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March 19, 2020

The Honorable Eugene Scalia  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Dear Secretary Scalia:

The American Dental Hygienists' Association (ADHA) writes to express its concern regarding specific provisions related to family and medical leave, as well as paid sick leave, in the Families First Coronavirus Response Act (H.R. 6201).

Addressing emergency family and medical leave expansion and paid sick leave for workers affected by the novel coronavirus (COVID-19) pandemic is vital to workers across the country, including the nation's more than 185,000 dental hygienists. Dental hygienists are licensed primary care oral health professionals and members of the oral health care team who focus on preventing oral disease and identifying and treating oral disease.

As you know, H.R. 6201 includes exemptions under both the Emergency Family and Medical Leave Expansion and the Emergency Paid Sick Leave sections of the bill. Under those provisions, you have the regulatory authority to exempt small businesses with fewer than 50 employees from these provisions "when the imposition of such requirements would jeopardize the viability of the business as a going concern."

Given the ongoing work on Capitol Hill to produce additional coronavirus relief legislation—an effort that is likely to include additional relief for small businesses—we believe it would be prudent to delay the granting of exemptions, until Congress has completed work on the third relief measure and the expected fourth bill to follow. This is important because small businesses are expected to be afforded additional economic relief including interruption loans, which loans may be forgiven for payroll and other costs for the period of March 1, 2020 – June 30, 2020.

ADHA hopes that dental practices will be afforded needed economic relief created by the coronavirus crisis. That said, it is concerning that organized dentistry is pursuing relief at the expense of dental practice employees, particularly when the extent of relief for dentist employers is not yet fully known.

ADHA urges that you carefully consider the impact of organized dentistry's March 18, 2020 request for an automatic blanket exemption for "all dental practices with fewer than 50 employees" on dental hygienists. Organized dentistry writes that applying for an exemption "would be a hardship on businesses that are already short-staffed and do not have the time to go through a lengthy application process."

On March 18, the Centers for Medicare and Medicaid Services (CMS) issued recommendations on elective surgery and procedures; these recommendations are particularly strong with respect to dental procedures. Indeed, dental procedures are afforded particular emphasis. The CMS recommendations caution that: ***“Dental procedures use PPE [personal protective equipment] and have one of the highest risks of transmission due to the close proximity of the healthcare provider to the patient. To reduce the risk of spread and to preserve PPE, we are recommending that all non-essential dental exams and procedures be postponed until further notice.”***

Dental Hygiene services fall within the category of elective services. If dental practices adhere to these recommendations - and ADHA believes they should - then dental hygienists will not be working during the period these recommendations are in effect, and dental hygienists will be in need of the employee benefits Congress and the President are providing to employees adversely impacted by the coronavirus pandemic.

Specifically, ADHA believes that employees who are unable to work because they provide services that the government has recommended be “postponed until further notice” be compensated for the time they are unable to work. We do not support efforts to eliminate the possibility of that relief such as a blanket exemption for dental practices from new paid leave requirements.

Thank you for your consideration of ADHA’s views, and for the role you are playing during these uncertain, unprecedented times. We would welcome the opportunity to discuss this important issue with you and your staff. We would also be pleased to provide additional information or answer questions regarding ADHA’s position. Please do not hesitate to contact ADHA Director of Education and Professional Advocacy Ann Lynch ([annl@adha.net](mailto:annl@adha.net)) or ADHA Washington Counsel Karen Sealander ([ksealander@mwe.com](mailto:ksealander@mwe.com)) at McDermott Will & Emery.

Sincerely,



Matt Crespin, MPH, RDH  
President

CC: Ann Battrell, MSDH, ADHA Chief Executive Officer  
Vice President Mike Pence  
Speaker of the House Nancy Pelosi  
House Republican Leader Kevin McCarthy  
Senate Majority Leader Mitch McConnell  
Senate Democratic Leader Charles Schumer