

1-1 By: Oliverson, Cain, Garcia H.B. No. 1527
 1-2 (Senate Sponsor - Zaffirini)
 1-3 (In the Senate - Received from the House May 1, 2023;
 1-4 May 1, 2023, read first time and referred to Committee on Health &
 1-5 Human Services; May 15, 2023, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-7 May 15, 2023, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 1527 By: Perry

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the relationship between dentists and certain employee
 1-23 benefit plans and health insurers.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 1451.206, Insurance Code, is amended by
 1-26 adding Subsections (d) and (e) to read as follows:

1-27 (d) An employee benefit plan or health insurance policy
 1-28 provider or issuer may not recover an overpayment made to a dentist
 1-29 unless:

1-30 (1) not later than the 180th day after the date the
 1-31 dentist receives the payment, the provider or issuer provides
 1-32 written notice of the overpayment to the dentist that includes the
 1-33 basis and specific reasons for the request for recovery of funds;
 1-34 and

1-35 (2) the dentist:

1-36 (A) fails to provide a written objection to the
 1-37 request for recovery of funds and does not make arrangements for
 1-38 repayment of the requested funds on or before the 45th day after the
 1-39 date the dentist receives the notice; or

1-40 (B) objects to the request in accordance with the
 1-41 procedure described by Subsection (e) and exhausts all rights of
 1-42 appeal.

1-43 (e) An employee benefit plan or health insurance policy
 1-44 provider or issuer shall provide a dentist with the opportunity to
 1-45 challenge an overpayment recovery request and establish written
 1-46 policies and procedures for a dentist to object to an overpayment
 1-47 recovery request. The procedures must allow the dentist to access
 1-48 the claims information in dispute.

1-49 SECTION 2. Section 1451.2065, Insurance Code, is amended to
 1-50 read as follows:

1-51 Sec. 1451.2065. CONTRACTS WITH DENTISTS. (a) In this
 1-52 section:

1-53 (1) "Covered [~~,"covered~~] service" means a dental care
 1-54 service for which reimbursement is available under a patient's
 1-55 employee benefit plan or health insurance policy, or for which
 1-56 reimbursement is available subject to a contractual limitation,
 1-57 including:

- 1-58 (A) [~~(1)~~] a deductible;
- 1-59 (B) [~~(2)~~] a copayment;
- 1-60 (C) [~~(3)~~] coinsurance;

- 2-1 (D) [~~4~~] a waiting period;
- 2-2 (E) [~~5~~] an annual or lifetime maximum limit;
- 2-3 (F) [~~6~~] a frequency limitation; [~~or~~]
- 2-4 (G) [~~7~~] an alternative benefit payment; or
- 2-5 (H) any other limitation.

2-6 (2) "Insurer" means a provider or issuer of an
2-7 employee benefit plan or health insurance policy.

2-8 (b) A contract between an insurer and a dentist may not:

2-9 (1) limit the fee the dentist may charge for a service
2-10 that is not a covered service; or

2-11 (2) include a provision that both:

2-12 (A) allows the insurer to disallow a service,
2-13 resulting in denial of payment to the dentist for a service that
2-14 ordinarily would have been covered; and

2-15 (B) prohibits the dentist from billing for and
2-16 collecting the amount owed from the patient for that service if
2-17 there is a dental necessity, as defined by Section 32.054, Human
2-18 Resources Code, for that service.

2-19 SECTION 3. Subchapter E, Chapter 1451, Insurance Code, is
2-20 amended by adding Section 1451.209 to read as follows:

2-21 Sec. 1451.209. REQUIREMENTS FOR THIRD PARTY ACCESS TO

2-22 PROVIDER NETWORKS. (a) At the time a provider network contract is
2-23 entered into or when material modifications are made to the
2-24 contract relevant to granting a third party access to the contract,
2-25 an employee benefit plan or health insurance policy provider or
2-26 issuer shall allow any dentist that is part of the provider network
2-27 to elect not to participate in the third party access to the
2-28 contract and to elect not to enter into a contract directly with the
2-29 third party that will obtain access to the provider network. This
2-30 subsection does not permit the plan or policy provider or issuer to
2-31 cancel or otherwise end a contractual relationship with a dentist
2-32 if the dentist elects to not participate in or agree to third party
2-33 access to the provider network contract.

2-34 (b) An employee benefit plan or health insurance policy
2-35 provider or issuer that enters into a provider network contract
2-36 with a dentist, or a contracting entity that has leased or acquired
2-37 the provider network contract, may grant a third party access to the
2-38 provider network contract or to a dentist's dental care services or
2-39 contractual discounts provided under the contract only if:

2-40 (1) the provider network contract conspicuously
2-41 states that the provider or issuer or contracting entity may enter
2-42 into an agreement with a third party that allows the third party to
2-43 obtain the provider's, issuer's, or contracting entity's rights and
2-44 responsibilities as if the third party were the provider, issuer,
2-45 or contracting entity;

2-46 (2) if the contracting entity is an employee benefit
2-47 plan or health insurance policy provider or issuer, the provider
2-48 network contract conspicuously states, in addition to the language
2-49 required by Subdivision (1), that the dentist may elect not to
2-50 participate in third party access to the provider network contract:

2-51 (A) at the time the provider network contract is
2-52 entered into; or

2-53 (B) when there are material modifications to the
2-54 provider network contract relevant to granting a third party access
2-55 to the provider network contract;

2-56 (3) the third party accessing the provider network
2-57 contract agrees to comply with all of the original contract's
2-58 terms, including the contracted fee schedule and obligations
2-59 concerning patient steerage;

2-60 (4) the provider, issuer, or other contracting entity
2-61 provides in writing to the dentist the names of all third parties
2-62 with access to the provider network in existence as of the date the
2-63 contract is entered into;

2-64 (5) the provider, issuer, or other contracting entity
2-65 identifies all current third parties with access to the provider
2-66 network on its Internet website with a list updated at least once
2-67 every 90 days;

2-68 (6) the provider, issuer, or other contracting entity
2-69 requires a third party with access to the provider network to

3-1 identify the source of any discount on all remittance advices or
3-2 explanations of payment under which a discount is taken, provided
3-3 that this subsection does not apply to electronic transactions
3-4 mandated by the Health Insurance Portability and Accountability Act
3-5 of 1996 (Pub. L. No. 104-191);
3-6 (7) the provider, issuer, or other contracting entity
3-7 provides written or electronic notice to network dentists that a
3-8 third party will lease, acquire, or obtain access to the provider
3-9 network at least 30 days before the lease or access takes effect;
3-10 (8) the provider, issuer, or other contracting entity
3-11 provides written or electronic notice to network dentists of the
3-12 termination of the provider network contract at least 30 days
3-13 before the termination date;
3-14 (9) a third party's right to a dentist's discounted
3-15 rate ceases as of the termination date of the provider network
3-16 contract; and
3-17 (10) the provider, issuer, or other contracting entity
3-18 makes available a copy of the provider network contract relied on in
3-19 the adjudication of a claim to a network dentist not later than the
3-20 30th day after the date the dentist requests a copy of that
3-21 contract.
3-22 (c) Subsections (b)(7) and (8) do not apply to a contracting
3-23 entity that only organizes and leases networks but does not engage
3-24 in the business of insurance.
3-25 (d) A person may not bind or require a dentist to perform
3-26 dental care services under a provider network contract that has
3-27 been sold, leased, or assigned to a third party or for which a third
3-28 party has otherwise obtained provider network access in violation
3-29 of this section.
3-30 (e) This section does not apply:
3-31 (1) if access to a provider network contract is
3-32 granted to:
3-33 (A) a third party operating in accordance with
3-34 the same brand licensee program as the employee benefit plan
3-35 provider, health insurance policy issuer, or other contracting
3-36 entity selling or leasing the provider network contract, provided
3-37 that the third party accessing the provider network contract agrees
3-38 to comply with all of the original contract's terms, including the
3-39 contracted fee schedule and obligations concerning patient
3-40 steerage; or
3-41 (B) an entity that is an affiliate of the
3-42 employee benefit plan provider, health insurance policy issuer, or
3-43 other contracting entity selling or leasing the provider network
3-44 contract, provided that:
3-45 (i) the provider, issuer, or entity
3-46 publicly discloses the names of the affiliates on its Internet
3-47 website; and
3-48 (ii) the affiliate accessing the provider
3-49 network contract agrees to comply with all of the original
3-50 contract's terms, including the contracted fee schedule and
3-51 obligations concerning patient steerage;
3-52 (2) to the child health plan program under Chapter 62,
3-53 Health and Safety Code, or the health benefits plan for children
3-54 under Chapter 63, Health and Safety Code; or
3-55 (3) to a Medicaid managed care program operated under
3-56 Chapter 533, Government Code, or a Medicaid program operated under
3-57 Chapter 32, Human Resources Code.
3-58 SECTION 4. The changes in law made by this Act apply only to
3-59 an employee benefit plan for a plan year that commences on or after
3-60 January 1, 2024, or a health insurance policy delivered, issued for
3-61 delivery, or renewed on or after January 1, 2024, and any provider
3-62 network contract entered into on or after the effective date of this
3-63 Act in connection with one of those plans or policies. An employee
3-64 benefit plan for a plan year that commenced before January 1, 2024,
3-65 or a health insurance policy delivered, issued for delivery, or
3-66 renewed before January 1, 2024, and any provider network contract
3-67 entered into before, on, or after the effective date of this Act in
3-68 connection with one of those plans or policies is governed by the
3-69 law as it existed immediately before the effective date of this Act,

4-1 and that law is continued in effect for that purpose.

4-2 SECTION 5. This Act takes effect September 1, 2023.

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