

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 19, 1982

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 13, 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,

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

6 * * *

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

9 SUBCHAPTER C

10 SPECIAL PROVISIONS FOR DENTAL SERVICE

11 CORPORATIONS AND PLANS

12 Sec.

13 6341. Claim review and payment procedures.

14 6342. Proceedings before Commonwealth agencies.

15 6343. Provisions for resolving disputes.

16 6344. Initial reserve requirement.

17 6345. Liability of corporation for actions.

18 § 6341. Claim review and payment procedures.

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

1 insurer, who shall provide the ~~insurer~~ PROFESSIONAL HEALTH
2 SERVICE CORPORATION with a written statement explaining in
3 detail his reasons for denying the predetermination request or
4 claim.

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

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

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

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

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

20 § 6342. Proceedings before Commonwealth agencies.

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

27 ~~(b) Standing. Any dentist or dentists or State or local <—~~
28 ~~professional dental society aggrieved by a proposed action of a~~
29 ~~professional health service corporation involving a dental plan~~
30 ~~shall be deemed a party in interest and have standing and a~~

1 ~~right to participate in any proceeding before the Department of~~
2 ~~Health and the Insurance Department concerning the proposed~~
3 ~~action of the corporation.~~

4 (B) STANDING.--ANY DENTIST OR DENTISTS WHO ARE AGGRIEVED BY <—
5 A PROPOSED ACTION OF A PROFESSIONAL HEALTH SERVICE CORPORATION
6 INVOLVING A DENTAL PLAN OR ANY STATE OR LOCAL PROFESSIONAL
7 DENTAL SOCIETY SHALL BE DEEMED A PARTY IN INTEREST AND HAVE
8 STANDING AND A RIGHT TO PARTICIPATE IN ANY PROCEEDING UNDER THIS
9 TITLE.

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

14 § 6343. Provisions for resolving disputes.

15 All contracts for the provision of or payment for dental
16 services entered into by a PROFESSIONAL health service <—
17 corporation shall contain a provision that all disputes,
18 controversies or disagreements relating to a request for
19 predetermination of dental services or a request for payment of
20 dental services performed, which are not resolved to the
21 satisfaction of the dentist, patient or PROFESSIONAL health <—
22 service corporation by the dental review committee, or other
23 appropriate internal committee of health service doctors, of the
24 PROFESSIONAL health service corporation, may be appealed by the <—
25 aggrieved party to a peer review committee established by a
26 State professional dental society, as defined in the act of July
27 20, 1974 (P.L.564, No.193), known as the "Peer Review Protection
28 Act." The decision of the peer review committee shall be final
29 and binding upon all parties as to the quality, acceptability
30 and adherence to professional standards of the dental services

1 or proposed dental services with regard to resolution of the
2 dispute, controversy or disagreement in question.

3 § 6344. Initial reserve requirement.

4 Notwithstanding any provisions of law to the contrary, the
5 initial reserve requirement of a professional health service
6 corporation proposing to provide dental services shall be
7 \$50,000.

8 § 6345. Liability of corporation for actions.

9 A professional health service corporation shall be immune
10 from liability for all actions taken by the PROFESSIONAL HEALTH <—
11 SERVICE corporation in good faith involving the providing of
12 information and records concerning potential violations of the
13 act of May 1, 1933 (P.L.216, No.76), known as "The Dental Law,"
14 or concerning practices not in accordance with generally
15 accepted professional standards, to the State Dental Council and
16 Examining Board.

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