

April 10, 2020

The Honorable Jay Inslee, Governor of Washington
The Honorable John Wiesman, Secretary of Health
Office of the Governor
PO Box 40002
Olympia, WA 98504

Dear Governor Inslee and Secretary Wiesman,

On behalf of the Washington State Dental Association (WSDA) and its 4,400 member dentists, we are writing to address certain matters related to COVID-19 affecting the dental community.

On February 29, 2020, Governor Jay Inslee issued Proclamation 20-05, proclaiming a state of emergency in all counties in the state of Washington calling upon the health care delivery system and its workers to take action, requesting their full engagement in the emergency response. Washington's health care system and its workers responded and are currently practicing in extraordinary circumstances and in unprecedented ways. Dentists across our state continue to provide emergent care to patients of record and WSDA is actively participating in efforts to help all Washingtonians with emergent dental issues find care outside of our state's hospitals.

To curtail the spread of the COVID-19 pandemic in Washington and to protect health care workers as they provide health care services, the governor issued Proclamation 20-24 on March 19, 2020, prohibiting certain health care services, procedures and surgeries for the purpose of preserving hospital space and personal protective equipment ("PPE") for a surge of COVID-19 patients. This proclamation prohibits dental offices from providing services, procedures, and surgeries that, if delayed, are not anticipated to cause harm to the patient within the next three months.

As these extraordinary events continue to unfold, the Washington State Dental Association respectfully requests action and clarity on several items.

Liability Immunity for Following COVID-19 Public Health Mandates

Dentists are making decisions based on their best clinical judgment regarding the services, procedures and surgeries that can be delayed without causing harm to patients. However, certain delays carry risk of harm; and the longer the prohibition is in place and care is delayed, the greater the resulting backlog of patients in need of care. With this backlog, the risk to patients increases. In addition, those dental professionals who are providing care are conserving and reusing PPE while doing so. These practices are not standard, even while consistent with current guidance from

the Centers for Disease Control and Prevention and Washington State Department of Health.

For these reasons, we request that the protections established by the Legislature through the Uniform Voluntary Emergency Health Practitioner Act (the “Act”) be extended to Washington dentists and other members of the dental team who are providing care and those who are making decisions to postpone care pursuant to Proclamation 20-24. In the COVID-19 response, nonresident health care practitioners are protected from liability, except for acts or omissions constituting gross negligence or willful or wanton misconduct. We respectfully request that Washington’s health care practitioners, including its dental professionals, be extended the same protection as workers from other states. This would require striking the following language from RCW 70.15.010(16):

“Volunteer health practitioner” means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. The term does ~~not~~ include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, ~~unless the practitioner is not a resident of this state and is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.~~

Clarity on Proclamation 20-24

Proclamation 20-24 prohibits non-emergent dental care across the state through May 18, 2020. Recent data suggest that measures to reduce community spread have been working and the risks of overwhelming the hospital system are decreasing. Assuming that recent trends continue, WSDA respectfully requests that dentists be permitted to resume non-emergent care of their patients as soon as possible. Resuming routine care, with appropriate patient screening and infection control protocols, will reduce risk to patients associated with delays in care.

As state authorities continue to assess the pandemic’s progression, WSDA requests clarity on the specific criteria being used to determine when dental offices, and all other medical practices, can resume providing routine care. This information is extremely useful for dental practices to understand, as decisions are made relating to staff retention and other business-related matters.

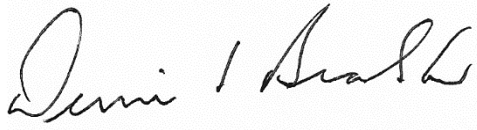
Modify the Scope of Practice for Dental Professionals to include COVID-19 Testing

As we prepare to move beyond this pandemic, COVID-19 testing will be an important tool in returning to a normal standard of care. WSDA respectfully requests that COVID-19 testing be included in the scope of practice for all dental professionals (dentists, dental hygienists, expanded function dental auxiliaries, and dental assistants). Modifying existing scopes of practice to include COVID-19 testing will allow dental offices to screen patients prior to providing care, which will help prevent

further delays beyond those already caused by the pandemic. The Department of Health has authority under the Act to modify the dental scope of practice to include such testing during a state of emergency, but additional action will be needed for the longer term.

Thank you in advance for your consideration of the above issues. If you would like any additional information, or if you have any questions, please do not hesitate to contact Bracken Killpack at bracken@wsda.org.

Sincerely,



Dr. Dennis Bradshaw
President
Washington State Dental Association



Mr. Bracken R. Killpack
Executive Director
Washington State Dental Association