

Testimony on HB 1154
William R. Sherwin
North Dakota Dental Association
House Industry, Business and Labor Committee
February 3, 2020

Good Morning Chairman Lefor and members of the House Industry, Business and Labor Committee, my name is William Sherwin, Executive Director of the North Dakota Dental Association. I would like to thank you all for your time today to speak on HB 1154 our “Dental Care Bill of Rights.” This legislation was adopted from the national model at NCOIL piloted by our very own Representative Keiser who is our sponsor here in North Dakota as well. Our Dental Care Bill of Rights includes four sections/issues that I will walk through with you briefly:

1. Network Leasing – Fair and Transparent Network Contracting

Insurance companies can “sell/lease” dentists off to different insurance networks without the dentist’s knowledge or consent, significantly impacting the insurance benefits available to their patients. This erodes patient/dentist trust, which can lead to assumptions in treatment plans and costs based on a false understanding of patient coverage.

In a typical insurance network arrangement, dentists are fully engaged as they choose to join a network, allowing dentists to understand and discuss the terms of their agreement with patients as needed. In states that allow network leasing to proceed without adequate protections, the insurance network may transfer the rights to a dentist’s contract to another insurance company without seeking the dentist’s knowledge or consent. As a result, dentists may not be able to adequately advise patients on financial planning around dental services.

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, establishing basic fairness while reducing occurrences of unexpected bills following a procedure.

2. Prior Authorization – Claim Payments Guarantee

To the typical patient, an insurer’s authorization means, barring unusual circumstances, payment for the service(s) authorized prior to treatment will be made by the benefit carrier.

Unfortunately, an emerging trend among payers has been to deny a claim for a service that was authorized by the benefit carrier. Patients and their dentists rely upon this promise to pay and are caught off-guard when payment is denied.

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, if the plan raises any concerns with regard to payment. Once authorization is established, patients and dentists feel assured insurers' coverage will be delivered. When the promise to pay is altered after care is delivered, patients and doctors are left in an unexpected financial bind.

Carriers should be compelled to comply with their promise to pay that is included in preauthorization communications. The intent of proposed legislation is to ensure carriers honor their commitment provided in prior authorizations when there are no extenuating circumstances.

3. Retroactive Denial – Fairness in Claim Payment Refund Requests

Dental plans have the ability to review claims after payment has been delivered and request claims payment refunds under certain circumstances. The profession is interested in laws that restrict the timeframe allowed to request such a refund. Laws in this category restrict refund requests to six months to a year after payment.

Dental benefit plans have become more complex as they adjust to competition and related market pressures. One such adjustment is a greater emphasis on plans auditing claims after payments are made as a means to control their expenditures. 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 have made erroneous payments and discover it. The NDDA recognizes the value of public policy that limits the amount of time dental carriers may request a refund for an erroneous claim payment. Such laws establish a reasonable statute of limitations on insurers' refund requests, similar to the existing statute of limitations for providers to file claims for covered services.

As small business owners and employers, dentists are careful in establishing their practice budgets. They must plan carefully, especially as carrier payments for covered services are usually

less than dentists' regular fees. It places an undue burden on the practice to repay carriers for a mistake carriers made in paying claims many years after the mistake was made.

Dentists participating in insurers' networks have a limited amount of time to file claims for covered services, usually less than a year. After that, insurers can refuse to pay anything. This time limit ensures the claim process remains efficient and avoids having to retrace the history of services many years later. The same logic should apply to carriers requesting a refund many years after they send a payment, where carriers ask dentists to refund a claim payment. Just as dentists are limited in claiming payment for covered services, plans should be similarly limited in the time they have to claim a refund on a payment they made by mistake.

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

Unless prohibited, insurance carriers can require dentists to accept claims payment using a credit or debit card equivalent 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 credit card terminal in order to complete the claims payment transaction. If the insurance carrier offers no other alternative for paying its claims, it can become expensive, cumbersome and even impossible for some dentists to be paid.

The virtual credit card payment method includes a per transaction fee of as much as 5% paid by dentists. So, in order to collect for the services they have rendered to a patient/subscriber of the insurance carrier, dentists have to pay a fee for each transaction. This does nothing to improve patients' care and dentists not given an alternative option are left to pay a fee to receive claims payment, that's assuming they are equipped to collect credit card payments.

For these reasons and the reasons outlined in your handouts, I would ask the committee to please support HB 1154, give the bill a due pass recommendations and follow the direction of both NCOIL and so many states across our country on fair and transparent contracting processes in the dental insurance market.