenance organizations and the State Health Benefits Plan.  It would also require the same coverage under the medical expense benefits portion of basic and standard private passenger automobile insurance policies, and, finally, under contracts for health care services under the Medicaid and NJ FamilyCare Programs and the fee-for-service Medicaid program.

 This NJDA supported legislation is designed to bring parity to restorative alternatives. It is opposed by the insurers.

- A.2237, sponsored by Assemblymen John McKeon and Alberto Coutinho, makes a supplemental appropriation of $30,000,000 to the University of Medicine and Dentistry of New Jersey to fund the expansion and renovation of clinical facilities at the New Jersey Dental School.

The NJDA supports this legislation to improve the clinical facilities of the State’s Dental School.

-A.2346/S.2215, sponsored by Assemblyman John McKeon and Senator Loretta Weinberg, would require that every dental patient in New Jersey receives prior notification if a dental prosthetic device or appliance that the patient’s dentist proposes to use on that patient was manufactured in a foreign jurisdiction.

The sponsors felt the initial need for this bill was predicated on reported evidence from media investigations that indicate a disturbing number of instances in which lead-tainted bridges, crowns, and fillings from foreign countries have been imported into the United States.

The bill provides specifically as follows:

·   A dentist, prior to providing to a patient a prosthesis that was manufactured outside the United States, must notify the patient in writing, on a form and in a manner prescribed by the State Board of Dentistry, that the prosthesis was so manufactured, and obtain written consent from the patient to the use of the prosthesis.

·   The form is to contain a statement that the patient understands the prosthesis to be manufactured outside the United States and either agrees to its use or disagrees and requests the use of a prosthesis manufactured in the United States by indicating his preference and signing the form.

·   The bill defines “prosthesis” to mean a fixed or removable dental prosthetic device or appliance, whether fabricated in whole or in part and used for functional or cosmetic reasons or both, including, but not limited to, a complete or partial denture, veneer, inlay, onlay, crown, or bridge.

·   A dentist will be liable to a penalty as provided in R.S.45:6-13 for a violation of this bill or any regulations adopted pursuant thereto ($300 for a first offense and $2,000 for a second and each subsequent offense unless otherwise specifically provided).



The NJDA voiced opposition to this legislation and has educated both the Assemblyman and the Senator on the matter. The bill is being advanced aggressively by the domestic laboratory community as a protectionist measure against the usage of foreign labs, which are regulated by the USDA and the FDA under the medical device act. Senator Weinberg, after listening to the NJDA’s position withdrew the legislation from the Legislature. The NJDA is extremely appreciative.

- A.464, sponsored by Assemblywoman Joan Voss and Assemblyman Pat Diegnan, would increase the membership of the New Jersey State Board of Dentistry from 13 to 15 members by including on the board an additional dental hygienist and a dental assistant.  Under current law, the New Jersey State Board of Dentistry is comprised of thirteen members as follows:  nine licensed practitioners; one dental hygienist; and two public members and one State executive department member who are appointed by the Governor.

The bill also provides that a quorum of the board shall consist of eight members, rather than five members as is currently provided by law.

The NJDA is opposed to this legislation seeing it as needless. Licensed dentists are better able to determine competency of general dentists and specialists as well as hygienists and assistants than dental hygienists.

- S.1742, sponsored Senators Nia Gill and Joe Vitale, requires health care providers, under managed care plans that provide for both in-network and out-of-network benefits, to give written notice to covered persons whenever that provider refers the covered person to any out-of-network provider.

The written notice by the health care provider to the covered person for the out-of-network referral shall include: (1) a disclosure explaining the financial responsibility of the covered person concerning any applicable deductibles, copayments, and coinsurance for the receipt of out-of-network health care services, and include a comparison with the covered person’s financial responsibility for receipt of services in-network; and (2) a list of in-network health care providers, if any, that are available to the covered person within a reasonable geographic area that provide the same health care service or range of services as the out-of-network provider to which the provider is referring the covered person.

 This written notice requirement as to out-of-network providers shall not apply to health care providers when providing services to covered persons under a point-of-service plan, as set forth under section 10 of P.L.1997, c.192 (C.26:2S-10), as a point-of-service plan does not require any form of referral or prior authorization in order for a covered person to access an out-of-network provider.

The NJDA is staunchly opposed to this legislation and sees it as unreasonable and impractical.

- S.1743/A.2511, sponsored by Senators Nia Gill and Joe Vitale and Assemblymen Gary Schaer and Louis Greenwald, establishes that a waiver, rebate or payment of an insured’s deductible, copayment, or coinsurance by a health care practitioner, owed by a covered person pursuant to the terms of an insurance policy between that person and an insurance company, shall be considered a form of insurance fraud.  The bill amends several sections of the State’s Criminal Code concerning “health care claims fraud” and “insurance fraud,” as well as the “New Jersey Insurance Fraud Prevention Act,” in order to accomplish its objectives.

First, the bill establishes that a health care practitioner is guilty of a crime of the fourth degree involving health care claims fraud if that practitioner, directly or indirectly related to a claim, knowingly waives, rebates, gives, pays, or offers to waive, rebate, give or pay all or part of the deductible, copayment, or coinsurance owed by a covered person pursuant to the terms of an insurance policy between the covered person and that person’s insurance company.  A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to $10,000, or both.

The bill also incorporates this form of fourth degree health care claims fraud within the relevant provisions of the Criminal Code which describe the broader crime of “insurance fraud,” set forth in section 73 of P.L.2003, c.89.

In addition to the above described term of imprisonment and fine, the commission of the fourth degree crime of health care claims fraud may result in an order by the court or an appropriate licensing agency, which suspends the guilty health care practitioner’s license or certificate for a period of not more than one year, and bars the practitioner from the practice of the profession during that time.

Second, under the “New Jersey Insurance Fraud Prevention Act,” the bill establishes that a health care practitioner violates that act if the practitioner, directly or indirectly related to a claim, waives, rebates, gives, pays, or offers to waive, rebate, give or pay all or part of the deductible, copayment, or coinsurance owed by a covered person.  In accordance with that act, a violation may subject the health care practitioner to an administrative proceeding before the Commissioner of Banking and Insurance, with a penalty of between $5,000 and $15,000, plus restitution to any insurance company that suffered losses due to the violation, or a civil action in court with the same range of monetary penalties, plus payment of court costs and reasonable attorneys’ fees to the commissioner.

Further, violations of the “New Jersey Insurance Fraud Prevention Act” may result in a recommendation to the appropriate licensing agency with respect to a potential suspension or revocation of the health care practitioner’s license or certification.  See P.L.1998, c.21, s.41.

The NJDA is fully opposed to this legislation as it is not practical and does not have merit.

ON THE NATIONAL LEVEL

Red Flags Rule

The United States Congress passed S. 3987, exempting certain businesses, including dental practices, from the Federal Trade Commission's (FTC) Red Flags Rule. President Obama signed this bill into law.

Our collective efforts in writing lawmakers and lobbying Capitol Hill on ADA's behalf have paid off. The collective voice of dentistry was heard loud and clear: tens of thousands of ADA's grassroots dentists who took action helped get the Red Flags legislation through Congress.

This law may save your practice hundreds of dollars in implementation costs annually to review and understand the identity theft rules and train your staff on compliance. In fact, the ADA estimates the nationwide savings associated with this exemption to be $72 million for dental offices alone.

New Jersey was at the forefront of this legislative initiative as we helped secure former Congressman, the late John Adler (D-NJ), to be the ADA’s legislative champion on this subject.

Congressman Adler reportedly died of an infection generated by a routine dental cleaning. He was a heart patient (valve replacement) and he had not reportedly taken any antibiotics prior to his dental visit. Congressman Adler’s steadfast stewardship of this legislation and his support in protecting much of dentistry from the onslaught of this onerous regulation is deeply appreciated and his friendship and counsel are sorely missed by his friends in organized dentistry.

The McCarran-Ferguson Act

The McCarran-Ferguson Act adversely affects the public by exempting insurers from some federal antitrust laws. H.R. 4626, the “Health Insurance Industry Fair Competition Act,” would repeal this unfair exemption. On February 24, the U.S. House of Representatives agreed, and overwhelmingly passed H.R. 4626 by a vote of 406-19. We urge the Senate to move quickly to pass H.R. 4626 this year. Today, virtually all policymakers recognize the need to curtail the rising cost of health care coverage and to furnish consumers with more coverage options. Passage of H.R. 4626 could help encourage competition in the insurance marketplace by fostering greater antitrust enforcement against the insurance industry by the Federal Trade Commission (FTC) and the Justice Department in instances where state regulators fail to act. When insurance competitors are permitted to work jointly, consumers are less likely to see as much innovation and variety in the marketplace as they would in an atmosphere of robust competition.

H.R. 4626 would bring the insurance industry into line with other American businesses by eliminating the special treatment granted to insurance institutions almost 65 years ago with passage of the McCarran-Ferguson law.

The Dental Coverage Value and Transparency Act

The American Dental Association (ADA) urges you to cosponsor the Dental Coverage Value and Transparency Act introduced by Rep. Robert Andrews (D-N.J.). Dental coverage helps 173 million Americans get the dental care that is vital to ensuring good oral and overall health. This bill would help consumers receive the full value of their dental coverage, ensure transparency and improve health plan efficiency. Unfair practices have crept into the common policies of dental benefit plans. They hinder patients’ ability to receive the full benefits for which they pay and create unnecessary administrative burdens on health care providers. The only redress is legislative action. The bill requires that all health plans that offer dental benefits will, among other provisions:

* be prohibited from dictating fees for procedures that the plan does not cover. This marketing ploy, which purports to save consumers money, only shifts costs to other patients.
* provide uniform coordination of benefits. When a consumer is covered by more than one plan, the secondary payer should be responsible for paying the remainder of the claim (up to, but not exceeding, 100 percent of the amount of the claim).
* permit consumers to designate payment of dental benefits to a provider who is not participating in the network, so that the patient does not have to pay for covered services out-of-pocket and wait to be reimbursed by the plan.
* assure that consumers receive the full value of their coverage by requiring plans to provide the same dollar amount of coverage for a given procedure regardless of whether the provider of the procedure participates in the network.
* be prohibited from systematically combining distinct dental procedure codes in a manner that results in a reduced benefit under the plan (“bundling of procedures”).
* be prohibited from changing a benefit code to a less complex (lower cost) procedure if such actions are inconsistent with the dental code (CDT) or the terms of the network agreement.

Passing this legislation would provide a more transparent, honest, and equitable system for patients and their dentists.

So now you have 20 reasons for supporting your PAC. If you need more please feel free to call Jim Schulz or myself as this is only the tip of the iceberg. It is a continuous up hill battle that must be fought to maintain control of our profession and practices. Actions taken by the government and insurance companies force us to remain vigilant. To our advantage NJDPAC has always been proactive rather than reactive. We have approached our legislators in a very diplomatic fashion thus providing for constructive relationships.

We have an administrative staff that is second to none and a lobbyist who is well respected in Trenton and nationally.

As we go forward the number of challenges we face grow daily. Without the support of our members, the Dental Profession will falter. This past year fewer than 30% of our members contributed to PAC. Now is the time to step up and be heard. We need participation that approaches 100%. PAC enables us to protect our profession and the patients that we treat; it allows us to maintain our practices as successful businesses; and it provides us with the ability to care for our families at a rewarding level.

Respectfully submitted,

Mark A. Vitale, DMD