

Date: February 20, 2019

To: The House Committee on Health and Human Services

From: Kevin J. Robertson, CAE  
Executive Director

RE: **Support of HB 2307** – requiring concurrence on provider contract changes and clarifying that de minimis coverage and exhausted coverage do not qualify as covered dental services

Chairman Landwehr and members of the Committee, I am Kevin Robertson, Executive Director of the Kansas Dental Association (KDA) representing the dentists in the state of Kansas. Thank you for the opportunity discuss the KDA's **support of HB 2307**.

HB 2307 has three basic provisions with the first in Section 1(b) which simply requires that any changes in a contract between a participating dentist in a network and a dental insurer receive a concurrence from the dentist for those changes. What this means is that any changes to a provider network contract would require an active response by the dentist provider to the changes as opposed to a passive non-response.

This provision change would give dentist providers more transparency regarding contract changes. Currently, dental insurers may (and have) changed the participating provider network contract as a result of **no action** by the dentist. In these cases, dentists have been asked to opt out of changes, therefore no action results in a silent acceptance of the new contract provisions. Often times this is done when the provisions of the contract are being reduced and dentists who have taken no action have been surprised to find themselves in networks that they would not have accepted had they been required to sign up. This is especially frustrating to dentists after they have made smart practice decisions regarding the insurance networks they offer for their patients

The other two provisions of HB 2307 concern Sec. 2(a) and modifies the definition of "covered services" which was first enacted by the legislature in 2010. KSA 40-2,185(a) prohibits a provider network contract from setting a fee for a service unless the services is covered by the insurer. In other words, the insurance company cannot dictate the fee a dentist charges for a procedure unless the insurance company itself has some "skin in the game."

This change in HB 2307 is requested because nationally some dental insurers have found loopholes in similar state laws which they have used to dictate the fee dentists can charge their patients. In these cases, the dental insurers 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 insurers will offer a very low maximum benefit of coverage and once the insured "max's out" their benefit and they are no longer are responsible for any insurance reimbursement on behalf of the patient, yet they operate like a dental discount program and continue to control the fee charged by dentists for treatment.

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

HB 2307 is not an insurance mandate nor does it require an insurance carrier to cover any certain type of claim, condition, illness, etc. It simply requires mutual acceptance of contract changes and prohibits certain language in insurer-provider contracts and eliminates a loophole in a statute that has already been enacted by this legislature.

HB 2307 does not interfere with the right of willing parties to contract. Dentists do not "negotiate" contract provisions with insurers. 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 2307 is the only remedy.

All of the changes the KDA is requesting for dental contracts in HB 2307 closely mirror legislation that was supported by the optometrists and overwhelmingly approved by the 2014 Kansas Legislature.

Dr. Dave Hamel is with me today and he will 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 2307! I will be happy answer any questions you may have at this time.