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## COVID-19 Pandemic and Legislative Packages in Congress

1 message

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### Government and Public Affairs Update



#### In Congress

##### Families First Coronavirus Response Act

Congress worked throughout the month of March on legislative packages in response to the coronavirus pandemic. The Families First Coronavirus Response Act became law March 18 and requires certain employers to provide employees with paid sick leave and expanded family and medical leave for "specified reasons related to COVID-19."

The law said that small businesses with fewer than 50 employees may qualify for exemption from the requirement. In a [letter](#) sent to Department of Labor Secretary Eugene Scalia, the ADA and many other dental organizations asked that small dental offices be exempt under this provision. The Department of Labor issued a [regulation](#) granting small businesses with fewer than 50 employees from the paid sick leave and family medical leave requirements when the employee's child's school or daycare is closed if one or more of the following conditions is met:

1. The leave would cause the small employer's expenses and financial obligations to exceed available business revenue and cause the small employer to cease operating at a minimal capacity;
2. The absence of the employee or employees would pose a substantial risk to the financial health or operational capacity of the small employer because of their specialized skills, knowledge of the business, or responsibilities; or,
3. The small employer cannot find enough other workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services the employer or employees requesting leave provide, and these labor or services are needed for the employer to operate at a minimal capacity.
4. An authorized officer of the business has to determine that the business meets one or more of these criteria, and the business must document that it meets those criteria. That documentation should be kept on file by the business for four years but it does not need to be sent to the DOL.

*Impacts on dentistry: These exemptions from the paid sick leave and family and medical leave requirements will help dental practices that do not have a large staff and cannot afford to have their staff take up to 12 weeks off.*

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##### CARES Act

The Coronavirus Aid, Relief and Economic Security Act (CARES Act) is the third COVID-related legislative package. The \$2 trillion stimulus package aimed at helping people, states and businesses nationwide devastated by the coronavirus pandemic was signed into law by President Donald Trump on March 27. Some of the provisions most applicable to dentistry include:



- Through the new Paycheck Protection Program (PPP) employers may be eligible for all or a portion of their PPP loans to be forgiven (tax-free) for amounts spent for certain payroll and other operating expenses.
- The SBA will pay the principal, interest and any associated fees that are currently owed on certain SBA loans for a six-month period starting on the next payment due date. Loans that are already on deferment would include an additional six months of payment by the SBA beginning with the next payment.
- The bill allows for a withdrawal of money from retirement funds (i.e., 401K, etc.) of up to \$100,000 in 2020 without paying a penalty if the dentist, their spouse or dependent(s) are diagnosed with COVID-19, or experience adverse financial consequences as a result of being quarantined, furloughed, laid off or having work hours reduced due to the coronavirus pandemic.
- Federal student loan borrowers would not be required to make a payment through September 30, 2020. During this time, no interest would accumulate on those federal loans (payment suspension applies only to loans held by the Department of Education, not private loans).
- For dentist employees that receive assistance from their employers in paying off student loans, those dentist employees will not have to pay income tax on any payment assistance, up to \$5,250, that they receive between enactment of this law and January 1, 2021.
- Employers and self-employed individuals can defer payment of the employer share of the Social Security tax until December 31, 2020. The deferred amounts would be paid over the following two years, with half of the amount required to be paid by December 31, 2021, and the other half by December 31, 2022.
- The bill provides for a one-time federal income tax rebate for eligible dentists and their employees in 2020. The rebate amount would be \$1,200 for individual tax filers and \$2,400 for those filing a joint return. The amount of the rebate will be reduced for single filers making more than \$75,000 and joint filers earning in excess of \$150,000. In addition, a rebate of \$500 is available for each child.
- Emergency unemployment compensation benefits are dramatically increased—by as much as \$600 a week—should dental office employees be laid off. This is a supplement for state funded unemployment insurance, with the federal enhancement being funded for four months.

The ADA has developed multiple resources for members to help understand what the many provisions mean to them and their dental practice. Dentists who previously applied for Economic Injury Disaster Loans prior to March 29 but who did not receive a Small Business Administration number are being asked to reapply for the loans as soon as possible [using a new form](#). The ADA has learned that applications made after March 29 will include a box that applicants can check to request an emergency grant of up to \$10,000, which the SBA must provide within three business days of the grant's request. The SBA updated the form to streamline the application process for businesses impacted by the COVID-19 pandemic.

*Impacts on dentistry: The CARES Act includes a number of provisions that will help dentists with the economic burden caused by the COVID-19 crisis. [Watch the recorded webinar](#) "Small Business Administration Loans: Understanding the Options for Dentist Owners" with presenters Mike Graham, SVP, ADA Government and Public Affairs, Megan Mortimer, Congressional Lobbyist, ADA Government and Public Affairs and Allen Schiff, President, Academy of Dental CPAs. This video covers two significant Small Business Administration loan options available to eligible dentist owners and the circumstances regarding how they must be utilized.*

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### **CARES Act Included OTC Monograph Reform**

The CARES Act included legislation the ADA had previously supported to reform the regulatory process for over-the-counter (OTC) drug monographs. The new law would allow the Food and Drug Administration (FDA) to approve changes to OTC drugs administratively, rather than going through a full notice and comment rulemaking. Currently, the FDA can approve all other drugs



without going through a full notice and comment rulemaking, and this legislation makes sure OTC medicines receive the same treatment as other drugs. This would establish a pathway for a single strength-controlled acetaminophen-ibuprofen combination drug to be developed and made available over-the-counter, which dental patients could be advised to take to treat post-operative pain.

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## Federal Agencies

### ADA Urges CDC to Provide Immediate Guidance

In a [March 24 letter](#) to CDC Director Robert R. Redfield, M.D, ADA President Chad P. Gehani and Executive Director Kathleen T. O'Loughlin asked the agency to provide 'immediate guidance' on protecting dental patients, staff from COVID-19 during emergency treatments.

The letter noted the Association is "being inundated by requests for guidance on how to safely provide both emergency care and urgent care in dental settings, where there is a high risk of being exposed to COVID-19." On March 16, the ADA issued a statement asking dentists to postpone nonemergency procedures and shared the ADA's guidance that was developed to help dentists distinguish dental emergencies and urgent situations from less urgent care.

*Impacts on dentistry: The CDC did issue [interim guidance](#) shortly after we sent our letter on March 26.*

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### ADA Asks HHS for Dedicated Oral Health Professional at CMS

The ADA reached out to the U.S. Department of Health and Human Services inquiring about the status of the appointment of a chief dental officer (CDO) at the Centers for Medicare & Medicaid Services (CMS). This position has been vacant since 2017 and the ADA has been advocating since that time for the agency to fill the position. During a February Senate hearing, HHS Secretary Alex Azar said that the agency was bringing the CDO onboard.

In the [March 5 letter](#) the ADA asked the Secretary for information on when the appointment would take place and who would fill the role. The letter also sought to clarify whether this position will be a shared position with the Health Resources and Services Administration.

*Impacts on dentistry: The CDO will be responsible for overseeing dental issues at CMS, including in Medicare, Medicaid, and the Children's Health Insurance Program. Contact: David Linn 202-789-5170 or [linnd@ada.org](mailto:linnd@ada.org)]*

### FDA Issues Final Rule

The Food and Drug Administration [issued its final rule](#) to require new health warnings on cigarette packages and in cigarette advertisements. The ADA advocated to address the e-cigarette epidemic and asked the Food and Drug Administration to implement the [graphic health warnings](#) for cigarette packages (including an oral cancer image) within 12 months. One of the warnings is, "WARNING: Smoking causes head and neck cancer." A coalition of public health and medical organizations, including the ADA, submitted [comments](#) last October in response to the request for comments on FDA's proposed rule to establish these new required health warnings for cigarette packages and advertisements.

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## State News

A new law in [Maine](#) now prohibits any health insurance carrier from imposing a waiting period for any dental or oral health service or treatment, except for orthodontic treatment, for enrollees under 19 years of age. Maine defines 'waiting period' as a period of time after enrollment when insurers may exclude some or all coverage for services.



[West Virginia](#) enacted its Assignment of Benefits law. The law requires dental carriers to pay dentists directly when subscribers instruct their plans to do so, regardless of dentists' plan participation status. It also requires notice to patients that assignment is optional and additional payments for care may be required. The original bill (SB 279) was amended into [HB 4061](#) and passed the Legislature nearly unanimously. The Governor signed it into law on March 25th.

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## Other News

### Grassroots Efforts by Dentists Impact Legislation

In March, dentists across the nation made their voices heard in Washington on two pieces of important coronavirus related legislation that will make a big difference for the dentistry profession.

The grassroots efforts on both the Families First Coronavirus Response Act and the Coronavirus Aid, Relief and Economic Security Act (CARES Act) were very successful. After the ADA sent two grassroots action alerts in March, 126,158 dentists sent 387,276 emails to Capitol Hill making dentistry's message well-received.

For the latest information on ADA Action Alerts and upcoming legislation visit [ada.org/actioncenter](https://ada.org/actioncenter).

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