

CHAPTER 259

AN ACT regulating dental decisions by insurers and third party administrators, providing for limited professional registration certificates, and supplementing Titles 17 and 45 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.17:48G-1 Definitions relative to dental decision regulation.

1. As used in this act:

"Adverse dental decision" means a dental decision by an insurer or a third party administrator, or any other person acting on its behalf to deny, reduce, or fail to provide payment, in whole or in part, for a covered service based upon a dental decision.

"Board" means the New Jersey State Board of Dentistry.

"Dental decision" means a decision which is based upon a dental diagnosis or a dental judgment related to dental services performed or to be performed in the State of New Jersey, including, but not limited to, any decision relating to: the quality or appropriateness of dental services rendered or proposed to be rendered by a dentist; reasonable necessity for or customary performance of a dental service; or diagnosis or prognosis of a dental condition.

"Insurer" means an insurance company, health service corporation, hospital service corporation, medical service corporation, dental service corporation, dental plan organization or health maintenance organization authorized to issue dental contracts or plans in this State.

"Third party administrator" means "third party administrator" as defined by section 1 of P.L.2001, c.267 (C.17B:27B-1).

C.17:48G-2 Dental decisions made by insurer.

2. a. An insurer may make dental decisions in connection with the processing or payment of dental claims or otherwise in the course of its dental benefit administration activity. Dental decisions made by an insurer shall be consistent with the following:

(1) an initial adverse dental decision shall be made by a dentist duly licensed in this or another state;

(2) if a treating dentist questions the adverse dental decision and specifies in writing the basis of the disagreement with the adverse dental decision, the insurer, within 30 days shall:

(a) designate a reviewing dentist who is duly licensed in this State or who has been issued a limited registration certificate pursuant to section 4 of this act; and

(b) notify the treating dentist in writing promptly of the name and address where the reviewing dentist can be contacted and the telephone number which can be used to contact the reviewing dentist;

(3) if an agreement is not reached within a reasonable period of time, not to exceed 30 days from the insurer's notice issued pursuant to subparagraph (b) of paragraph (2) of this subsection, the insurer shall make its decision and communicate the results of the reviewing dentist's dental decision to the treating dentist.

b. Within 14 days of a written request by the treating dentist, or the patient or the patient's authorized representative, for the basis of an adverse dental decision by a reviewing dentist, provided to the treating dentist pursuant to paragraph (3) of subsection a. of this section, the insurer shall send a written notice containing the full name, address and telephone number of the reviewing dentist and a narrative statement specifically identifying the basis for the decision.

C.17:48G-3 Dental decisions made by third party administrator.

3. a. A third party administrator may make dental decisions in connection with the processing or payment of dental claims or otherwise in the course of its dental benefit administration activity. Dental decisions made by a third party administrator shall be consistent with all of the following:

(1) an initial adverse dental decision shall be made by a dentist duly licensed in this or another state;

(2) if a treating dentist questions the adverse dental decision and specifies in writing the basis of the disagreement with the adverse dental decision, the third party administrator within 30 days shall:

(a) designate a reviewing dentist who is duly licensed in this State or who has been issued a limited registration certificate pursuant to section 4 of this act; and

(b) notify the treating dentist in writing promptly of the name and business address where the reviewing dentist can be contacted and telephone number which can be used to contact the reviewing dentist;

(3) if an agreement is not reached within a reasonable period of time, not to exceed 30 days from the third party administrator's notice issued pursuant to subparagraph (b) of paragraph (2) of this subsection, the third party administrator shall make its decision and communicate the results of the reviewing dentist's dental decision to the treating dentist.

b. Within 14 days of a written request by the treating dentist, or the patient or the patient's authorized representative, for the basis of an adverse dental decision by a reviewing dentist, provided to the treating dentist pursuant to paragraph (3) of subsection a. of this section, the third party administrator shall send a written notice containing the full name, address and telephone number of the reviewing dentist and a narrative statement specifically identifying the basis for the decision.

C.45:6-70 Issuance of limited registration certificate.

4. The New Jersey State Board of Dentistry shall issue to a dentist in good standing holding an active license to practice dentistry in any other state a limited registration certificate authorizing the registrant to make dental decisions pursuant to P.L.2007, c.259 (C.17:48G-1 et al.), if there is no pending dental license disciplinary action and no adverse information disclosed in a criminal background check or data bank search. A limited registration certificate shall not be deemed to authorize the registrant to treat patients or otherwise engage in the private practice of dentistry in this State.

C.45:16-71 Fee for certificate.

5. Each applicant for a limited registration certificate and each registrant shall pay to the board a fee in the amount established by the board, not to exceed a sum equal to 20 percent of the fee established for the issuance of a two-year active dentist registration; except that, the fee for submitting the application for the initial limited registration certificate shall be \$125, which shall be deemed to include the fee which would otherwise be due for the unexpired portion of the first biennial registration period. The board shall process and issue a limited registration certificate to each qualified applicant within 30 days of its receipt of a completed application therefor.

C.45:6-72 Standards for dentists and holders of limited registration certificates.

6. Dentists licensed in New Jersey and holders of limited registration certificates are intended to be subject to the same standards of honesty, integrity and competency. In

exercising its powers under R.S.45:6-1 et seq., the board shall apply the same standards as to honesty, integrity and competency to New Jersey dentists and to holders of limited registration certificates.

C.17:48G-4 Inapplicability of act relative to certain decisions of insurers, third party administrators.

7. This act shall not be construed:

a. To regulate insurers' or third party administrators' making any decision, including, but not limited to, a decision concerning benefit or insurance coverage, that does not involve the making of a dental decision;

b. To regulate insurers' or third party administrators' use of a protocol for denying or limiting benefit payments for dental services where the protocol:

(1) has been approved for use by a dentist who is duly licensed in this State or who has been issued a limited registration certificate pursuant to section 4 of this act; and

(2) does not involve evaluation of an individual patient's dental care or condition; or

c. To regulate the application of contract limitations and exclusions, the credentialing of dentists or the conduct of retrospective fraud reviews.

C.17:48G-5 Applicability of act to dental decisions.

8. This act shall be construed to apply only to insurers and third party administrators or persons acting on their behalf who make dental decisions.

C.17:48G-6 Construction of act relative to board.

9. Nothing in this act shall be construed to confer jurisdiction upon the board to make any dental benefit coverage determinations or to direct any insurer, benefit plan, administrator or other payor to make any payment or otherwise to regulate the conduct of an insurer or third party administrator.

C.45:6-1a Additional board member.

10. In addition to the current membership of the board as prescribed by R.S.45:6-1, the Governor shall appoint, in the same manner as presently prescribed by law for the appointment of members, one additional member to the board who shall have resided and practiced dentistry in this State for at least 10 years immediately preceding his or her appointment.

11. Sections 4, 5 and 6 shall take effect on the 30th day after the date of enactment, and the remainder of this act shall take effect on the 90th day following enactment, but the board shall take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 11, 2008.