

COUNCIL ON GOVERNMENTAL AFFAIRS (COGA)

The AAO Council on Governmental Affairs met at the offices of Arnold & Porter Kaye Scholer, Washington, D.C. on September 12, 2017 and had breakfasts and dinners with legislators Monday, Tuesday and Wednesday of the session. We also made many visits with legislators on the Hill both as a group and individually.

Our AAO legislative counsel **Sean Murphy** and Council discussed how Income Share Agreements with institutions where residency programs exist are becoming more popular for students with large debt load. Income Share Agreements are a replacement for borrowing in which a student agrees to repay a portion of post-graduation income for a set number of years in exchange for an institution waiving all or part of their tuition. The resident is thus able to get a reduced educational cost and then the resident pays them back with their income once they are out in practice. Purdue, of note, had funded \$5 million for such a program. While the Council agrees that Income-Share Agreements have merit as an option for students, we recommended that this topic be addressed in cooperation with the Council on Education. Dr. **Daniel Keith** also indicated he would share this issue with the Council on New and Younger Members for their feedback and report back to COGA in the future. Dr. Keith is serving on COGA as a representative from CONYM and had excellent insight into the needs of this important group of our AAO membership. The Arnold and Porter team is also looking into whether there are any current bills addressing income-share agreements and if so, who is supporting them.

The AAO Legal Support Fund was reviewed and updates given by **Sean Murphy**. This \$1 Million Fund was established by the 2015 House of Delegates for the purpose of supporting component organizations facing legislative, legal or regulatory issues that affect all orthodontists in the state. To date, nine states have been approved including Texas, Minnesota, Rhode Island, North Carolina, New Jersey, Iowa, Maine, Georgia, Ohio and others with an application in process. Approximately \$200,000 has been applied for with about \$71,000 given out to date. Specialty advertising and specialty recognition and issues with the American Board of Dental Specialists (ABDS) are the most common issues at the Boards of Dentistry. Currently, in Texas, court ruling allows not only the 9 ADA specialties to advertise as specialists, but also includes Oral Facial Pain, Dental Anesthesiology, Implantology and Oral Medicine. The most controversial group in the ABDS is Implantology, which according to ABDS guidelines only requires 10 weeks of education on the subject. This limitation of advertising came after several court rulings in Texas had left it that anyone in any area of dentistry could advertise as a specialist. Subsequently, the AAO felt this was a direct hit on the integrity of recognized specialties, thus the AAO issued an amicus brief through AAO legislative Counsel **Sean Murphy**. The AAO and other existing ADA recognized specialties had valuable input for limiting specialty advertising only to groups that had demonstrated appropriate education beyond dental school. The primary purpose of not allowing this broad and unrestricted advertising is protection of the public and not allowing misrepresented information to cloud public perception and cause harm. Ultimately the Texas courts ruled to allow limitation to the additional four groups of the ABDS.

The Minnesota Association of Orthodontists and Texas Association have used the Legal Support Fund to have Assistant General Counsel **Sean Murphy** come to their states to address specialty recognition concerns with the Board of Dentistry. The concern is an issue of dentists in non - ADA recognized specialties that are requesting to be recognized as a specialist. Specialty

advertising, as discussed previously, is a separate issue from specialty recognition for many state Board of Dentistry rulings. North Carolina has requested funds for an orthognathic surgery issue in order to work with the oral surgeons in their state when insurance initially approves the surgery and then denies payment when the patient is actually orthodontically ready for the surgery. Rhode Island has used funds to address dental assistant issues of delegated duties vs. non-delegated duties. Please contact Sean if you have state developments that legislatively and legally could benefit from AAO support. The application for funds is extremely fast and straightforward. Minnesota continues to work with Sean and we feel fortunate and are confident in our expert legal counsel regarding specialty recognition and the importance in preservation of specialties such as orthodontics which hold the distinguishing criteria of requiring 2-3 years of education beyond dental school.

The Council was encouraged to share information regarding the Legal Support Fund with their component organizations and request that they contact Sean at the AAO sooner rather than later if an issue arises. COGA also wishes to communicate to all states the importance of having AAO member orthodontists attend monthly State Board of Dentistry meetings since this is the route by which legislative changes would occur. Many issues are presented at the State Board of Dentistry meetings (specifically in the policy committee) that can be voted on and passed onto legislation without local orthodontists being aware until it has already been brought to their legislators. I can personally witness that often there is no turning back the clock once legislators have become involved.

COGA encourages each component and constituent organization and each individual AAO member to stay vigilant and abreast of legislative and legal concerns to which the AAO could corroborate and assist with.

The Arnold and Porter Team presented the following: A review of the current political landscape, including an in-depth look at the 2018 Senate races; an update regarding health, education and tax policy and the current outlook for each; congressional agenda for the remainder of the year; an update on AAO's 2017 policy priorities, including AAO healthcare and education "wins"; current status of the RAISE ACT- 20 cosponsors; Student Loan Refinancing and Recalculation (SLRR) Act This Bill contains new language this year to allow for borrowers in medical and dental residencies to defer payments until the completion of their programs. The AAO recently spearheaded an effort, which involved 14 other dental groups who all endorsed the proposed legislation.

During our three days in D.C. we were lobbying heavily for the Student Loan Refinancing and Recalculation Act brought forward by the AAO and soon to be introduced in the House of Representatives by Representatives Garamendi and Fitzpatrick. While we were in D.C., a letter was written by the AAO and signed by the AAO along with 14 other dental groups and was addressed to the above representatives highlighting why our groups endorse the legislation. The Bill would seek to provide parity in the ability to refinance student loans and ensures the federal government does not profit from student borrowers. Specifically, the measure would:

- Allow borrowers to refinance their student loan interest rates to the 10-year Treasury note rate, plus one percent, throughout the lifetime of the loan.
- Eliminate origination fees and instead set future student loan interest rates at the 10-year Treasury note rate, plus one percent.

- Delay student loan interest rate accrual for many low- and middle-income borrowers while they are in school.
- Allow for borrowers in medical or dental residencies to defer payments until the completion of their programs.

The letter educated the legislators again concerning these facts: that dental and dental specialty graduates have some of the highest average debt loads of any borrowers and that we feel strongly that these notable changes to the federal student loan program will allow all student borrowers to more efficiently pay back their loans. In addition, these changes would allow students and new graduates the ability to make other important investments in their careers and futures—like starting their own business or purchasing a home. We explained that such changes are essential to providing a fair and equitable loan system for future borrowers and also to jumpstart the U.S. economy. Facts are that nearly 1 in 3 Americans with student loans in repayment status are at least a month behind on their payments; according to the GAO, the US Government is on target to produce \$66 billion dollars in profit from student loans disbursed between 2007 and 2012; at least 40 million Americans are burdened by student loan debt, so that is 40 million Americans who are faced with an obstacle to building successful futures and contributing to the American economy.

The Student Loan Refinancing and Recalculation Act has strong bipartisan support in the 115th Congress. As we visited our legislators, we found ourselves often talking with young staff members who have significant student loan debt themselves and they can appreciate and bring this plan to light. We indicate that we have discussions of the average orthodontic resident graduating with \$365,000 debt and two married doctors that could have close to a million dollars to repay. We made sure that our legislators and staffers knew that orthodontic residents pay for their residency programs and are not making an income while in graduate trainin unlike other medical professionals. Most importantly we impressed that the federal government should not profit from student borrowers. Our 14 other co-sponsors with the AAO include the ADA, Academy of General Dentistry, Academy of Pediatric Dentistry, Academy of Periodontists, Association of Endodontists, Oral and Maxillofacial Surgeons, Association of Public Health Dentistry, Association of Women Dentists, American Dental Education Association, Society of Dentist Anesthesiologists, American Student Dental Association, National Dental Association, and the Student National Dental Association.

COGA set up an initiative to combine with other councils to find a realistic approach to add to student loan debt discussions where COGA and CONYM can work with the Council on Education to help with ideas and plans. We know this issue will remain paramount for our New and Younger members for years ahead. Helpful to this initiative was a recent study, the *Student Loan/College Affordability Support Study*. This examined the Democratic and Republican support for the six major student loan and college affordability initiatives. Democrats supported 4.77 of the 6 initiatives while Republicans supported lowering student loan interest rates and giving tax credits, which accounted for 1.3 of 6 initiatives. The study showed that concerning Pell Grant increases, Republicans felt every time Federal Pell Grants were upped, universities increased tuition by the same amount, so philosophically the majority do not support Pell Grant increases. Democrats do wish to expand Pell Grants, which are at maximum of \$6000 currently.

COGA continued to work diligently during our visits with hill staffers and legislators to gain cosponsors on the RAISE ACT to raise FSA caps from current \$2600 to \$5000; to roll over the

balance indefinitely and to add \$500 per dependent for families with over 2 dependents. The AAO fortunately was successful and had worked hard for RAISE and for Medical Device Tax repeal and other AAO issues placed into the Repeal and Replace Bills from this legislative session. But, of course, when Repeal and Replace failed, so did our part of the bill. So again we have to reintroduce and basically start over with securing signatures and new bill numbers. We are getting those cosponsors again and we will continue to push forward on these important issues for our AAO members.

Dr. **Todd Curtis** is an AAO member from Indiana who is running for Congress. The AAO will be meeting with Dr. Curtis and opening a mutual line of communication with him. Dr. Callahan, AAO Trustee from NESO and four other orthodontists had a breakfast in New York City with their home legislators immediately following our COGA meeting. If you have a chance to do these events or they come up in your district, please check on how the AAO can support and how we can improve AAO presence at such events. Contact Sean for assistance on how to make a difference in your state legislative climate.

During the time that COGA was meeting in D.C. in September, there was still great momentum for Reconciliation legislation on the Affordable Care Act. The AAO had multiple Healthcare bills under review. On March 6, the House had introduced the American Healthcare Act (AHCA) and it passed the House 217 to 213 on May 4. The House bill was meant to prioritize the Medicaid program for per capita cap system and was said to have saved \$229 billion while increasing the number of uninsured people to 51 million. Then on June 26, the Senate released the Better Care Reconciliation Act (BCRA). AAO priorities in both the AHCA and BCRA were to repeal medical device tax law; repeal the cap on annual contributions to FSA's; increase the contribution limit to HSA's; delay implementation of the Cadillac Tax; and repeal the net investment tax. Overall these priorities were not controversial and had major bipartisan support. What ensued was a "Healthcare Tug of War" and Reconciliation Legislation deadlines ran out the end of September.

We also monitor the Children's Health Insurance Program (CHIP) and note that reauthorization of the program expired in 2017 with both the ADA and Academy of Pediatric Dentists concerned that this is putting in jeopardy the oral health of 9 million children and pregnant women enrolled in the program. With healthcare costs rising, CHIP provides a safety net for low-income families in every state. The AAO advocates for and appreciates the need for preventive and primary oral health care for children no matter what their ability to pay is.

The American Dental Association with AAO support, kept pressure on legislators to amend the McCarran Ferguson Act and specifically to restore application of federal antitrust laws to the business of health insurance, including dental insurance. Current law exempts the business of insurance. If the amendment passed, collaboration could be met to cross state lines for insurance and raise hope for better cooperation and thus reduction in premiums. Current law states that the business of insurance is left up to the extent that state law regulates it.

On December 20, the House of Representatives and the Senate passed the Tax Cuts and Jobs Act. This legislation revamps the U.S. tax code for the first time in over 30 years. I will review parts of this relevant to our practices with importance stressed for each AAO member to review this with their tax accountant. Each individual's bottom line tax benefit is dependent on multiple factors including geographic location, property ownership and family structure.

Though there are many positive aspects of the tax bill, we are aware that there may also be unintended policy outcomes from this legislation.

- Improve Section 179 deductions by allowing the business to immediately expense some of the costs of qualifying property such as off-the-shelf computer software and some real property. Previously \$500,000 could be expensed unless more than \$2 million in property is bought. Under the new tax bill, as much as \$1 million could be expensed and expensing would be expanded to include furniture, nonresidential roofs, heating and air conditioning systems and fire and alarm systems.
- Student Loan interest deduction would be retained at its current level. The bill also maintains current tax law in that graduate students would not have to pay a tax on the tuition they receive as income from educational institutions. Previous versions of the bill had proposed a tax on that income.
- This Bill issues the first ever deduction for all pass-through entities, including S Corporations and sole proprietorships. The deduction is extended to certain professional service businesses, including dental practices. Limitations of the law would allow the deduction to only fully be available for service businesses with annual incomes of \$157,500 or less for individual filers or \$315,000 for joint/married filers and would phase out for incomes greater than those thresholds.

Dr. **Lisa Howard** nominated Dr. **Dean Jensen** and Dr. **Frank Beglin** nominated Dr. **Doug Harte** to serve as Council Chair for the term beginning May 7, 2018. Drs. Jensen and Harte both accepted their nomination. Votes were taken and given to Dr. Callahan to deliver to the next Board of Trustees meeting.

COGA's next meeting, which was planned to be a joint meeting with AAOPAC, was scheduled for February 26-28, 2018. However, due to the close time proximity of the AAO Annual session and the Professional Advocacy Conference scheduled directly following the session, the February meeting was cancelled. It is unknown to date if a formal COGA meeting will be possible during the Annual Session/advocacy schedule due to the packed event schedule. During the Advocacy Conference, COGA is planning a Tuesday evening invitation to attendees for an event with our AAO professional staff lobbyists and a known name Senate or House member. AAO will be paying for the Tuesday evening hotel and meals for those staying for Wednesday Hill visits. Our hope is to allow triple the number of Advocacy attendees to join their legislators by increasing our typical 100 members to 300+ AAO members.

The 2018 Professional Advocacy Conference will take place immediately following the AAO Annual Session in Washington, DC, with the Conference beginning Tuesday afternoon May 8 to include training, followed by a dinner/keynote speaker that evening and ending Wednesday, May 9 after scheduled Capitol Hill visits. Thank you to many enthusiastic MSO members who have volunteered and are taking precious time away from home and office to stay, train and make a difference on the Hill. Legislators want to hear from their home state and hometown orthodontists. I have one immensely important homework assignment for you all.... Come prepared with your personal stories of how tax burdens, healthcare reforms, student loan indebtedness or cumbersome governmental issues have impacted you, your employees and your practice!

Thank you for allowing me to serve you through COGA. The honor is entirely mine. After serving 5 ½ years on this important AAO Council, I clearly see how much more there is to do

legislatively to support our AAO members. Yet, I see how tremendously far we have come to make the AAO known to our U.S. Congressional members, their hard working staffers and all *Powers to Be* on Capitol Hill. The AAO is highly respected and more often than we realize, our lead is followed.

MSO...Let's "strut our stuff" from the grassroots up while in D.C., May 2018!

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