



WDA Legislative Priority Listing for 2011-12 Legislative Session

July 2011

High Priority

The WDA will actively pursue meetings and necessary activities relating to the following designated “high priority items”.

Non-Covered Services Legislation – Pursue passage of legislation prohibiting dental benefit plans from setting fees for services that are not reimbursed by the benefit plan. Originally, the WDA thought that this legislation could be combined with the Assignment of Benefits/Direct Pay legislation into one single “dental benefits regulation” bill but we’ve decided to separate the two issues out because Delta Dental is less likely to oppose this proposal if it is separate from Assignment of Benefits legislation which will make passage in a Republican-controlled legislature more feasible. *Status: The lead authors of this legislation are very close to introduction of this bill in both the state Assembly and state Senate. Fiscal impact to the state: \$0.*

Expanded Delegation Legislation (Work force/Access) –WDA is proposing legislative language that will provide dentists with the freedom and authority to delegate more duties to certified “Expanded Function Dental Auxiliaries” within the dental practice. These duties include the following: placement and finishing of restoration material after the decay has been removed by the dentist; sealants; coronal polishing; impressions; temporizations; packing cord; removal of cement from crowns; denture & other removable oral appliance adjustments and suture/dressing removals. Under the proposed language, the dentist would remain responsible for all procedures delegated to an EFDA and the dentist would be required to remain on the premises and be available to the patient throughout the performance of the procedures which includes a requirement that the dentist check the patient and verify the successful completion of the procedure prior to the patient’s departure from the practice. The Dentistry Examining Board would be authorized to delineate the specific educational and training requirements for certification as an EFDA. *Status: The lead authors of this proposal are currently very close to introduction of the legislation as part of an “omnibus” Dental Practice Act bill for this and the “Definition of Dentistry” legislation (below) this session. Fiscal impact to the state: Minimal costs of rule making at Department of Regulation and Licensing/DEB.*

Definition of Dentistry (Scope of Practice) – The WDA successfully obtained DEB support for drafting legislation that updates Wisconsin’s current statutory definition of dentistry with the American Dental Association definition of dentistry. This change would broaden the definition of dentistry by eliminating a laundry list of procedures that can quickly become outdated; a broader definition will allow dentists (who are properly trained and educated through continuing education courses or other training methods) to offer new effective oral health treatment modalities and services to patients based on the latest scientific and technological advances within the profession. *Status: The lead authors of this proposal are close to circulating a draft of the “omnibus” Dental Practice Act bill for this and the EFDA certification program (above). Fiscal impact to the state: Minimal DORL/DEB administrative costs.*

Support for Expansion of Marquette University School of Dentistry Physical Facility and Increasing Number of Dental Students and Wisconsin Residents at MUSOD (Work Force/Access) – Marquette University School of Dentistry submitted a request for \$8 million in state funding on Sept. 15, 2010 to the Wisconsin Building Commission for the purpose of expanding the physical structure of the dental school. The proposal includes a 40,000 square-foot expansion (28,010 assignable square feet) at a cost of about \$16 million (half of the funds are expected to come from state government since MUSOD is the only dental school in the state, with the remaining \$8 million to come from federal and private sources). The WDA supports MUSOD’s request for this expansion funding in support of these critical strategic goals: (a) develop clinical and translational research opportunities to strengthen the school’s status as a research institution; (b) assist in faculty recruitment and retention by providing important, additional space for MUSOD clinical faculty to practice on-site and subsidize their teaching salaries; (c) provide additional clinical and classroom space to accommodate up to 100 students per class (currently class size is 80), with up to 50 or more in-state residents (Wisconsin residents currently number a maximum 40 per class) and (d) provide more students and clinical space by which to treat more underserved patients at the various Marquette outreach dental sites. Note WDA has long supported an increase in the number of Wisconsin

residents enrolled at MUSOD from the current 40 per class (160 over a four-year program) to 50 per class (200 over a period of four years). Furthermore, a larger class size could aid Wisconsin-based CODA-accredited residency training programs in recruiting and retaining quality, in-state, dental school graduates. *Status: Fiscal impact to the state: \$8 million for physical expansion of dental school. There would also be a cost if the state were to expand its current in-state tuition subsidy to 10 more students per class. Historically, the WDA has supported expansion from 40 to 50 in-state residents at MUSOD regardless of whether or not additional capitation funds were passed; MUSOD has only supported the expansion if additional state capitation funds were made available. In the summer of 2010, the Wisconsin Higher Educational Aids Board (HEAB) unanimously supported this concept, but the final state budget recommendations may not contain it. And, at a tuition subsidy rate of \$8,753 per in-state resident this would cost the state approximately \$350,200 more General Purpose Revenue per year once fully implemented (four-year period). The state currently funds students at an annual cost of \$1.4 million annually and the new cost (once fully implemented) would be \$1,750,600 annually. If resident numbers increase without any additional state, the subsidy would be spread over a wider group of resident students with an individual receiving approximately \$7,000. The \$8 million in state funding was signed into law by the Governor in his budget in late June 2011.*

WDA Support for Using Marshfield State Earmarks for Non-FQHC, Non-Profit Dental Clinics – The WDA board voted via email to pursue a change in the state budget which would use the current dental clinic earmarks to the Marshfield Chippewa Falls (\$360,000/year), Marshfield Ladysmith (\$209,000/year) and non-Marshfield/non-FQHC dental clinic in Turtle Lake (\$320,600/year) by making them a grant program that would provide funds to no fewer than nine non-FQHC, non-profit dental clinics across the state. *Status: This proposal to use the Marshfield earmarks failed but on May 18, 2011, the Joint Committee on Finance voted 12-4 to take \$850,000 from the Tobacco Control Fund to fund an annual \$850,000 state grant program that is identical to our proposed parameters (all except for the funding source). The proposal remained in the state budget as went to the Assembly and Senate and it was signed into law by the Governor. The details on how this will be implemented will be left up to the Department of Health Services (DHS); the WDA will be in contact with them and share the details of application for funds with all non-profit non-FQHC dental clinics that we have on our list.*

Medium Priority

The WDA advocates for or pursues meetings and activities on the following issues but *prefers if possible* to do so as part of a larger group or by reacting. This category also includes those pieces of legislation that require WDA review and reaction when proposed by other entities.

Appointments to the Dentistry Examining Board – On January 11, 2011, the WDA wrote a letter to Governor Walker encouraging him to appoint individuals to serve on the DEB who reflect the practice circumstances and makeup of the majority of licensed dentists and dental hygienists across the state. The letter also included a few names or suggestions of individuals he may wish to consider. *Status: Dr. Lyndsay Knoell and Eileen Donohoo, RDH, have been appointed and confirmed by the Senate. Dr. Mark Braden has been nominated and is awaiting confirmation. Two public member positions are currently open. WDA leadership and staff share background information on responsibilities of a DEB member with any individuals who have an interest in applying and serving. Fiscal impact to state: \$0.*

Specialty Licensure (Work force) – Continue to support changing the administrative rules and DEB policies to facilitate licensure of more specialists from other states who want to come to Wisconsin to practice. *Status: The DEB has moved forward on drafting of the administrative rule to implement these changes but the rule is expected to receive a public hearing at the September DEB meeting. Fiscal impact to the state: Minimal DEB/DORL administrative costs through the rule-making process.*

WDA Opposition to Reduction of Dental Benefit Coverage in State Employee Health Plans – The WDA found out in mid-June that the state Employee Trust Fund's Group Insurance Board had met in early June to discuss the need to cut 5% from the state's budget for employee benefit costs. Among the options under consideration was the elimination of all dental benefits which would equate to about \$40 million of the required \$65 million in cuts. *Status: The GIB met in late June to discuss this and other options and voted to NOT reduce the dental benefit coverage and to, instead, increase co-insurance minimums.*

"Public Dental Hygiene Access Model" and/or Collaborative Practice for Dental Hygienists (Access) – WDA has gone on record in support of a "collaborative practice model" with dental hygienists that would require additional education for public-sector dental hygiene certification. This certification would allow for either a private-sector

dentist or the state Department of Health Services to serve as the collaborating entity and, working with the public-practice dental hygienist, to jointly establish practice protocols on preventive procedures and services. The board believes a properly-crafted proposal could enhance access to dental services, while also creating standard protocols for public health hygienists to ensure a level of safety and quality of care. The potential for success of this model depends on a variety of factors, including the number of dental hygienists who seek to practice in a true public health model. If enough dental hygienists are interested in working in public health, passage of this model could enhance access to dental care in our state. *Status: This issue continues to be debated by the DEB; the WDA continues to communicate with the DEB and other entities to discuss their interest in pursuing passage of this model in the Legislature. The WDA could potentially support passage of a legislative bill draft that includes these changes but has been waiting to see if the DEB process reaches consensus.*

Assignment of Benefits/Direct Pay Legislation - Assignment of Benefits/"Direct Pay" legislation would require dental benefit plans to honor a request from a covered individual who proactively seeks to direct the payment for their dental benefit to a non-network dentist who rendered the service, as long as the plan currently reimburses the patient for part of the costs of that out-of-network care. This legislation would make the "assignment" valid only in those circumstances when the patient has made a written request to assign their benefits to the provider. Insurance plans fought this legislation as did labor organizations last session and they will likely fight passage again this session. *Status: WDA remains part of a broad health care coalition that was formed in the 2009-10 legislative session to advance the passage of this legislation and make it applicable to all health plans and all providers. The coalition has not been activated yet this session but if it becomes active, the WDA will remain a member. Fiscal impact to the state: \$0.*

Reactive Items (Miscellaneous) – Actively track items introduced by other entities that could impact (negatively or positively) the delivery of dental care to patients and/or the ability of dentists to run an efficient, cost-effective business. The board determines the final WDA position and/or action and its respective priority on an issue-by-issue basis. *Fiscal impact to the state: Unknown until items are introduced and fiscal estimates are provided by appropriate state agencies.*

"I'm Sorry" Legislation – SB 103/AB710 - This legislation was introduced in previous sessions but was always opposed/defeated by the trial lawyers. It was introduced again this legislative session by the two legislator-physicians currently serving: Sen. Pam Galloway (R-Wausau) and Rep. Erik Severson (R-Star Prairie). This bill provides that a statement or conduct of a health care provider that expresses apology, condolence or sympathy to a patient or patient's relative or representative is not admissible into evidence or subject to discovery in any civil action or administrative hearing regarding the health care provider as evidence of liability or as an admission against interest. *Status: Both bills received public hearings but have not been voted out of committee. The trial attorneys would like to see amendments adopted that would water down the ability to use these admissions in court.*

General Support for Health Care Professional Licensure Survey - The Legislative Council Study Committee on Health Access is proposing legislation to survey all health care providers at the time of their licensure renewal (which for dentists and dental hygienists is every two years). There will be no charge for filling out the survey but the proposal will allow the state to withhold the license of any individual who fails to fill it out and return it to the state. The WDA generally supports this collection of dental workforce information because it makes it easier for us to monitor activities in the changes of our profession from year to year. Should there be an attempt to add a fee to the collection of this data, the WDA would likely oppose. *Status: The proposal has passed the Legislative Council Study Committee and awaits approval from the full Joint Legislative Council Committee prior to being introduced in the legislature. There has been no official legislation introduced on this issue; the WDA will continue to monitor activity as it moves through the legislative process.*

Opposition to In-State Residency for Medical and Dental School Tied to Service in State – WDA opposes a proposal by the Legislative Council Study Committee on Health Care Access to require that any Wisconsin resident who receives a break in tuition while attending a dental or medical school in this state be required to practice in the state for a set number of years upon graduation. The WDA does not believe that health care providers should be singled out for this type of requirement. All taxpayers support the tuition subsidies that are given to state residents and therefore all state residents (not just those who are physicians or dentists) who benefit from such a subsidy should also be required to stay here to work upon graduation. The dental tuition subsidy (\$8,753/year) for state residents is a small percentage (18%) of their annual tuition costs (\$46,590/year) at Marquette; to require this of dental students from Wisconsin will make Marquette less attractive than out-of-state tuition in neighboring states and will further deter

Wisconsin residents from attending Marquette. The WDA would, however, support a proposal that would provide more substantial financial assistance (50% or more of tuition) to those students who agree to stay in the state and practice after graduation. *Status: This proposal has passed the Legislative Council Study Committee and awaits approval from the full Joint Legislative Council Committee prior to being introduced in the legislature. WDA will oppose this proposal in cooperation with other entities and will continue to monitor activity; it appears that this and other issues from the Joint Legislative Council Study Committee may be dead this legislative session.*

Licensure Exemption for Dental Residency Programs from Other States and Community Health Centers –

The WDA has opposed inclusion of this bill language in the Legislative Council Study Committee on Health Care Access largely because we were told that the Committee's scope would not include dental issues and we were told there was no need to have WDA at the table because issues would pertain to the larger issues of health care rather than dental care. Despite these conversations, this Committee has still been used by a few of its members to advance dental-specific issues even though those issues were not within the proclaimed scope of the Committee. The WDA remains opposed to the inclusion of this proposal within this scope for the reasons mentioned above and also because there remain many questions that have not been asked or answered as to why this is needed and what public end it would serve. *Status: WDA remains opposed to this proposal as a Legislative Council Study Committee bill and would like to gather more information on its necessity and issues relating to quality oversight of students from an out-of-state residency program prior to taking a formal position on its actual content. We will continue to remain opposed until more information can be collected.*

Small Claims Jurisdictional Limit - This proposal increases the jurisdictional limit in small claims actions from \$5,000 to \$10,000. The WDA Board voted to register in favor of this proposal because it is beneficial for the small businesses in the state. This may not directly impact many dental practices (\$5,000 would be a pretty large outstanding dental bill) but the WDA Board supports the concept and believes that registration in favor will not require much political capital and will show other small business groups that we stand with them on these types of issues. *Status: The bill has been circulated for co-sponsors but has not received a public hearing.*

Low Priority

The WDA offers support/assistance and/or monitors relevant activity and attends appropriate issue meetings, but does not take an active or lead role in pursuing legislation or changes to current practices.

Opposition to the Building of a Second Dental School – The WDA opposes the building of a second dental school in Wisconsin because the Wisconsin dental workforce survey provided data that there will be a sufficient supply of dentists until 2020. Furthermore, simply expanding the already accredited dental school at Marquette will be a more cost-effective and common sense solution to meeting any need for additional dentists beyond 2020. There are concerns that given a serious nationwide shortage of dental faculty, a second dental school would fail to attract enough qualified dental instructors which are essential to providing an accredited dental education. Furthermore, it is clear that the state has struggled to maintain its minimal level of financial support for the current accredited dental school at Marquette and a second dental educational facility (which has not even obtained accreditation) has already begun to compete with Marquette for these limited state resources. Finally, the WDA does not believe that expending funds on a second dental school will be a cost-effective approach to delivering dental care to the state's underserved population; the only way this can successfully improve access to dental care is if the state and federal government continue to *heavily* subsidize the construction and operations of Federally Qualified Health Centers (which are the proposed "training facilities" for 3rd and 4th year students enrolled in this second dental school). These FQHCs receive twice the payment for seeing a Medicaid patient than what the private sector dentists receive for the same patient; if these subsidies disappear, the dental school's "training facilities" will not be able to be sustained and the school will undoubtedly turn to the state for a financial bail out in order to stay alive. *Status: In 2010 the state ignored its own DHS study indicating that a second dental school was neither feasible nor necessary, and without ever holding a public debate or a public hearing, it rushed the passage of legislation to authorize \$10 million in state funds for the purposes of constructing a "dental educational outreach facility in Marshfield Wisconsin". The WDA was originally informed by Democratic legislative advocates and by Marshfield that this "facility" was designed for a post-baccalaureate program and a dental residency program (neither of which exist at MUSOD) and they clarified this would not be a second dental school. However, when Marshfield pushed for an early release of their funds (utilizing a matching grant from their own insurance plan), the state's documentation included a reference to a second dental school (with up to 50*

students per class). The WDA remains opposed to a second dental school and remains committed to ensuring that in tight budget times, state expenditures are spent in the cost-effective manner which would be to those Wisconsin institutions that are accredited to provide a quality dental education. It is a waste of taxpayer funds to create a separate institution that is not accredited and whose programs duplicate those of an existing institution. In February 2011, the WDA has been informed that the \$10 million can not be rescinded but we remain firmly opposed to any other state action or subsidy that goes towards the construction or implementation of a dental school which the state's own study said was not feasible or necessary. In late June 2011 the WDA made a public open records request of the Department of Administration seeking all documentation exchanged between the two entities between December 2009 and July 2011.

Opposition to All-Provider Assessment to Fund Medicaid Shortfall – There has been discussion within state government (fall 2010) to implement an “assessment” (similar to that already in place on hospitals statewide) on all health care providers (including dentists). The concept suggested under the Doyle administration was a 2% tax on gross revenues of all dental practices in the state, regardless of whether or not the dentists participate in Medicaid. The Doyle administration also suggested that the collected revenues (in the fall of 2010, the state estimated a 2% tax on the dental profession would generate \$40 million in dental taxes and would draw down another \$63 million from the federal government for a overall boost of \$113 million to the state's coffers) could assist both filling the current Medicaid budget hole as well create a mechanism for collecting revenues from non-Medicaid dentists to potentially increase the rates paid for services to Medicaid patients in other dental practices. This system already exists with respect to hospitals and nursing homes within the state of Wisconsin. *Status: This was at the discussion stage under final days of the Doyle administration but it is less likely to gain support under a Walker administration. However, it is clearly something that is becoming more popular nationwide as more and more states struggle to keep their Medicaid programs afloat. The WDA will work to educate policymakers on why we believe this would have a negative impact on access to dental care, lead to less transparency in the health care system and ultimately increase costs for those people who value their oral health and are willing to pay for those services.*

Dental Medicaid Program (Access) –Continue to advocate for increased funding for the state's dental care program that provides services to Medicaid and BadgerCare patients. The WDA has offered support for a multi-county pilot project to test fair-market reimbursement, because the state's fiscal climate does not make a statewide increase feasible at this time. In addition, it is expected that pilot project results would provide Wisconsin-based data to support the concept of providing medical assistance enrollees with economic purchasing power. The pilot would be limited to residents of specified counties and include adult emergencies and all children's services (counties discussed in the past have been La Crosse, Racine and Brown; the WDA would encourage legislative consideration of a broader range of counties with varying demographics). The Supply and Demand for Dental Services: Wisconsin 2010-2020 study released in January 2010 provided data that shows current access disparities in Wisconsin are related to lack of economic purchasing power among the low-income and MA population and **not** to the number of dentists in the state. As a result, the WDA continues to keep the Medicaid funding issue in front of policymakers, because by improving funding, the state empowers Medicaid patients to access dental care in a manner similar to the ways non-MA patients access care. *Status: The state is facing a multi-billion dollar deficit going into the next legislative budget cycle. State policymakers will have to make cuts – including, possibly, cutting dental care services (an optional program for adults) from coverage under the state's MA program. The WDA Board will adjust its approach to dental MA funding based on state policymakers' adjustments to the MA program as part of overall budget developments. Fiscal impact to the state: A three-county pilot project could vary greatly based on size, but the versions proposed in the past could cost \$2 - \$3 million of new state GPR each year. A statewide increase to the 75th percentile (which means, on average, 75 percent of dentists making 100 percent of their rates based on the most-recent ADA survey for this region of the country), using the most-recent fiscal estimate would cost the state at least \$30 - \$40 million in GPR annually (an updated estimate would be beneficial); the state's own fiscal estimate believes that such an increase in funding would result in a 25% increase in the number of individuals receiving dental care in both years of the biennium (25% the first year and an additional 25% the second year for a net (compounded) increase of 56% over the biennium).*

Loan Forgiveness and Grant Program (Work force/Access) –The WDA realizes that during tight fiscal times, this type of proposal may be difficult to get passed but given the potential boost to certain areas of the state, it may be worth pursuing Joint Finance Committee sponsors in 2011 to introduce a budget amendment creating a more meaningful loan forgiveness program for graduates of accredited dental schools who settle in Dental Health Professional Shortage Areas (DHPSA) and creating a separate grant program for future dentists who agree at the time they begin dental school to settle in a DHPSA. Under the concept approved by the WDA house, the WDA

would urge the Legislature to create a state loan program that would reimburse up to \$20,000 a year during five years of service provided the dentist saw 50 new Medicaid patients during each of those five years (250 MA seen during the fifth year of service). The program would also make available \$30,000 annual grants to dental students over the four years of dental school; upon graduation, the new dentist would be required to practice at least four years in a DHPSA and see 50 new MA patients every year for those four years (200 MA patients seen during the fourth year of service). *Status: This budget amendment will be very difficult to get passed in such a tight fiscal year. The Wisconsin dental work force report issued in January 2010 confirms the need to provide better financial incentives to convince dentists to establish their practices in rural and/or underserved areas. Fiscal impact to the state: Once fully implemented (four or five years into the program) the cost would be \$1 million in GPR each year. Another potential alternative to have a positive impact on dental workforce recruitment is to remove the Medicaid service requirement from the current dental loan forgiveness program that exists in the state. With the extremely low dental Medicaid reimbursement rates, the mandatory Medicaid participation actually requires a dentist to absorb a net loss of \$13,000 – this requirement removes the “incentive” any loan forgiveness offer may include.*

Support Urban and Rural Accredited Dental Residency Programs – The WDA agrees with the 2010 DHS Feasibility Study on Dental Education which essentially stated that more dental residencies in urban and rural underserved areas could potentially have a positive impact on dental access and could also provide additional exposure to practicing in both urban and rural underserved areas. *Status: WDA is not currently actively participating in a legislative discussion or debate on this issue but is generally supportive of CODA-accredited dental residency programs that are established in underserved areas of the state. This support remains regardless of whether these programs are offered by Marquette or other Wisconsin institutions that have obtained CODA accreditation for their programs.*

“Two Cents for Tooth Sense” (Access) – The WDA coined this phrase and continues to keep the concept on legislators’ and the public’s radar, but has no current plans to reintroduce 2007 AB 237 or SB 117 which proposed a user fee charge of approximately two cents per 12-ounce can of soda. The purpose of this fee is to develop a funding source for providing dental services to the state’s MA and BadgerCare patients. *Status: Due largely to concerns about the ability to keep any “Tooth Sense” funds from being raided for filling the general budget deficit, the WDA has continually declined to pursue drafting and introduction of this proposal in recent years. WDA may reconsider its position on this issue should a constitutional amendment prohibit the executive and legislative branches from raiding segregated funds. Fiscal impact to the state: Approximately \$70 million a year could be raised from consumers of soda (an updated fiscal estimate may be beneficial).*

Dentist’s Scope of Practice – Administration of Flu Vaccines –Continue to communicate with DHS and the DEB regarding potential roles dentists can and should play in administration of flu vaccines or other public health vaccination efforts. Information provided by DHS and the DEB indicates a desire to continue dialogue on this issue. Should legislative or administrative rule changes be needed, more details will be provided. *Status: Pending discussions among DHS and DEB on this issue. a fall 2010 meeting between Dr. Warren LeMay of DHS, Dr. Blane Christman of the DEB and Mara Brooks of WDA is anticipated.*