



# Dental Care Bill of Rights

## HB 1154 – Dental Insurance Reform

### MESSAGES AND Q&A, 2020

**NDDA VALUE PROPOSITION:** The NDDA helps to simplify and to navigate your patient’s dental insurance complexities with ready-to-use solutions - allowing you to prioritize patient care.

**ABOUT THIS DOCUMENT:** These messages are intended to help you provide information and clarity for both patients and dentists around the complex issues of dental insurance reform. The messaging is based on research conducted by the NDDA to understand how audiences think about these issues, and the language within was developed to provide the most effective advocacy tool possible.

## SUMMARY DENTAL INSURANCE REFORM STATEMENT

Dental insurance should be reliable and predictable for patients and their dentists. Unfortunately, dental insurance providers are not transparent about costs, often leading to surprise fees that create anxiety and financial hardship for patients. Research shows that “my plan did not cover procedures” is a major reason people don’t seek care. In addition, outdated legislation allows dental benefit companies to go back on previously authorized services or demand repayment for errors they made – even years later, creating instances of surprise billing for patients and their providers.

Navigating the health care system is complex enough. Patients don’t need further red tape to deter them from pursuing dental care they need to stay healthy. The North Dakota Dental Association is working on policy solutions to help patients better understand their dental insurance and use their coverage more effectively. Dental Insurance Reform puts power back into the hands of patients, enabling them to stop wasting money on a product that provides inadequate coverage.

## KEY MESSAGES

**Dental insurance in America is broken. Patients buy dental insurance thinking it will help them only to find that it doesn’t make care affordable, doesn’t cover needed procedures and commonplace insurance practices make reliability and predictability impossible.**

- People opt out of, or postpone, getting dental care because coverage doesn’t work for patients, which has a negative, trickle-down effect on personal and public health.
- A recent policy brief from Health Policy Institute<sup>1</sup> revealed that the main barriers to getting needed dental care all relate to affordability. Among the top three reasons people don’t get care is “insurance did not cover procedures.”
- Currently, dental insurance companies operate according to their own rules, allowing them to refuse to honor payment on previously authorized services or demand repayment for payment

<sup>1</sup> Gupta N, Vujici M. Barrier to dental care are financial among adults of all income levels. Health Policy Institute Research Brief. North Dakota Dental Association. April 2019. Available from: [https://www.ada.org/en/~media/NDDA/Science%20and%20Research/HPI/Files/HPIBrief\\_0419\\_1](https://www.ada.org/en/~media/NDDA/Science%20and%20Research/HPI/Files/HPIBrief_0419_1)

errors they make – even years later, creating instances of surprise billing for patients. These practices can lead to financial hardship.

- Complicated billing practices and fees unnecessarily raise the costs of care and limit choice and flexibility for the patient.

**Dental Insurance Reform puts power back in the hands of the patient, enabling them to stop wasting money on an insurance product that provides inadequate coverage and enacts consumer protections that ensure more reliability and predictability.**

- Reforms will help ensure that more of premiums paid go to care provided rather than complicated and unpredictable administrative fees (see “Medical Loss Ratio”).
- Reforms will eliminate the “bait and switch” of surprise bills and make dental billing practices more consistent, predictable and transparent by removing the loopholes that allow insurance companies to backtrack on promises of coverage.
- The North Dakota Dental Association is campaigning to reinstitute trust into the system to:
  - Enable patients to feel more confident in their ability to receive and pay for care.
  - Enable dentists to more reliably plan for and provide care that fits within their patients’ coverage plans.
  - Encourage a more stable environment in which patients and providers can reliably participate in dental coverage plans.

**Patients and their providers deserve a better dental insurance structure that protects patients and removes financial uncertainties.**

- Basic dental insurance reforms would ensure patients understand what their coverage will do for them, making it easier to act on staying healthy by regularly seeing their dentist.
- No patient should be burdened with doubt and potential financial strife if the dental plan they signed up for won’t cover what patients believed was covered.
- Patients are already burdened with navigating a complex health system. They don’t need further red tape and predatory practices to deter them from pursuing the dental care they need.

**Reliable and consistent coverage is a must-have to ensure the best possible oral health outcomes for patients. Fearing financial stress, some patients choose to forgo necessary care to the detriment of their oral health.**

- Dental insurance should be clear and fair for patients and dentists. Right now, it’s not.
- Patients often find that the cost of dental services is unknown because dental insurance companies are not clear about what they will pay for patient care. Greater transparency would empower patients to more regularly seek care.
- Only half of adult patients report having visited the dentist every six months in the previous few years, with 59% citing costs as their main reason for not seeking care.<sup>2</sup>
- Patients are concerned about “surprise” fees. For some, the benefits of dental insurance are outweighed by the costs of the coverage, leading patients to opt-out from available dental insurance plans and reduce visits.

**Patients want comprehensive insurance plans that provide more coverage for more procedures. Dental insurance should provide patients access to affordable, transparent care that ultimately enhances their oral health.**

- Patients deserve an extensive, transparent network of dentists, as well as lower out-of-pocket costs for surprise expenses past routine cleanings.

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<sup>2</sup> <https://www.ADA.org/en/science-research/health-policy-institute/dental-statistics/patients>

- Research shows that 83% of dentists feel their patients are frustrated about their dental coverage, and more than two-thirds of dentists believe patients are powerless to improve the situation.

**Patients want to understand the driving forces behind the costs of dental procedures and insurance.**

- Though patients with dental insurance believe that it is a necessity, they also question the amount of coverage they receive and the prices they pay.
- While costs for patients have risen, their insurance coverage has not. Patients believe insurance companies have a responsibility to simplify complicated insurance policies.
- Insurance practices, such as the usage of premiums to cover administrative costs, prioritize profits over patients. Dental Insurance Reform would bring much-needed transparency for patients, prioritizing them over profits and guaranteeing they understand what they pay and what they will receive.

**Dentists and patients alike want insurance to be fair for all parties. Arbitrary annual limits and poor communication with insurance providers have left dentists and patients frustrated.**

- Most dental insurance plans haven't increased benefit maximums since 1980 – while the cost of care and premiums continue to rise dramatically.
- We are advocating for legislative solutions that will ensure that patients get the dental insurance they pay for and are entitled to.
- Patients will be able to seek the care they need at prices they can expect upfront. Patients and dentists shouldn't have to pay for insurance companies' errors.

## **RETROACTIVE DENIAL OF COVERAGE**

**A common practice called retroactive denial allows insurance companies to require dentists to repay claims already paid to them when insurers discover they paid a claim mistakenly, even if the claim was processed years ago. This often results in an unexpected bill for the patient and erodes trust between patients and their dentists.**

- The North Dakota Dental Association is working to pass reforms to limit the time frame within which an insurer may demand a refund on a claim they have already paid out. As a result, “surprise bills” are limited within a reasonable amount of time, typically 6 or 12 months.
- Patients and dentists alike should be able to expect timely, accurate billing when working with insurers. Surprise bills erode relationships between patients and their providers, creating uncertainty that can keep patients from seeking care in the future.
- Reforms of this nature have wide bipartisan appeal. Twenty-four states have passed legislation to establish time limits on retroactive denials because they just make sense.

## **PRIOR AUTHORIZATION**

**An insurer's authorization means they agree to make payment for the service(s) being sought prior to treatment. However, an increasing number of insurers are denying claims for services previously authorized, reversing their agreement with both patients and dentists.**

- 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, whether coverage is granted and what costs patients will need to pay. Once authorization is granted, patients should have a right to be assured that their procedure will be covered.
- When the promise to pay is reversed after care is delivered, patients and dentists are left in an unexpected and unfair financial bind.

- The North Dakota Dental Association is advocating for legislation to hold insurance companies accountable to their promise to pay. Avoiding surprise costs preserves the trust between patients and their providers, preventing confusion for all parties. Patients are far more likely to seek care if they believe that their insurance coverage is reliable.
- In the last two years, five states have enacted laws to address this unfair practice. So-called “Promise to Pay” legislation ensures that patients have all the information they need so that they can plan for all health care costs.

## VIRTUAL CREDIT CARDS

**Increasingly, insurance companies require dentists to accept payment through a virtual credit card, which can include a per-transaction fee of as much as five percent. In some cases, insurance companies even share in the revenue generated from these fees.**

- Virtual credit cards can place undue financial burden on providers and can threaten their ability to stay open. The North Dakota Dental Association supports legislation that would prohibit insurance companies from forcing dentists to be paid only through high-fee virtual credit cards.
- Virtual credit card reforms do not prohibit this payment method but require that providers be informed of other payment options and be given the opportunity to opt into a different payment method.
- In the last five years, legislation addressing this problem passed with bipartisan support in states such as Alabama, Arizona, Connecticut, Georgia, Louisiana, Maryland, Missouri, North Carolina, Oklahoma, Texas and Utah.
- Dentists can best serve patients when they have options on how to accept payment, with or without fees, that all parties can knowingly agree to from the outset.
- Efficiencies gained by the insurance company shouldn’t come at the expense of patients. Adding an extra expense in the form of transactional fees does not lower health care costs and limiting payment options does not allow for informed decision making.
- Virtual credit card payments create significant inefficiencies for dental offices. Payments come “in-bulk” with little information to distinguish which claim is being paid.

## NETWORK LEASING

**Insurance companies can pawn dentists off to a different insurance network 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 negotiate the terms of their agreement. 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, enforcing basic fairness while reducing occurrences of unexpected bills following a procedure.
- Nearly 20 states have laws that generally require insurance companies to inform health care providers of network leasing activities. The laws vary with respect to notification requirements and ability of providers to opt-out of leasing arrangements.

## **ASSIGNMENT OF BENEFITS (2023)**

**Assignment of Benefits (AoB) laws require insurers to follow a patient's request to pay their dentist directly for services rendered. In states where these laws don't exist, insurers often pay the patient instead of the dentist, creating confusion and additional hurdles for patients to jump over.**

- Not allowing assignment of benefits has two negative effects for patients:
  - The patient may have to pay at the time of dental service and await reimbursement from their insurer, creating financial hardship for some.
  - The dentist will have to contact the patient for payment after services have been rendered, which is often confusing to patients who expect their insurers to pay providers directly.
- The North Dakota Dental Association is advocating for assignment of benefits laws that will allow patients to choose to have payment sent directly to their provider. Insurance companies pay providers no more than they would if they paid the patient directly – and often save money if they aren't required to issue a paper check.
- Almost half of states currently have assignment of benefits laws. Of these states, 18 specifically address dental plans and dentists. Successful legislative solutions will specifically include dentists to ensure that this freedom of choice extends to oral health care.

## **MEDICAL LOSS RATIO**

**Though the federal government requires major medical plans to pay a certain percent of the collected premiums for medical care instead of administrative costs, no such requirement exists for dental plans.**

- State laws establishing a reporting requirement on medical loss ratio (MLR), the portion of revenue from premiums spent on patient care, would ensure that dental plans are more transparent to the patients they serve.
- The North Dakota Dental Association is advocating for legislation that will ensure medical loss ratio applies to dental plans in the same ways it applies to medical plans.
- Some reforms may not even set a minimum standard for the portion of premium payments that must go to actual care, they would just require insurers to report how much of payments go to care which enhances transparency for patients and dentists.

## **COVID-19**

**The global pandemic has changed the entire health care landscape for patients and providers alike. With patients especially concerned with the costs for health care, being transparent and keeping access to a wide network of providers is increasingly important.**

- Dentists continue to put their patients first. They are making every effort to remain available so their patients can keep the access to the oral health care they need.
- Dentists are partnering closely with local, state and federal health authorities, including the CDC, to ensure they can provide preventive or emergency oral health care in the safest and most effective way possible.
- At a point in time where patients are especially hesitant to seek dental care, dentists are aiming to make their offices as safe and accessible as possible.
- To advocate for patients and their safety, dentists are pushing for PPE to be an insured expense, something the insurance industry inexplicably opposes.

- In the midst of a global pandemic, it is more important than ever that we reduce administrative burdens on dentists and complexities facing patients so that patients can receive the best possible care.

## **Q&A**

### **How will Dental Insurance Reform help patients?**

- Dental Insurance Reform will ensure dental insurers deliver on their promises to patients. Patients want insurance that makes dental care more accessible, not more confusing. By eliminating predatory practices such as surprise billing, the North Dakota Dental Association is aiming to create a reliable, trustworthy oral health care experience for all patients.

### **Is support for Dental Insurance Reform bipartisan?**

- States at every point of the political spectrum – from Connecticut to here in North Dakota – have taken steps to enact Dental Insurance Reform. Transparency and accessibility, the guiding principles of Dental Insurance Reform, ring true with both parties.

### **Are you seeing momentum on Dental Insurance Reform across the United States?**

- Yes. Approximately 30 laws have been passed since 2019 and the momentum continues to grow. Half of all states currently have assignment of benefits legislation in place. Dozens of states currently enforce network leasing and retroactive denial legislation, with several more enacting laws relating to prior authorization and virtual credit cards. These states represent the full political spectrum, and levels of regulation – with each demonstrating a commitment to the best possible dental patient experience.

### **Are dentists working with the insurance industry to advance reforms?**

- Yes. Whenever possible, dentists are engaging with the insurance industry to ensure that legislative solutions meet the needs of patients. Collaborative solutions are more likely to effectively address the issues at hand, advancing a patient-friendly slate of solutions which produces results.

### **What opposition are you experiencing in advocating for Dental Insurance Reform?**

- Some insurance companies have tried to preserve practices that allow them to reap maximum profits by later denying or reducing the coverage on which patients rely. These reforms are essential to ensure patients both understand, and have access to, the care they need for their oral health.

### **Isn't retroactive denial simply insurance companies correcting previous errors? Insurers have no choice but to request refunds in situations where they may have been misinformed of coverage status.**

- In a contractual relationship, insurers must be transparent with patients and providers about what is covered and what isn't. If the insurance company agrees to cover a procedure but later determines the procedure is not covered, that burden should absolutely not be placed on the patient. No provider wants to engage in formal collections for non-payment in order to be paid for their services. The heightened frustration of delayed claims reversals hurt patients as much as providers with unexpected and unfair costs.

**Insurers have no contractual relationships with out-of-network dentists. Isn't directly paying patients the best way to ensure a provider gets paid?**

- Patients face unnecessary hurdles to oral health when they are forced to pay for a procedure at the time that they may not be able to afford, preventing them from seeking the care they need. Assignment of benefits laws allow, but do not *require*, patients the option to assign their dental benefit directly to the dentist.

**Prior authorizations are meant to review the planned care to ensure it is reasonable and necessary, not a promise to pay for everything. Isn't it just an extra step to protect the patient from unexpected charges from the dentists?**

- Patients deserve to know what they will have to pay upfront. Insurers have some interest in determining whether care is reasonable and necessary, but this interest should not interfere with the dentist/patient relationship. Ultimately, the patient should be able to trust the prior authorizations they secure prior to receiving care.