

Dental Care Bill of Rights

HB 1154 – Dental Insurance Reform

1. Retroactive Denial – Fairness in Claim Payment Refund Requests

- Dental insurers audit their claim payment/adjudication activities before and after payments are made to dentists to ensure accuracy and efficiency. Sometimes, insurers require dentists to repay claim payments when the insurers discover they paid a claim mistakenly. While it is appropriate for plans to audit payments for errors and adjust accordingly, it is unreasonable to ask dentists to refund payments several years after plans make erroneous payments.
- The value of *Retroactive Denial* laws is that they establish a reasonable statute of limitations on insurers' refund requests, similar to the existing time limitations for dentists to file claims for covered services they have provided.
- Under existing *Retroactive Denial* laws, dental insurers are limited to a reasonable time period (typically 6 - 12 months) where they can request refunds from dentists when they have paid claims in error.

2. Prior Authorization – Claim Payments Guarantee

- Insurers occasionally issue a "prior authorization" that details for both the patient and the dentist how much the insurer will pay for a treatment plan, which helps reduce confusion and helps patients know what to expect financially.
- Insurers sometimes deny payment for the care they authorized, or reduce the amount they promised to pay for the services. When authorized care is denied, this can result in an emergency financial situation for the patient and doctor, increasing stress and throwing up an unnecessary barrier to future care due to lack of trust in the insurance carriers.
- *Prior Authorization* laws hold dental insurers to paying what they promised in the authorization.

3. Virtual Credit Card – Fairness in Claim Payment/Transaction Fees

- There is a growing trend for insurance carriers to pay a claim by issuing a credit or debit card rather than a paper check or direct deposit. Typically, the transaction involves no physical card, but rather a series of numbers the dentist enters into a website or terminal in order to complete the claims payment transaction.

- The virtual credit card payment method includes a per transaction fee of as much as 5% - to be paid *by* dentists in order to collect the claim payment. In some cases, the insurance carrier offers no other alternative for paying its claims, and may even share in the revenue generated from the fees the dentists must pay to receive the funds.
- The value of *Virtual Credit Card* laws is that they do not prohibit this payment method, but simply inform dentists of other payment options and allow dentists to opt for a different payment method.

4. Network Leasing – Fair and Transparent Network Contracting

- Dental insurers occasionally lease or rent the “in-network” relationship they have established with a dentist to another entity. This can happen without the dentist’s consent or knowledge. As the contract a dentist signs with a carrier is leased to other entities, which can happen years after the initial contract is signed, it can obligate the dentist to deeply discounted fees for a larger patient base than anticipated. This behind-the-scenes approach to building networks erodes patient and dentist trust.
- *Network Leasing* laws expand transparency before networks are leased and provide an opportunity for dentists to accept or refuse the contracts to which they would be obliged.

5. Medical Loss Ratio (MLR) – Transparency of Patient Premiums in Dental Care

- The federal government requires major medical plans pay certain percentages of the collected premiums for medical care vs. administrative costs. For example, large group plans must spend at least 85% of their collected premiums on care delivered to patients and no more than 15% can be spent on administrative costs and profit.
- No such requirement exists for dental plans which are considered “excepted benefits.”
- Patients seeking to maximize the value of the coverage they purchase would benefit from knowing how much of the carriers’ premiums are invested in the care they receive. State laws establishing a reporting requirement will ensure that dental plans are more transparent to the people they serve.

Restricting Retroactive Denial to Prevent Surprise Billing and Protect Patients



Retroactive denial allows insurance companies to require dentists to repay claims already paid to them when insurers discover they paid a claim mistakenly, even if the claim was processed years ago. This results in surprise billing – at the expense of patients.

Patient Concerns

Retroactive denials often result in an unexpected bill for the patient and erodes trust between patients and their dentists, creating uncertainty that can keep patients from seeking care in the future. Patients and dentists alike should be able to expect timely, accurate billing settlements when working with insurers.

Solution

The North Dakota Dental Association is working to pass reforms to limit the time frame within which an insurer may demand a refund on a claim they have already paid out. As a result, “surprise bills” are limited within a reasonable amount of time, typically 6 or 12 months.

What Are the Benefits of Retroactive Denial Laws?

- Adopts a statute-of-limitations approach, establishing a reasonable timeline to conclude health care coverage transactions.
- Establishes accountability and responsibility on the part of insurers in managing their processes and administration of benefits, ultimately helping to keep overall health care costs down.
- Careful management of claims payment administration reduces unexpected health care costs that add to the cost of care in the long run.

Proposed Retroactive Denial Laws in North Dakota

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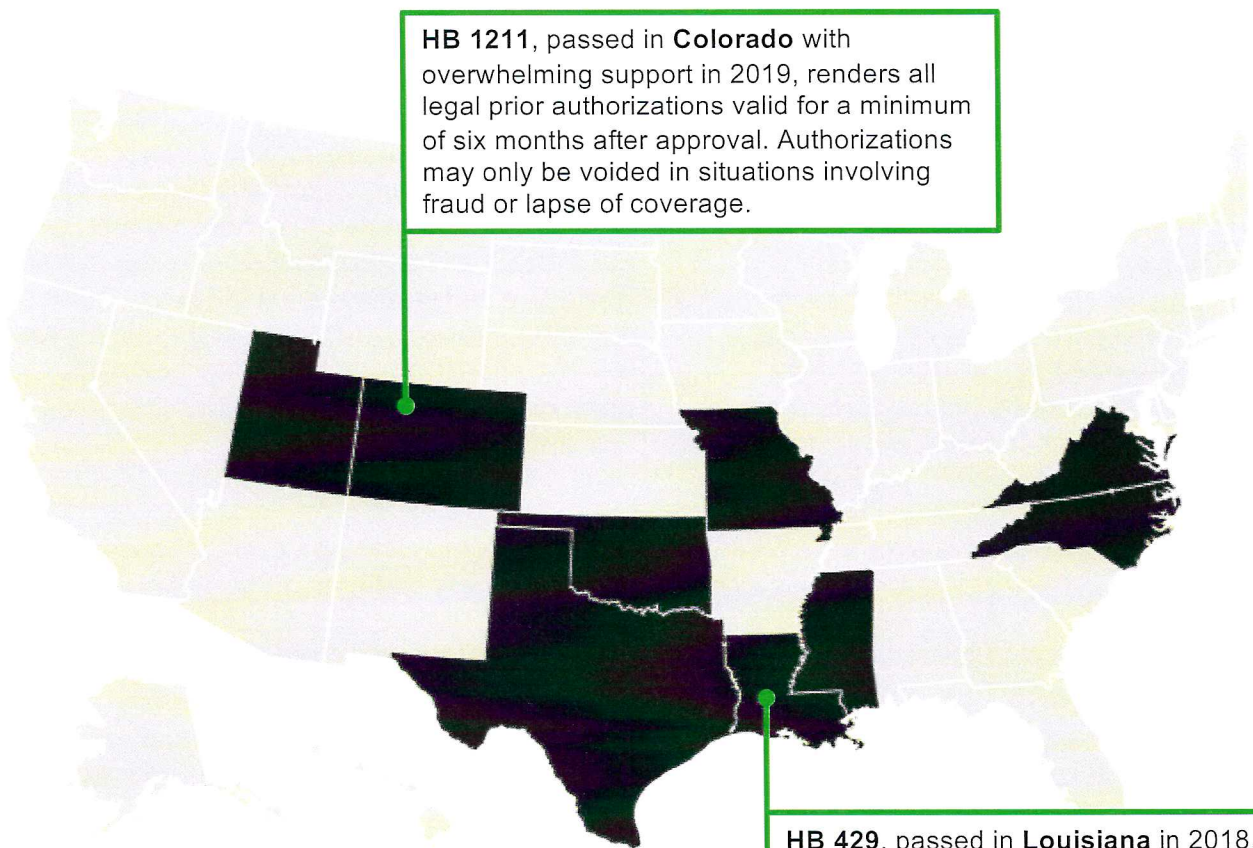
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Prior Authorization Legislation is Gathering National, Bipartisan Support

► PASSED IN

9 states



HB 1211, passed in **Colorado** with overwhelming support in 2019, renders all legal prior authorizations valid for a minimum of six months after approval. Authorizations may only be voided in situations involving fraud or lapse of coverage.

HB 429, passed in **Louisiana** in 2018, prohibits dental carriers from denying any claims approved in prior authorization, barring circumstances involving exhausted/inadequate coverage or fraud.

► **To learn more about Prior Authorization Legislation in North Dakota,** please contact the North Dakota Dental Association at 701-223-8870 or by email at wsherwin@smilenorthdakota.org.

Protecting Patients by Holding Insurers Accountable for Prior Authorizations



An insurer's authorization means they agree to make payment for the service(s) being sought prior to treatment. However, an increasing number of insurers are denying claims for services previously authorized, reversing their agreement with both patients and dentists.

Patient Concerns

In submitting an authorization request, dentists are making a good-faith effort to explain the treatment plan so insurers may determine, prior to the service, whether coverage is granted and what costs patients will need to pay. Once authorization is granted, patients should have a right to be assured that their procedure will be covered. When the promise to pay is reversed after care is delivered, patients and dentists are left in an unexpected and unfair financial bind, effectively disrupting treatment planning.

Solution

The North Dakota Dental Association is advocating for legislation to hold insurance companies accountable to their promise to pay. "Promise to Pay" legislation ensures that patients have all the information they need so that they can plan for all health care costs. In the last two years, five states have enacted laws to address this unfair practice, demonstrating the state law can and should require insurance companies to stand by their commitment to pay.

What Are the Benefits of Prior Authorization Laws?

- Avoiding surprise costs preserves the trust between patients and their providers, preventing confusion for all parties.
- Patients are far more likely to seek care if they can rely on their insurance carrier's commitment to pay, fully understand which portions of treatment will be covered, and are accurately informed of out-of-pocket costs.

Proposed Prior Authorization Laws in North Dakota

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Regulating Network Leasing to Preserve Patient Benefits



Insurance companies can pawn dentists off to a different insurance network without the dentist's knowledge or consent, significantly impacting the insurance benefits available to their patients.

Patient Concerns

Without network leasing laws, health care transparency suffers. Patients and providers should be fully informed about the costs of care as early as possible in any health care transaction. Leased networks often have the opposite effect. Because leased networks operate “silently”, the provider and patients are unable to determine coverages and discounts. This erodes patient/dentist trust, which can lead to assumptions in treatment plans and costs based on a false understanding of patient coverage.

Without protections in law, the PPO contracting entities can include dentists in an agreement without their knowledge, consideration or consent. Likewise, there are no protections for dentists from having to comply with various terms, conditions and fee schedules to which they had no opportunity to consider, negotiate or accept/reject.

Solution

The North Dakota Dental Association is advocating for network leasing laws that would expand transparency and provide an opportunity for dentists to accept or refuse these contracts, enforcing basic fairness while reducing occurrences of unexpected bills following a procedure. One third of states currently employ such legislation.

What Are the Benefits of Network Leasing Laws?

- Dentists are fully engaged as they choose to join a network, allowing dentists to understand and negotiate the terms of their agreement.
- As a result, dentists and patients are informed partners as they discuss financial planning around future procedures.

Proposed Network Leasing Laws in North Dakota

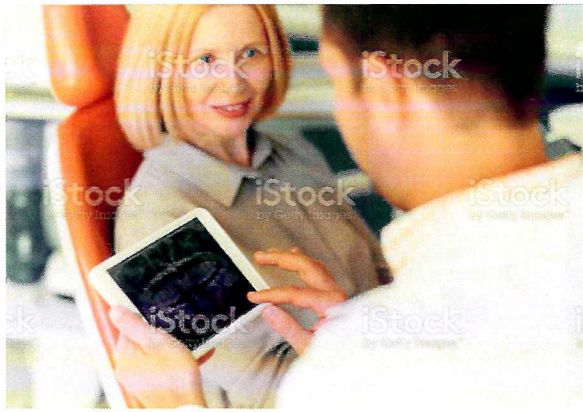
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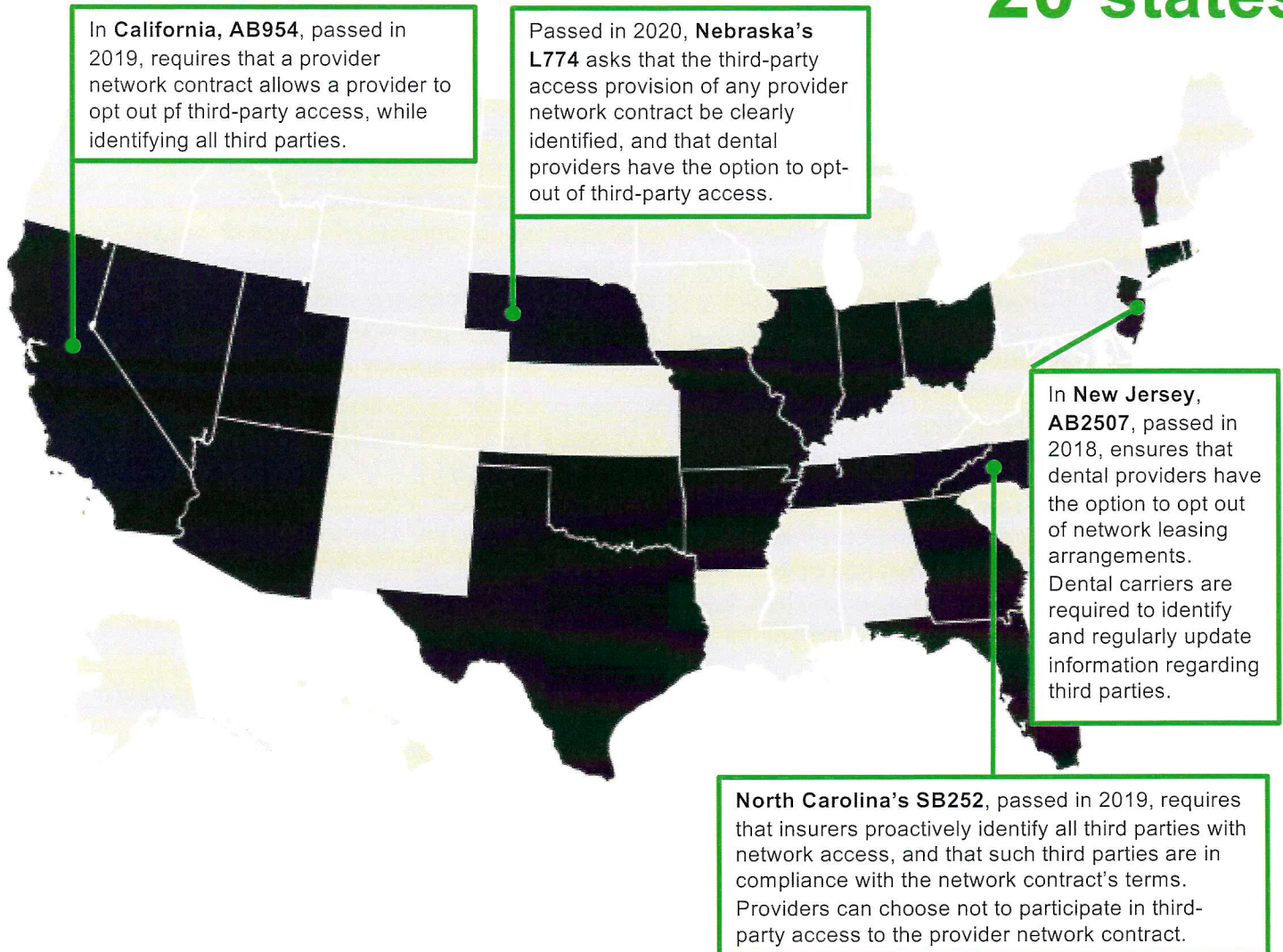
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Provider Network Leasing Legislation is Gaining Momentum Across the Nation

► PASSED IN

20 states



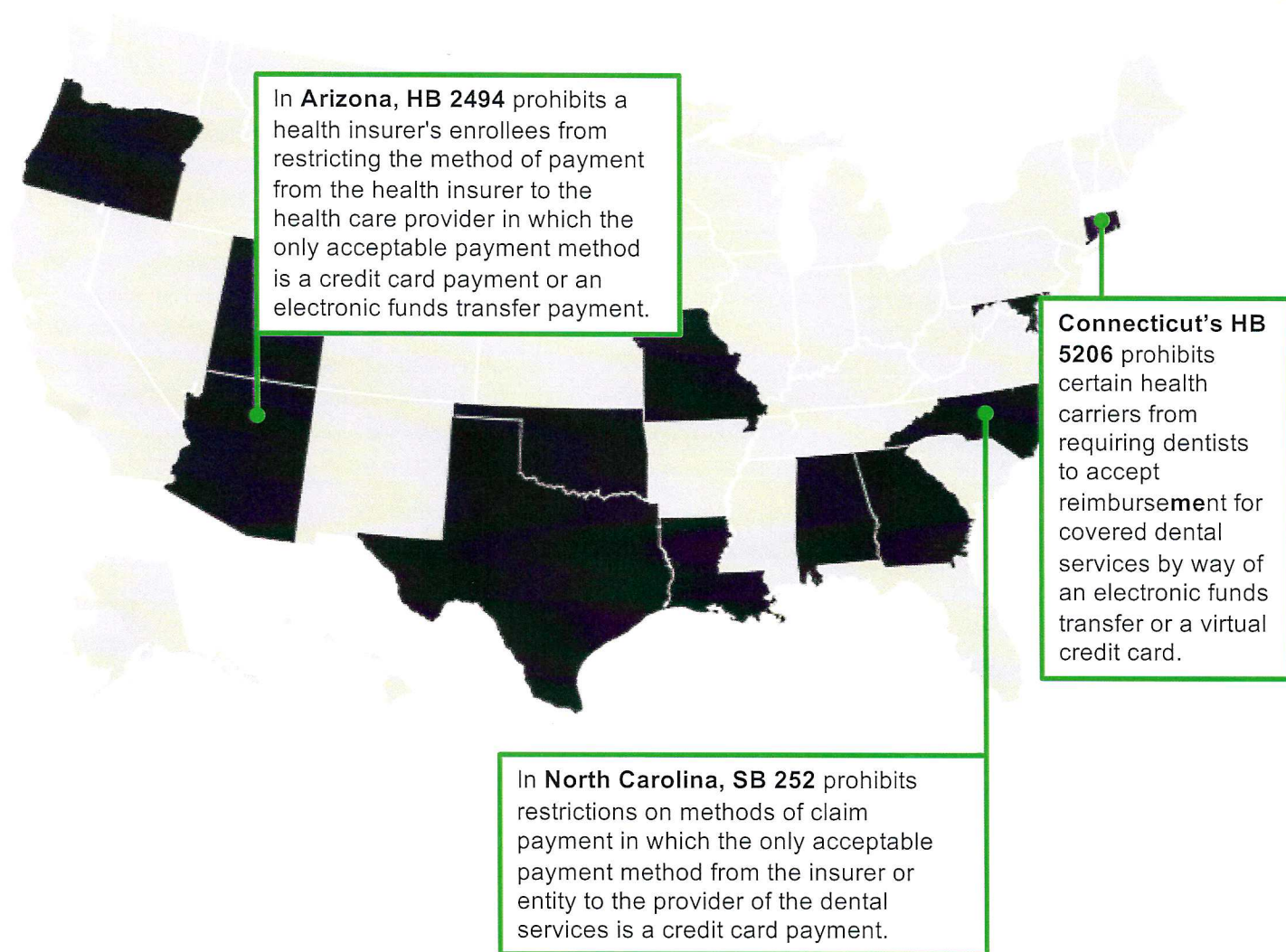
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Bipartisan Success for Virtual Credit Card Legislation

► PASSED IN

12 states



► To learn more about **Virtual Credit Card Legislation in North Dakota**, please contact the North Dakota Dental Association at 701-223-8870 or by email at wsherwin@smilenorthdakota.org.

Reducing Costly Administrative Barriers through Virtual Credit Card Legislation



Increasingly, insurance companies require dentists to accept claim payment through a virtual credit card, which can include a per-transaction fee of as much as 5%. In some cases, insurance companies even share in the revenue generated from these fees.

Patient Concerns

Efficiencies gained by the insurance company shouldn't come at the expense of patients. Adding an extra expense in the form of transactional fees does not lower health care costs and limiting payment options does not allow for informed decision making. Dentists can best serve patients when they have options on how to accept payment, with or without fees, that all parties can knowingly agree to from the outset.

Solution

The North Dakota Dental Association supports legislation that would prohibit insurance companies from forcing dentists to be paid only through high-fee virtual credit cards. Virtual credit card reforms do not prohibit this payment method but require that providers be informed of other payment options and be given the opportunity to opt into a different payment method. In the last five years, legislation addressing this problem passed with bipartisan support.

What Are the Benefits of Virtual Credit Card Laws?

- Providers are able to explore a variety of fee-free claim payment methods that ultimately reduce overall costs for their patients and practice.
- Dental practices, which are often small businesses, are no longer forced to solely accept a payment method which may come with a fee of as much as 5%.

Proposed Virtual Credit Card Laws in North Dakota



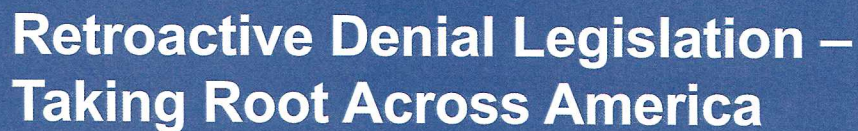
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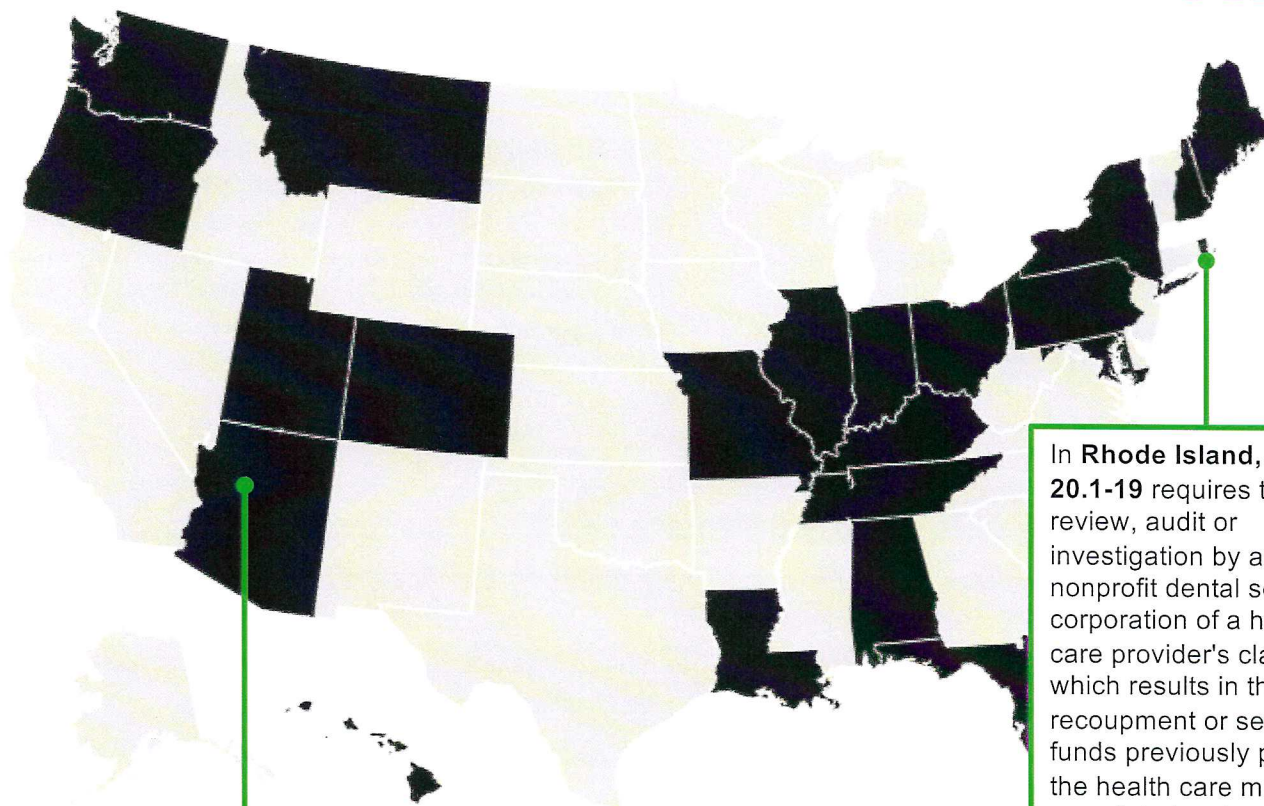
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PASSED IN

24 states



In **Arizona, A.R.S. § 20-3102 (I)** prohibits insurers from adjusting or requesting adjustment of the payment or denial of a claim more than one year after payment or denial.

In **Rhode Island, § 27-20.1-19** requires that any review, audit or investigation by a nonprofit dental service corporation of a health care provider's claims which results in the recoupment or set-off of funds previously paid to the health care must be completed no later than 18 months after the completed claims were initially paid.

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