

Date: February 1, 2017

To: The House Committee on Health and Human Services

From: Kevin J. Robertson, CAE
Executive Director

RE: **Support of HB 2119** – clarifying that de minimis coverage and exhausted coverage do not qualify as covered dental services

Chairman Hawkins and members of the Committee, I am Kevin Robertson, Executive Director of the Kansas Dental Association (KDA) representing the licensed dentists in the state of Kansas.

The member dentists of the KDA are fully in support of HB 2119.

KSA 40-2,185 states that “No contract issued or renewed after July 1, 2010, between a health insurer and a dentist who is a participating provider with respect to such health insurer's health benefit plan shall contain any provision which requires the dentist who provides any service to an insured under such health benefit plan at a fee set or prescribed by the health insurer unless such service is a covered service”

The KDA requested introduction of HB 2119 to clarify the definition of a “non-covered” dental services which was first enacted by the legislature in 2010. This is necessary because nationally some insurance carriers have found loopholes in similar state laws which enable them to continue to dictate the fee dentists can charge their patients. In these cases, the insurance carrier may include a wide variety of dental procedures as “covered” by offering very small or “de minimis” payment coverage for them. In other cases, the insurance carrier will offer a very low maximum benefit of coverage and once the insured “max’s out” their benefit they are no longer responsible for any insurance reimbursement yet they continue to control the fee charged by dentists for treatment.

Both of the changes the KDA is requesting for dental contracts in HB 2119 closely mirror legislation that was supported by the optometrists and overwhelmingly approved by the 2014 Kansas Legislature.

This practice in dental provider contracts negatively impacts patient care and the dentist patient relationship and interferes with basic free market forces as it artificially establishes fees on dentists’ services that are not covered by insurance plans

HB 2119 is not an insurance mandate nor does it require an insurance carrier to cover any certain type of claim, condition, illness, etc. It simply prohibits certain language in insurer-provider contracts and clarifies a statute that was enacted by the legislature seven years ago.

Those representing the insurance industry will surely argue that HB 2119 is state interference with their right to contract with willing parties. Dentists, however, do not “negotiate” contract provisions with insurance carriers. Dentists are simply given the option to take-it-or-leave-it. “Leaving it” is often not a viable option for dentists as their patient base and existing patients may already be covered by the insurance program in question with a long-established dentist-patient relationship. Also, under anti-trust laws, dentists cannot organize to collectively fight or complain against such contract provisions – the existing insurance code exists for this very reason and in this case legislation like HB 2119 is the only remedy.

Some may argue that an insurance policy that sets fees on noncovered services will reduce healthcare costs to dental patients, but will it? The zero-sum theory that we learn about in high school economics will surely play out...costs are simply passed on; they do not evaporate.

I would suggest that if not corrected, such contract policies could result in watered-down dental benefits to employees whereby a minimal dental benefit program is wrapped around a dental discount program that essentially pays nothing to the covered insured/employee. This would ultimately result in higher (not lower) out of pocket costs to employees.

Drs. Dave Hamel and Nick Rogers will also be testifying to discuss the importance of continuity of patient care and the effects such a contract provision could have on their practices and the wellbeing of their patients.

Thank you for the opportunity to testify today in support of HB 2119! I will be happy answer any questions you may have at this time.