

HOUSE BILL NO. 321

INTRODUCED BY M. NOLAND

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A DENTAL PATIENT BILL OF RIGHTS; ESTABLISHING THE RIGHTS OF DENTAL PATIENTS IN MONTANA; ESTABLISHING PURPOSE, SCOPE, AND APPLICABILITY; REQUIRING THAT DENTAL INSURANCE INCLUDE AN ASSIGNABILITY CLAUSE; LIMITING THE USE OF, AND REQUIRING A JUSTIFICATION FOR, DOWNCODING; PROHIBITING VIRTUAL CREDIT CARDS AND THEIR USE AS CLAIMS PAYMENT; REQUIRING LOSS RATIO TRANSPARENCY FOR DENTAL INSURANCE ISSUERS; PROVIDING DEFINITIONS; AMENDING SECTIONS 33-30-102 AND 33-32-302, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Dental Patient Bill of Rights Act".

NEW SECTION. **Section 2. Findings and purpose.** (1) The legislature finds that [sections 1 through 8]:

- (a) promote the delivery of quality dental care in a cost-effective manner;
- (b) foster greater coordination between dentists, third-party payors, health insurance issuers, and others;
- (c) preserve the integrity of the dentist and patient relationship; and
- (d) improve oral health by maximizing the impact of dental benefits.

(2) The legislature further finds that [sections 1 through 8] protect patients, employers, and health care providers by:

- (a) ensuring that patients have access to dental insurance that protects them and removes uncertainties about coverage; and

1 (b) requiring insurers to clearly communicate what is covered by establishing a clear, simple, and
2 transparent insurance claim process.

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4 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 8], unless the context
5 requires otherwise, the following definitions apply:

6 (1) "Downcode" or "downcoding" means the alteration by a health insurance issuer of a service code
7 submitted with a claim for reimbursement by a dentist to a code of lesser complexity, resulting in decreased
8 reimbursement.

9 (2) "Virtual credit card" means a reimbursement method linked to the payer's credit card account that
10 generates a new single-use number each time it is used. The cards, in most cases, include a transaction fee
11 charged to the payee or dentist that is a percentage of the amount paid.

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13 **NEW SECTION. Section 4. Applicability and scope.** (1) Except as provided in subsection (2), the
14 provisions of [sections 1 through 8] apply to all health insurance issuers, including dental insurers and to
15 entities licensed under Title 33, chapter 35.

16 (2) The provisions of this chapter do not apply to:

17 (a) a policy or certificate that provides coverage only for a specified disease, credit insurance as
18 described in 33-1-206, disability income, hospital indemnity insurance, long-term care insurance as defined in
19 33-22-1107, or vision care insurance;

20 (b) a medicare supplement policy as defined in 33-22-903; or

21 (c) coverage under a plan through medicare or medicaid or any coverage included under 10 U.S.C.
22 55 and any coverage issued as supplemental to that coverage.

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24 **NEW SECTION. Section 5. Assignability of dental insurance policies.** All dental insurance
25 policies and certificates must contain an assignability clause, as described in 33-15-414, that allows the
26 benefits of the policy or certificate to be assigned or otherwise transferred by the insured to a dentist of the
27 insured's choice. The insurer shall comply with the instructions of the insured regarding whether claim
28 reimbursement must be paid to the dentist or directly to the insured.

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2 **NEW SECTION. Section 6. Downcoding by health insurance issuers for dental services --**3 **limitations.** (1) A health insurance issuer may not systematically downcode with the intent to deny
4 reimbursement otherwise due to a dentist.5 (2) A health insurance issuer may not change a procedure code submitted by a dentist unless the
6 issuer has investigated, collected sufficient information, and stated a clear justification for the downcoding.7 (3) Justification for the downcoding must be stated on the explanation of benefits that is sent to the
8 insured and the provider.9 (4) The justification may not state or infer that coding submitted by the provider was inappropriate, or
10 that the charge was excessive, unless there is clear evidence to support that assertion.11 (5) The health insurance issuer shall disclose in its provider contract and on its website the specific
12 downcoding policies that the issuer may apply to the provider's services on a routine basis, according to their
13 internal policies. An issuer's downcoding policies must be supported by best practices generally accepted by
14 the dental profession.

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16 **NEW SECTION. Section 7. Virtual credit cards -- prohibited.** A health insurance issuer may not
17 use virtual credit cards to pay dental claims.

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19 **NEW SECTION. Section 8. Loss ratio transparency for dental insurance.** (1) Health insurance
20 issuers that cover dental services shall publish on their company's websites the loss ratio that they reported in
21 their most recent national association of insurance commissioner's annual financial statement titled, "Accident
22 and Health Policy Experience Exhibit".

23 (2) Loss ratio is the losses an insurer incurs due to paid claims as a percentage of premiums earned.

24 (3) The loss ratio must be displayed in a prominent place on the company's website.

25 (4) The loss ratio report must be specific to the dental insurance line of business for that company.

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27 **Section 9.** Section 33-30-102, MCA, is amended to read:28 **"33-30-102. Application of chapter -- construction of other related laws.** (1) All health service

1 corporations are subject to the provisions of this chapter. In addition to the provisions contained in this chapter,
 2 other chapters and provisions of this title apply to health service corporations as follows: [33-2-714;] 33-2-1212;
 3 33-3-307; 33-3-308; 33-3-401; 33-3-431; 33-3-701 through 33-3-704; 33-17-101; Title 33, chapter 2, parts 13,
 4 19, and 23; Title 33, chapter 3, part 6; Title 33, chapter 17, parts 2 and 10 through 12; sections 1 through 8;
 5 and Title 33, chapters 1, 10, 12, 15, 18, 19, 22, and 32, except 33-22-111.

6 (2) A law of this state other than the provisions of this chapter applicable to health service
 7 corporations must be construed in accordance with the fundamental nature of a health service corporation, and
 8 in the event of a conflict, the provisions of this chapter prevail. (Bracketed reference in subsection (1) to 33-2-
 9 714 terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)"

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11 **Section 10.** Section 33-32-302, MCA, is amended to read:

12 "**33-32-302. Applicability and scope.** (1) Except as provided in subsection (2), the provisions of Title
 13 33, chapter 32, parts 3 and 4, apply to all health insurance issuers.

14 (2) The provisions of Title 33, chapter 32, parts 3 and 4, do not apply to:

15 (a) a policy or certificate that provides coverage only for a specified disease or specified accident,
 16 accident-only coverage, credit insurance as described in 33-1-206, ~~dental~~, disability income, or hospital
 17 indemnity insurance, long-term care insurance as defined in 33-22-1107, vision care insurance, or any other
 18 limited supplemental benefit;

19 (b) a medicare supplement policy as defined in 33-22-903;

20 (c) coverage under a plan through medicare or medicaid or any coverage issued under Title 10,
 21 chapter 55, of the United States Code and any coverage issued as supplemental to that coverage; or

22 (d) any coverage issued as supplemental to liability insurance, workers' compensation or similar
 23 insurance, automobile medical payment insurance, or any insurance under which benefits are payable with or
 24 without regard to fault, whether written on a group blanket basis or an individual basis."

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26 NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 8] are intended to be
 27 codified as an integral part of Title 33, and the provisions of Title 33 apply to [sections 1 through 8].

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