MINUTES OF THE COUNCIL ON GOVERNMENT AFFAIRS ADA WASHINGTON OFFICE, WASHINGTON, D.C. FEBRUARY 16-17, 2024

- Call to Order: The meeting of the Council on Government Affairs (CGA) was called to order by Dr. Leigh Kent. Council chair, at 12:37 AM EDT on February 16, 2024. The meeting was held at
- 6 the ADA's Washington office.
- 7 **Roll Call:** The following Council members were present for all or part of the meeting: Dr. Leigh
- 8 Kent (chair), 2024 (District 5); Dr. James Tauberg (vice chair), 2025 (District 4); Dr. Darren
- 9 Chamberlain, 2025 (District 14); Dr. David Clemens, 2024 (District 9); Dr. Douglas Erickson,
- 2025 (District 10); Dr. Daniel Gesek, 2024 (District 17); Dr. Darren Greenwell, 2026 (District 6);
- Dr. Robert Hanlon, 2027 (District 13); Dr. David Hildebrandt, 2026 (District 12); Dr. Duc Ho,
- 2027 (District 15); Dr. Frank Iuorno, Jr., 2027 (District 16); Dr. Mina Kim, 2027 (District 2); Dr.
- John Roberts, 2025 (District 7); Dr. Elisa Velazquez, 2026 (District 4)*; Dr. Jonathan Vogel,
- 2024 (New Dentist Member); Dr. Cheryl Watson-Lowry, 2024 (District 8); Dr. Heather Willis,
- 15 2026 (District 11) 1.

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- Following the roll call, the presence of a quorum was noted.
- 17 **Consultants (for all or part of the meeting):** Dr. Hal Fair, chair, American Dental Political
- Action Committee (ADPAC); Dr. Rudy Liddell (Trustee); and Ms. Natalie Benkandil, American
- 19 Student Dental Association.
- 20 Government and Public Affairs Staff (for all or portions of the meeting): Mr. Robert J.
- Burns, senior manager, Public Policy and Regulatory Affairs; Ms. Kathy Clary, manager,
- Business Administrative Services; Ms. Jennifer Donahue, manager, State Government Affairs;
- Ms. Jennifer Fisher, congressional lobbyist, Congressional Affairs; Ms. Margaret Tucker (M.T.)
- Fogarty, senior project assistant, Legislative and Regulatory Policy; Ms. Pamela Fryer, project
- assistant; Mr. Michael Graham, senior vice president; Ms. Natalie Hales, congressional lobbyist,
- 26 Congressional Affairs; Mr. David Linn, director, Legislative and Regulatory Policy; Mr. Corey
- 27 McGee, manager, Legislative and Regulatory Policy; Ms. Sarah Milligan, director, ADPAC; Ms.
- 28 Megan Mortimer, congressional lobbyist; Congressional Affairs; Mr. Paul O'Connor, senior
- legislative liaison, State Government Affairs; Mr. Chad Olson, director, State Government
- 30 Affairs; Mr. Matt Rossetto, legislative liaison, State Government Affairs; and Mr. Chris Tampio,
- 31 director, Congressional Affairs.
- 32 Other Association Staff (for all or portions of the meeting): Dr. Hana Alberti, director,
- 33 Center for Dental Practice Policy; Dr. Krishna Aravamudhan, senior vice president, Practice
- Institute; Dr. Jane Grover, senior director, Center for Public and Population Health; Mr. C.
- Michael Kendall, senior associate general counsel, Legal Affairs; Mr. Dennis McHugh, senior
- manager, Third-Party Payer Issues, Center for Dental Benefit Programs; Ms. Katherine Merullo,
- senior manager, Public Affairs and Analysis, Communications; Dr. Betsy Shapiro, chief of
- governance and strategy management, Administrative Services; Mr. Matt Zaborowski, senior
- manager, Medicaid Programs and Health Policy, Center for Public and Population Health.
- 40 **Special Appearances (for all or portions of the meeting):** Dr. Linda Edgar, president,
- American Dental Association (District 11); Dr. Natalia Chalmers, chief dental officer, Centers for
- 42 Medicare and Medicaid Services (CMS): Ms. Sue Hadnot, president, Alliance of the American

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¹ Participated virtually for portions of the meeting.

- Dental Association; Dr. Ronald Lemmo, chair, ADA Strategic Forecasting Task Force (District
- 2 7); Dr. Randall Markarian, chair, House of Delegates Special Committee on ERISA (District 8);
- 3 Dr. Jeffrey Ottley, chair, Council on Dental Practice (District 17); U.S. Rep. Mike Simpson,
- 4 member, U.S House of Representatives.

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PRELIMINARY BUSINESS

- 2 Conflict of Interest (Disclosure) Policy: Dr. Kent referenced the Conflict-of-Interest Statement
- and Nondisclosure Agreement included on the agenda and called for disclosures of potential
- 4 conflicts of interest. The Confidentiality Statement was also discussed.
- 5 Adoption of Agenda: The agenda was unanimously adopted and approved by general consent
- 6 with the permission for the chair to reorder items as needed.
- 7 Approval of Consent Calendar: A consent calendar was unanimously adopted to expedite the
- 8 business of the Council. Council members had the opportunity to remove any item from the
- 9 consent calendar for consideration during the general meeting.
- 10 **Consent Calendar:** The Council adopted the following resolutions.
 - **Resolved,** that the action items contained in the following reports be approved by consent:
- 12 Recording of E-Ballot Results
- Approval of House of Delegates Resolutions
- Retention of the Policy, Limited English Proficiency
- Retention of the Policy, Tobacco Use, Vaping Devices, and Nicotine Delivery
- 16 Products
- Amendment to the Policy, Dental Benefits in a Child Support Order
- Amendment to the Policy, Federal Student Loan Repayment Incentives
- Amendment to the Policy, Liability Protection for Bioterrorism Responders
- 20 Rescission of the Policy, E-Cigarettes and Vaping
- 21 Rescission of the Policy, Federally Funded Dental Health Education and Prevention
- 22 **Resolved**, that the following reports be filed.
- 23 Report of the State Public Affairs Program Oversight Committee
- 24 Government Affairs Update
- 25 Report of the Practice Institute
- Report of the Board Task Force on Large Group/Multi-Site Practice Engagement
- 27 Report of the Dental Quality Alliance
- 28 Report of the Alliance of the American Dental Association
- 29 District Reports

Welcome and Report of the Chair: Dr. Kent welcomed everyone and discussed the critical

- issues that the council will face. She mentioned that while they may not be the primary council
- on all issues, CGA may still be involved. She noted how the ADA has helped dentists over the
- years, highlighting many issues ADA has prevented that would have negatively impacted
- practices, like costly regulations and tax increases. She mentioned the work the council has
- done and continues to do, including initiating an alternative Medicare payment work group. Dr.
- 36 Kent acknowledged there are challenges, but the council's job is to navigate the bumps and
- move forward. She looks forward to accomplishing more in the upcoming meeting and making
- tough choices that will help guide the council in the future.
- Remarks by Member of Congress: U.S. Rep. Mike Simpson (R-ID-2) gave an update on the
- work of the 118th Congress. He discussed the current political climate in Washington and the
- challenges facing Congress. He lamented the lack of compromise and bipartisanship, arguing
- that to govern effectively politicians must be willing to make tough decisions. Looking ahead, he

- hopes Congress can pass funding bills by the March deadline to avoid a government shutdown.
- 2 He also discussed workforce issues facing dentistry and other industries, arguing immigration
- 3 reform is needed to address labor shortages.
- 4 Report of the ADA President: Dr. Edgar discussed campaigns being undertaken by ADA
- such as the "lessons in a lunchbox" program, a contest to recruit new members for ADA, and a
- 6 members-only credit union. She urged the Council to share these initiatives with their state
- 7 delegations and districts. She also discussed the need for better communication from the Board
- 8 to members and stressed the need for confidentiality of council discussions and decisions until
- 9 officially announced.

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- Report of the Trustee Liaison: Dr. Liddell provided updates from the Board of Trustees
- meeting regarding the NCOIL Medical Loss Ratio (MLR) agreement. Dr. Liddell reminded the
- council members that once a group decision is made, they have a responsibility to support it,
- though lively debate is acceptable during the decision-making process.

RELEVANT ADA CAMPAIGNS AND INITIATIVES

- Report of the Executive Director: Dr. Cohlmia discussed many changes and initiatives
- underway to reverse declining membership. He noted the need to change the organization's
- membership model to entice the next generation of dentists embrace organized dentistry. He
- discussed efforts to focus the organization's business model on customer groups, introducing a
- simplified membership model with three categories, creating a single transaction system,
- 20 establishing the ADA Forsyth Institute, transitioning to the Salesforce Fonteva membership data
- system, and collaborating with affiliate organizations. Dr. Cohlmia also assured the Council that
- a strong replacement is being sought for Mr. Michael Graham, who is retiring, and that the
- transition will be smooth.
- Strategic Forecasting: Dr. Ron Lemmo discussed the roles and responsibilities of the Strategic
- Forecasting Committee (SFC), ADA Councils, and Board of Trustees in setting the ADA's
- strategic direction and plans. The SFC acts as an arm of the House of Delegates to
- continuously assess the ADA's progress towards its goals and member needs. The Council's
- determine what actions the ADA will take within their subject matter areas to fulfill the House's
- vision. The Board of Trustees implements the plans and budgets to conduct the work. While all
- 30 bodies have distinct roles, they work together in a collaborative effort. Dr. Lemmo talked about
- increasing engagement with students and early career dentists, achieving a true dental benefit,
- and ensuring organizational effectiveness as key strategic focus areas. CGA duties related to
- legislation, regulations, and programs that impact dentistry and oral health were also reviewed
- 34 through an example.

INSURANCE REFORM, ADA

- 36 **Medicare Activities Update:** Dr. Aravamudhan and Mr. McHugh discussed the ADA's most
- recent work on Medicare. They continue to monitor activities of the CMS as the agency
- implements payment and claims processing policies for dental services intrinsically linked and
- 39 substantially related to covered medical services. CMS has left pricing to the Medicare
- 40 Administrative Contractors (MAC's). There is no uniformity in how each MAC is processing
- claims. The Council on Dental Benefit Programs (CDBP) is looking to document the
- disadvantages of the current medical RVU system and the potential for alternate payment
- methods if this regulatory expansion under the medical benefit continues year after year in
- 44 anticipation that at some point CMS may regulate pricing methodology under current Medicare
- statutory provisions. CMS is making progress in adopting the dental claim form for dental

- services. The MAC's are reporting that they are receiving claims from patients rather than
- 2 dentists. Lack of clarity on enrollment into Medicare is limiting ADA's ability to provide clear
- guidance regarding enrollment issues. We continue to seek this clarity from the agency. Staff in
- 4 Practice, with support from the DC Office, also plans to review regulations affecting any enrolled
- 5 Medicare provider to clarify the impact of Medicare participation. In addition, CDBP is supporting
- a workgroup charged with developing a future-state voucher or similar payment model for
- 7 Medicare based on the 2020 HOD policy to be prepared were there to be any Congressional
- 8 activity again regarding a full dental benefit in Medicare. The MAC's have requested guidance
- on duration of immunosuppression for patients on bisphosphonates for cancer therapy. The
- 10 Council on Scientific Affairs is evaluating the evidence on this topic. CDBP is continuing to
- discuss other aspects of Medicare.

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CGA members then briefly discussed how medically necessary dental care and research could overlap into other issues, such as veterans' oral health care and agreed to e-ballot vote on a letter to CDBP.

Resolved, that the Council on Government Affairs send a letter to the Council on Dental Benefit Programs urging the development of policy at the 2024 House of Delegates to broaden veterans' oral health care.²

Medicaid Activities Update: Mr. Zaborowski briefed the Council on the ADA's Medicaid pilot project. The project is intended to demonstrate to improve provider participation in Medicaid to effectively increase utilization of dental services for children and adults through a 6-state pilot program. The project aims to create a blueprint and track outcomes by December 2025 by: (1) Increase the number of Medicaid providers with claims for Medicaid beneficiaries by 5–10%; (2) Increase the number of Medicaid providers with claims for more than 100 Medicaid beneficiaries by 5-10%; and (3) Measure change in the number of Medicaid beneficiaries receiving dental services by category of service. The states selected include Maryland, Nebraska, Ohio, Pennsylvania, Rhode Island, and South Dakota. State teams are being formed and including a core stakeholder group consisting of the State Dental Director, Medicaid Director, Oral Health Program/Office of Dental Health, Oral Health Coalition, State Dental Association leadership, Primary Care Association, and other oral health champions to help advance this effort forward in each of the identified states. States are being asked to develop specific goals that align with the overarching pilot project, and strategies to accomplish these goals. Future efforts will include a Collaborative with representatives from each state team, staff and leaders of the ADA, and representatives from CMS to foster data sharing, enhance efforts through discussion of successes and barriers, and commonalities. No actionable items.

ERISA Update: Dr. Markarian, Mr. Tampio, and Mr. Olson discussed the findings and recommendations of the House of Delegates ERISA Committee, including the committee's action plan which focuses on educating members about how ERISA impacts their practices, and they want to explain how ERISA exemptions affect how state laws are applied. The committee is working with state attorneys' general to enforce existing state laws on non-covered services, prompt pay, and assignment of benefits for self-funded ERISA plans. They hope clarification from court cases will help support enforcing state laws. The committee is reaching out to other medical groups to build a broad coalition to push back against ERISA preemption. They are working with optometry and other specialties impacted by ERISA. Litigation is seen as a court strategy where the committee would submit amicus briefs, rather than through direct lobbying. The committee is cautious about pushing federal legislation that could upset stakeholders. The committee is developing a communications plan and educational resources to explain ERISA to

² Resolution voted on subsequent to the meeting by e-ballot.

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dentists. They want to keep the information simple and focused on how ERISA impacts practices. No actionable items.

WORKFORCE AND DENTAL TEAM SHORTAGES

- **Dental Practice Update:** Dr. Ottley focused discussion on workforce shortages in dentistry and potential solutions and initiatives his council is working on including:
 - A panel with regulators and software vendors to develop data exchange standards.
 - A toolkit to reduce stigmatizing mental health questions in licensure applications.
 - Incentive programs for dental students and professionals to work in underserved areas.
 - Expanding dental assisting programs through community colleges and on-the-job training.
 - Fast tracking foreign trained dentists to work as hygienists until they finish dental school; and using workforce alliances to fund training programs and partially pay salaries during training.
- 14 Other potential solutions discussed included:
 - Giving incentives like tuition reimbursement, tax breaks and loan repayment for dentists and hygienists to work in rural areas.
 - Increasing the ratio of in-state residents admitted to dental schools.
 - Creating a pathway for military retirees with dental training to become licensed hygienists.
 - There was also discussion around developing a unified dental software owned by dental associations to reduce costs, improve data exchange, and provide a member benefit. No actionable items.
 - **CGA Workforce Development Workgroup:** Dr. Willis discussed the workgroup's proposed charge and objectives. The workgroup aims to address the shortage of allied dental staff like hygienists and assistants, rather than primarily dentists. Their objectives include:
 - Organizing a workforce summit for states to share best practices.
 - Developing new policies to expedite residency status for foreign-trained dental professionals.
 - Providing a toolkit, available on an easily accessible ADA website. to help states utilize funding from grant programs like the Action for Dental Health.
 - Collaborating with other councils to avoid duplicating efforts.
 - Members expressed the need for more specific information to share with their members, like details on funding opportunities, applications, and deadlines. The workgroup plans to finalize a resource toolkit by their July deadline and work with appropriate ADA councils to facilitate more tangible information that states can utilize immediately. They aim to determine a date for the proposed workforce summit to further highlight initiatives at the state level.

INSURANCE REFORM, CGA

CGA Private Insurance Reform Workgroup: Dr. Gesek discussed a meeting of the private insurance reform work group. The group met for the first time and received updates on the activities of the ERISA Committee and the Competitive Health Insurance Reform Act. They also got an update on CDBP activities. The group produced 3 priorities to move forward with and that for this year, the group will help other functioning groups as requested. No actionable items.

- 1 **CGA Public Insurance Reform Workgroup:** Dr. Watson-Lowry discussed how the group
- would like to work on children's oral health policies this year. They want to determine if there
- 3 should be a policy requiring school-age children to have regular dental exams. The group also
- 4 wants to address the issue of inadequate Medicaid dental networks in most states. Another
- focus is enforcing Medicaid's geographic requirements. No actionable items.

GOVERNMENT AFFAIRS UPDATE

- 7 ADPAC Update: Dr. Fair and Ms. Milligan discussed how ADPAC raises funds to support
- 8 dental advocacy efforts and contribute to political candidates. In the last year, 66% of ADPAC
- funds went directly to candidates, while 18% went to grassroots advocacy and education.
- ADPAC has different giving levels from \$50 to \$5000. Lobby Day was discussed, which is
- scheduled for April 7-9, 2024. The agenda for Lobby Day was presented, with some changes
- from previous years to accommodate more first-time attendees and dental students. ADPAC
- aims to thank the leaders from aligned dental organizations who attend Lobby Day. Questions
- were asked about how ADPAC ensures candidates supported align with the organization's
- advocacy issues, the potential for designated donations to specific causes, and details on the
- Lobby Day schedule. No actionable items.
- Government and Public Affairs Update: Mr. Mike Graham discussed the importance of Lobby
- Day and student involvement in advocacy efforts. Student debt is a major concern, with average
- debt reaching \$400,000. The interest that accumulates while students are in school contributes
- significantly to the debt. Lobby Day provides an opportunity to advocate for bills that address
- these issues and give students their first experience advocating for the dental profession.
- Having a large number of students participate in Lobby Day is seen as valuable for developing
- future leaders in dentistry and spreading interest in advocacy. Though there are logistical
- challenges with too many students, the benefits of engaging and inspiring students outweigh
- those concerns. The interactions and experiences students have at Lobby Day can make a
- lasting impact and motivate them to advocate throughout their careers. No actionable items.
- 27 The Council commemorated the forthcoming retirement of Mr. Mike Graham, Senior Vice
- 28 President of Government and Public Affairs, noting several major accomplishments during his
- 29 29-year tenure at the ADA. No actionable items.

CENTERS FOR MEDICARE & MEDICAID SERVICES

- CMS Update: Dr. Chalmers, the Chief Dental Officer of CMS, discussed key updates on
- Medicaid and Medicare dental services. For Medicaid, CMS conducted interviews with patients,
- providers, and government officials to identify barriers to oral health care. Key barriers included
- inadequate reimbursement rates leading to provider shortages, long wait times for
- appointments, lack of providers in rural areas, and lack of standardized patient records across
- 36 providers.

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- For Medicare, the 2023 and 2024 rules expanded limited dental coverage for patients
- undergoing medical procedures where dental health is critical, like organ transplants and cancer
- treatment. Coverage is currently on a contracted basis due to lack of data. CMS is working to
- establish billing codes to accurately capture dental procedures. The expansion of coverage was
- based on evidence from research reviews by the Agency for Healthcare Research and Quality.
- Stakeholders like the American Dental Association provided feedback through public comment
- 43 periods that shaped CMS policies. Dr. Chalmers emphasized the need for dentists to provide
- input to guide future policies on how best to improve access to oral health care for Medicaid and
- 45 Medicare beneficiaries. No actionable items.

NCOIL MEDICAL LOSS RATIO

- MLR: Mr. Olson presented on the National Council of Insurance Legislators (NCOIL) model
- legislation for establishing dental insurance MLR. NCOIL model provides a starting point that
- 4 sets a floor and prevents insurance companies from going lower. The main wins from the
- 5 NCOIL model were transparency requirements and provisions to investigate and require
- 6 minimum loss ratios from outlier insurance companies. The NCOIL model language has been
- 7 filed in one state while others have used aspects of the NCOIL model. While some states may
- 8 prefer a simple percentage-based requirement, the NCOIL model provides an option and
- 9 negotiating tool.

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- There was discussion about California's data showing that while some large insurance
- companies meet high loss ratios, many smaller discount plans have very low loss ratios. The
- NCOIL model could help eliminate or improve these underperforming plans. Looking ahead,
- future NCOIL models could address issues like assignment of benefits and down coding. The
- current NCOIL dental loss ratio model will also be revisited in 5 years to incorporate lessons
- learned and make improvements. No actionable items.

STUDENT LOANS

- 17 Student Loans and Postgraduate Educational Debt: Ms. Mortimer discussed various issues
- surrounding student loan debt and reform efforts among dentistry students and new dentists
- and provided an update on current legislative efforts on student loan relief through bills like the
- 20 Resident Education Deferred Interest Act (REDI) Act and Dental Faculty Loan Repayment Act.
- 21 Strategies to advocate for student loan relief, including partnering with other dental
- organizations, targeting key committees and lawmakers, and framing the issue as a workforce
- 23 and economic issue were also discussed along with providing student loan relief to encourage
- dentists to practice in underserved areas and specialties that are facing shortages.
- 25 Finally, issues like low utilization of existing loan forgiveness programs and the need for better
- information and outreach on available relief programs was discussed before Mr. Burns
- discussed the status of a forthcoming rule establishing the hardship criteria for student loan
- forgiveness. He also revisited the findings of the ADA Task Force to Study Innovations for
- 29 Alternate Student Loan Repayment Strategies. No actionable items.

COUNCIL OPERATIONS

- Process for Electing Chair and Vice Chair: Dr. Kent discussed the protocols for electing a
- chair and vice chair for the 2024-2025 council year, based on the *Standing Rules for Councils*
- and Commissions and the Guidelines for the Selection of Council Chairs. No actionable items.
- Future Meeting Format: Dr. Kent led a discussion about the format of future meetings. The
- council discussed the format of the meeting and many members felt that the time was too
- compressed and did not allow for enough discussion. Members proposed coming in the day
- before to allow for more productive discussion time during the meeting.
- Future Meeting Dates: The Council discussed potential meeting dates for the 2024-2025 term.
- The Council considered both the need to accommodate caucus meetings and that the July
- 40 meeting can at times complicate the resolution submission deadlines. The Council will identify
- dates through a subsequent e-ballot.

NEW AND/OR UNFINISHED BUSINESS

- 2 **Open Forum:** Mr. Rossetto updated the council on the States Handling Access to Reciprocity
- for Employment Act (SHARE) Act, a bill aimed at allowing state licensing agencies to access
- FBI background check information for licensees participating in interstate compacts.

5 ADJOURN

- 6 Adjournment: The meeting was adjourned by Dr. Kent at 11:38 AM EST on Saturday,
- 7 February 17

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America's leading advocate for oral health

UNOFFICIAL REPORT OF MAJOR ACTIONS 1 2 **COUNCIL ON GOVERNMENT AFFAIRS** FEBRUARY 16-17, 2024 3 The Council on Government Affairs (CGA) met on February 16-17, 2024, at ADA office in Washington. 4 D.C. The following is a summary of major actions taken by the Council. 5 1. Through the Consent Calendar, the Council recorded the results of the two e-ballots conducted 6 since the Council meeting of July 20-22, 2023. 7 2. Through the Consent Calendar, the Council voted to retain two policies and transmit five policy 8 review resolutions to the 2024 House of Delegates, pending any secondary council feedback that 9 would warrant further discussion at the Council meeting of July 19-20, 2024. 10 3. The Council agreed to subsequently send a letter through e-ballot on a resolution to the Council 11 on Dental Benefit Programs urging the development of policy at the 2024 House of Delegates to 12 broaden veterans' oral health care. 13 4. The Council unanimously approved the charge statements of its three workgroups: Private Dental 14 Insurance Reform, Public Dental Insurance Reform, and Workforce Development. 15 5. The Council agreed to vote subsequently through e-ballot on a resolution for 2025 meeting dates 16 of January 31-February 1, 2025, and July 18-19, 2025. 17 **Council on Government Affairs** 18 Dr. Leigh Kent, chair, AL 19 Dr. James Tauberg, vice chair, PA 20 Dr. Abdul Abdulwaheed, MA (not present) 21 Dr. Darren Chamberlain, UT 22 23 Dr. David Clemens, WI 24 Dr. Mark Crabtree, VA 25 Dr. Doug Erickson, MN Dr. Dan Gesek, FL 26 Dr. Darren Greenwell, KY 27 Dr. Robert Hanlon 28 Dr. David Hildebrandt, LA 29 Dr. Mina Kim, NY 30 Dr. Duc Ho, TX 31 Dr. Frank Iuorno, Jr., VA 32 Dr. John Roberts, IN 33 Dr. Elisa Velazquez, NJ 34 Dr. Jonathan Vogel, TX 35 Dr. Cheryl Watson-Lowry, IL 36 Dr. Heather Willis, AK (attended virtually)

Liaisons and Consultants:

- Ms. Natalie Benkandil, American Student Dental Association,
- Dr. Hal Fair, chair, American Dental Political Action Committee, SC
- Dr. Rudy Liddell, trustee-liaison, Seventeenth Trustee District, FL
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