

Florida Society of Oral and Maxillofacial Surgeons

2010 Legislative Issues

Provider Contracts

SB 302 - Senator Dennis Jones
HB 291 - Representative Clay Ford

SUPPORT



HB 291 and SB 302 will prohibit Florida insurance preferred provider organizations (PPO) (chapter 627), health maintenance organizations (HMOs) (chapter 641), and pre-paid limited health service organizations (PLHSOs) (chapter 636, part I) from forcing contract provisions on health care providers for services not covered by the plan. The legislation will prohibit artificial price controls by big insurance companies thereby protecting many small Florida businesses.

Several Florida insurance companies are strong-arming health care practitioners to agree to artificial price controls (maximum allowable charges) for non-covered services. These insurance companies are sending contract addendums to health care practitioners forcing them to agree to steep discounts on services not covered by the insurance plan that was initially negotiated.

This insurance company practice mixes an insurance product with a discount medical plan and they should be two distinct and separate entities. According to s. 636.202 (1), Florida Statutes, which defines discount medical plan, “The term ‘discount medical plan’ does NOT include any product regulated under chapter 627, chapter 641, or part I of this chapter.” Therefore, current law clearly implies that insurance companies should not mix these two products.

These latest insurance company practices, if not stopped, could negate many long established patient/practitioner relationships. Potentially, these new contract provisions could diminish access to specialty care by the consumer, while discouraging health care practitioners from being innovative in their approach in outlining alternative treatment options for their patients. Instead of allowing the health care practitioner the ability to negotiate these contract addendums, it is presented as a “take it or leave it” – leaving the provider unhighlighted in the insurance network provider directory as an available provider.

While we all agree reducing health care costs is an important part of health care reform, artificial price controls by huge insurance companies will only further complicate the system.

Dental Managed Care Pilot Expansion OPPOSE



The Agency for Health Care Administration (AHCA) has encouraged the Legislature to restructure the Medicaid system from a fee-for-service (FFS) payment schedule to a capitated payment methodology. One major example of this shift in Medicaid is the managed-care pilot project in Miami-Dade County for children’s dental services. Despite FSOMS/FDA request for the pilot project to be discontinued and the reported reduced levels of access to dental care outlined in an evaluation done by the University of Florida (UF), the Agency negotiated a new two-year contract for managed-care dental services in Miami-Dade County. Many of the Medicaid dental providers who participated under FFS stopped participating in the Medicaid program and refused to accept the low capitated payments. FSOMS opposes any attempts by the Legislature or the Agency to expand Medicaid managed-care dental services outside of the pilot area.

As the state continues to move health care services to a capitated payment system, many issues related to dentistry will need to be addressed and resolved before this mechanism will work to benefit all parties involved. In the meantime, FSOMS remains opposed to expanding Medicaid managed-care dental programs.

Maintain the Adult Dental Medicaid Program

SUPPORT



Florida’s current adult dental Medicaid program, which is an optional service and is on the state’s targeted budget elimination list. Adult Medicaid recipients can only receive emergency dental services, which include extractions and partial/full dentures. As part of the state agencies’ exercise to make budget reduction recommendations, this program could potentially be up for elimination.

Even though the adult dental Medicaid program is not comprehensive, it provides necessary treatments to individuals who would otherwise be without any access to dental care. By eliminating this program, these Medicaid recipients will end up in the emergency room for treatment at a much higher cost. FSOMS urges the state to maintain the adult dental Medicaid program.

Additionally, FSOMS urges the Legislature to continue the policy of allowing partial dentures for adult Medicaid patients when appropriate. AHCA recently suggested that this benefit be eliminated. Partial dentures, when appropriate, are the proper standard of care for certain individuals who have missing teeth. Prior to partial dentures being an option, Medicaid dental providers were forced to pull healthy teeth, which act like an anchor against jaw bone loss, to place a complete set of dentures. Pulling healthy teeth or “slicing the mouth” required dentists to practice sub-standard dentistry to comply

with a Medicaid policy that would only pay for a full set of dentures. This option is critical for Medicaid recipients who want to keep their natural teeth intact.

Health Care Clinic Permit

SB 970 - Senator Garrett Richter

HB 537 - Representative Ken Roberson

SUPPORT



The 2008 Legislature passed a bill that established a new permit called the health care clinic establishment permit, which costs \$255 every two years. The section of law that created this permit is associated with the "pedigree papers" or the tracking of all prescription drugs from manufacturers to end-users.

The idea of the new permit was to allow corporate entities to purchase prescription drugs/supplies if they had a "qualified practitioner" who then became responsible for all legal and regulatory requirements related to the purchase, recordkeeping, storage and handling of the prescription drugs. Wholesale drug suppliers faced a criminal penalty for sending prescription drugs to unauthorized entities and this was an attempt to address that problem.

The 2009 Legislature passed a glitch bill that attempted to fix many problems with the legislation; however, it did not address dentist's specific concerns. Most dental practices are incorporated for liability and tax purposes, so even though the law allows dentists to purchase prescription drugs without this new permit due to their licensure as dentists, if they pay for the drugs with their corporate check as most do, the Department of Health (DOH) has interpreted this as the corporation being the owner of the drugs, therefore, a permit is required. FSOMS/FDA do not agree with DOH's interpretation and will be seeking legislation to allow dentists to continue the same procedures they've used previously to purchase their prescription drugs.

FSOMS is supporting additional language making it clear that this permit is not required as a condition of ordering prescription drugs, but that it is optional.

Dental Hygienist Access

SB 490 – Senator Chris Smith

OPPOSE



FSOMS opposes SB 490. This bill is an attempt by dental hygienists to expand their scope of practice in "health access settings" without the presence of a dentist. SB 490 attempts to do the following:

- Creates a definition for "public health supervision." The definition gives dental hygienists the ability to go into health access settings **without the**

supervision, prior authorization or presence of a dentist to provide remedial services.

- Broadens the definition of “health access settings” to include school-based prevention programs.
- Clarifies the Board of Dentistry rulemaking authority for Board of Dentistry member composition, licensure and scope of practice for dental hygienists.
- Allows dental hygienists in health access settings under public health supervision (no supervision) the ability to perform all of their private office duties and dental charting. In other words, hygienists are allowed to do procedures that they are now doing in private offices in a health access setting without any supervision or presence of a dentist.
- Allows dental hygienists, without supervision, to do fluoride treatments including fluoride varnish applications and instruct patients in oral hygiene care and provide other services that do not involve diagnosis or treatment of dental conditions.

FSOMS believes that all Floridians should have a dental home and this includes seeing a dentist no matter what the setting. While dental hygienists are an integral part of the dental team, **only a dentist has the education and qualifications to diagnose and establish a treatment plan.** This is done under the scope of practice for dentists not hygienists.

We all agree that access to care is an ongoing challenge; however, it is not a simple solution that a scope of practice expansion will solve. It will take an investment of financial resources that are presently lacking to adequately address this access to care issue.

Emergency Health Care Providers

SB 1474 - *Senator John Thrasher*

HB 791 - *Representative Doc Renuart*

SUPPORT



These bills extend the concept of sovereign immunity to healthcare entities and healthcare workers providing emergency medical services. The effect of such extension is that tort liability of an emergency medical provider would be limited in each tort incident to \$100,000 per individual and \$200,000 overall. The medical provider that caused the tort would be required to reimburse the state for monies paid out and would be subject to professional discipline for failure to reimburse the state for the liability.