

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2617 Session of
1982

INTRODUCED BY TADDONIO, LAUGHLIN, RYAN, IRVIS, GRUPPO,
MANDERINO, McVERRY, WESTON, DURHAM, PUNT, STEWART, PRATT,
LESCOVITZ, COLAFELLA, GEORGE, KUKOVICH, DEAL, WAMBACH,
VAN HORNE AND COHEN, AUGUST 25, 1982

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, AUGUST 25, 1982

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, further providing for professional dental health
3 service corporations and for the liability of professional
4 health service corporations.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 6322(e) of Title 40, act of November 25,
8 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated
9 Statutes, is amended to read:

10 § 6322. Scope of service.

11 * * *

12 (e) Liability of corporation limited.--All professional
13 health services provided by or on behalf of a professional
14 health service corporation shall be in accordance with the best
15 professional health service practice in the community at the
16 time, but the corporation providing such services shall not be
17 liable for injuries resulting from negligence, misfeasance,
18 malfeasance, nonfeasance, or malpractice, on the part of any

1 [officer or employee or on the part of any] health service
2 doctor in the course of rendering professional health services
3 to subscribers, and the corporation may so provide in its
4 contracts with subscribers.

5 * * *

6 Section 2. Chapter 63 of Title 40 is amended by adding a
7 subchapter to read:

8 SUBCHAPTER C

9 SPECIAL PROVISIONS FOR DENTAL SERVICE

10 CORPORATIONS AND PLANS

11 Sec.

12 6341. Claim review and payment procedures.

13 6342. Proceedings before Commonwealth agencies.

14 6343. Provisions for resolving disputes.

15 6344. Initial reserve requirement.

16 6345. Liability of corporation for actions.

17 § 6341. Claim review and payment procedures.

18 (a) Review of claim by corporation dentist.--No request for
19 predetermination of dental services or request for payment for
20 dental services performed shall be denied by a health service
21 corporation for a medical-dental reason, including, but not
22 limited to, a decision that a proposed dental treatment is
23 unnecessary or not indicated, a less expensive treatment than
24 that proposed or performed would provide adequate treatment for
25 the dental condition, the prognosis for a treatment is poor or a
26 treatment was not performed adequately or properly, unless and
27 until the predetermination request or claim is reviewed by a
28 dentist, licensed by the Commonwealth to practice dentistry and
29 in the employ of or under contract to the insurer, who shall
30 provide the insurer with a written statement explaining in

1 detail his reasons for denying the predetermination request or
2 claim.

3 (b) Copy of denial.--If a request for predetermination of
4 dental services or a claim for payment for dental services
5 rendered is denied for medical-dental reasons, the patient and
6 the treating dentist shall be provided with a copy of the
7 statement of the dental advisor which statement shall contain
8 the name of the dental advisor.

9 (c) Availability of dental advisors.--A health service
10 corporation's dental advisors shall be made available by the
11 corporation on a reasonable basis to answer inquiries from
12 treating dentists regarding the determinations of the advisor.
13 Every health service corporation shall publish regulations
14 delineating provisions governing availability of dental advisors
15 which regulations shall be subject to the approval of the
16 Department of Health.

17 (d) Review of decision of dental advisor.--Any patient or
18 participating dentist aggrieved by a decision of a dental
19 advisor employed by or under contract to a health service
20 corporation may have the decision reviewed by the dental review
21 committee, or other appropriate internal committee of health
22 service doctors, of the health service corporation. The patient
23 and participating dentist shall be notified of this right to
24 appeal and the procedure to be utilized by the health service
25 corporation. The committee shall notify the patient or
26 participating dentist of the time and location of the review.
27 The patient or participating dentist may present evidence and
28 information in writing or by appearing at the review. In
29 addition, the patient may opt to have his treating dentist
30 present evidence and information in writing or by appearing at

1 the review. The patient, if he desires, may be examined at the
2 review by the members of the committee. The committee shall
3 notify the patient or participating dentist of its decision,
4 which decision shall explain in detail the rationale of the
5 decision. If the committee fails to make a decision within 45
6 days of the receipt of a request for review, the matter shall be
7 considered to have been finally resolved in favor of the
8 appealing party.

9 (e) Payments when dental treatment improper.--No health
10 service corporation shall refuse to make payment to an insured
11 dental patient on the basis that dental services for which
12 payment is requested were performed inadequately, improperly or
13 not in accordance with professional standards. The health
14 service corporation shall be subrogated and succeed to the
15 patient's rights of recovery against the dentist for all amounts
16 paid by the patient to the dentist.

17 § 6342. Proceedings before Commonwealth agencies.

18 (a) Notice of hearings.--All decisions, rulings,
19 adjudications, approvals and other actions of the Department of
20 Health and the Insurance Department relating to the dental
21 activities of a professional health service corporation shall be
22 made only after publication in the Pennsylvania Bulletin of
23 notice of opportunity for hearing.

24 (b) Standing.--Any dentist or dentists or State or local
25 professional dental society aggrieved by a proposed action of a
26 professional health service corporation involving a dental plan
27 shall be deemed a party in interest and have standing and a
28 right to participate in any proceeding before the Department of
29 Health and the Insurance Department concerning the proposed
30 action of the corporation.

1 (c) Definition.--For purposes of this section, a State or
2 local professional dental society shall be that society defined
3 in the act of July 20, 1974 (P.L.564, No.193), known as the
4 "Peer Review Protection Act."

5 § 6343. Provisions for resolving disputes.

6 All contracts for the provision of or payment for dental
7 services entered into by a health service corporation shall
8 contain a provision that all disputes, controversies or
9 disagreements relating to a request for predetermination of
10 dental services or a request for payment of dental services
11 performed, which are not resolved to the satisfaction of the
12 dentist, patient or health service corporation by the dental
13 review committee, or other appropriate internal committee of
14 health service doctors, of the health service corporation, may
15 be appealed by the aggrieved party to a peer review committee
16 established by a State professional dental society, as defined
17 in the act of July 20, 1974 (P.L.564, No.193), known as the
18 "Peer Review Protection Act." The decision of the peer review
19 committee shall be final and binding upon all parties as to the
20 quality, acceptability and adherence to professional standards
21 of the dental services or proposed dental services with regard
22 to resolution of the dispute, controversy or disagreement in
23 question.

24 § 6344. Initial reserve requirement.

25 Notwithstanding any provisions of law to the contrary, the
26 initial reserve requirement of a professional health service
27 corporation proposing to provide dental services shall be
28 \$50,000.

29 § 6345. Liability of corporation for actions.

30 A professional health service corporation shall be immune

1 from liability for all actions taken by the corporation in good
2 faith involving the providing of information and records
3 concerning potential violations of the act of May 1, 1933
4 (P.L.216, No.76), known as "The Dental Law," or concerning
5 practices not in accordance with generally accepted professional
6 standards, to the State Dental Council and Examining Board.

7 Section 3. This act shall take effect in 60 days.