

**REPORT OF THE
SPECIAL ADVISORY COMMISSION ON
MANDATED HEALTH INSURANCE BENEFITS ON**

**Section 38.2-3410 of
the Code of Virginia:
Inclusion of Dentist
in the Terms “Physician”
and “Doctor” in Health
Insurance Contracts**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 20

**COMMONWEALTH OF VIRGINIA
RICHMOND
1992**

COMMONWEALTH OF VIRGINIA



SENATE

December 30, 1991

To: The Honorable L. Douglas Wilder
Governor of Virginia
and
The General Assembly of Virginia

The report contained herein has been prepared pursuant to Sections 9-298 and 9-299 of the Code of Virginia.

This report documents a study conducted by the Special Advisory Commission on Mandated Health Insurance Benefits to assess the social and financial impact and the medical efficacy of Section 38.2-3410 of the Code of Virginia regarding the coverage of services provided by dentists under health insurance contracts.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clarence A. Holland".

Clarence A. Holland, Chairman
Special Advisory Commission on
Mandated Health Insurance Benefits

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SECTION 38.2-3410 OF THE CODE OF VIRGINIA

§ 38.2-3410. Construction of policy generally; words "physician" and "doctor" to include dentist. - Each accident and sickness insurance policy or subscription contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended or modified by any rider, endorsement, or application attached to and made a part of the policy. However, the word "physician" or "doctor" when used in any accident and sickness insurance policy, or subscription contract shall be construed to include a dentist performing covered services within the scope of his professional license. (1968, c. 292, § 38.1-348.5; 1986, c. 562.)

INTRODUCTION

The Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) conducted a review of §38.2-3410 of the Code of Virginia in accordance with the schedule of evaluations of existing mandated benefits and providers as established by the standing committees of the General Assembly having jurisdiction over health insurance matters pursuant to §§9-298 and 9-299.

As part of its review, the Advisory Commission held a public hearing to receive comments from all interested parties on §38.2-3410 during a meeting held on September 16, 1991 at 10:30 a.m. in Senate Room A of the General Assembly Building in Richmond, Virginia. No interested parties offered comments to the Advisory Commission at the public hearing. In addition, no written comments were received regarding §38.2-3410.

SUMMARY OF §38.2-3410

Section 38.2-3410 was enacted in 1968. Section 38.2-3410 provides that when used in an accident and sickness insurance policy or subscription contract the terms "physician" or "doctor" must be construed to include a dentist performing covered services within the scope of his or her professional license. This language prohibits an insurer from denying a claim for a covered service on the basis that a licensed dentist rendered the service rather than a medical doctor.

DENTIST MANDATES IN OTHER STATES

Reimbursement for covered services provided by a dentist within the scope of his or her license is mandated in twenty-nine (29) states including Virginia. The dentist mandates were enacted as follows:

Alabama	1975	Missouri	1978
Alaska	1983	Montana	1983
Arizona	1989	Nebraska	1975
California	1976	Nevada	1975
Connecticut	1975	New Jersey	1979
Hawaii	1974	New Mexico	1977
Indiana	1974	New York	1975
Iowa	1988	Ohio	1973
Kansas	1973	Oklahoma	1989
Louisiana	1989	Pennsylvania	1971
Maine	1975	Tennessee	1974
Maryland	1973	Texas	1983
Massachusetts	1975	Virginia	1968
Minnesota	1973	Wisconsin	1975
Mississippi	1974		

The following table summarizes the number of states that enacted dentist mandates in each decade:

1960's	1
1970's	21
1980's	7

COSTS ASSOCIATED WITH §38.2-3410

The 1989 report of the State Corporation Commission's Bureau of Insurance on mandated benefits and mandated providers issued pursuant to 1989 Senate Joint Resolution 215 (1990 House Document No. 15) contains some information on the financial impact of the dentist mandate. The results of the initial survey performed during the study indicate that for group contracts less than 0.5% of the premium for single coverage is attributed to the dentist mandate. In contrast, approximately 3% of the premium for family coverage is attributed to the dentist mandate. Insurers that based their responses on actual claims experience attributed on average less than 0.5% of premium for each category of coverage (individual, single and family; group, single and family) to the dentist mandate. In addition, 82% of those insurers that responded to the initial survey, indicated that they provided the coverage required by the dentist mandate prior to its enactment in 1968.

A study was conducted by Blue Cross and Blue Shield of Virginia (BCBSVA) in 1989 to determine the costs associated with mandated benefits and providers through examination of its claims experience from 1986 through the first quarter of 1989. The BCBSVA findings as presented in its final report are as follows:

**BCBSVA Expenditures
Physician to Include Dentist
(Individual and Group)**

	<u>1986</u>	<u>1987</u>	<u>1988</u>
Total Claims (millions)	\$3.4	\$4.2	\$5.4
Claims per Member Month	\$0.43	\$0.51	\$0.57
Claims as Percent of Total	0.76%	0.81%	0.82%
Number of Outpatient Visits	17,201	18,371	22,979

Source: BCBSVA Mandated Benefits Study, October 1989

REVIEW CRITERIA

Social Impact

- a. **The extent to which the treatment or service is generally utilized by a significant portion of the population.**

Based on the claims experience of BCBSVA as presented in its 1989 mandated benefits study, it appears that a substantial number of Virginians chose to have dentists perform services which can also be performed by licensed medical doctors with the proper training. In 1988, BCBSVA experienced approximately \$5,400,000 in claims associated with the dentist mandate. These claims represent the costs associated with 22,979 outpatient visits involving services rendered by a dentist rather than a medical doctor.

- b. **The extent to which insurance coverage for the treatment or service is already available.**

Insurance coverage for covered services which have been rendered by a dentist within the scope of licensure is required to be included in accident and sickness policies and subscription contracts issued or issued for delivery in Virginia by §38.2-3410. In addition, the findings of the State Corporation Commission's study conducted pursuant to 1989 SJR 215 indicate that the majority of insurers responding to its survey provided coverage for services rendered by dentists prior to the enactment of §38.2-3410 in 1968.

- c. **If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatments.**

Coverage is generally available. The extent to which the lack of coverage would result in persons being unable to obtain necessary health care treatments is unknown.

- d. **If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment.**

Coverage is generally available. The extent to which the lack of coverage would result in unreasonable financial hardship on those persons needing treatment is unknown.

- e. **The level of public demand for the treatment or service.**

The exact level of public demand for dentists to render services that could also be performed by medical doctors with the appropriate training and background is unknown. However, BCBSVA

has reported that in 1988 claims were paid for 22,979 outpatient visits to dentists that involved such services.

- f. **The level of public demand and the level of demand from providers for individual and group insurance coverage of the treatment or service.**

Although the level of public demand is difficult to measure because the coverage is currently mandated, it is assumed that the general public expects services covered by a health insurance policy to be reimbursable when rendered by a dentist licensed to perform such services in the Commonwealth of Virginia. Likewise, it is assumed that dentists who have had training comparable to medical doctors in order to be licensed to perform certain services expect to be reimbursed to the same extent as medical doctors.

- g. **The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts.**

The Advisory Commission received no information regarding this criterion.

- h. **Any relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit.**

The Advisory Commission received no information regarding this criterion.

Financial Impact

- a. **The extent to which the proposed insurance coverage would increase or decrease the cost of treatment or service over the next five years.**

No evidence has been presented to the Advisory Commission that indicates what impact the dentist mandate will have on the cost of treatment over the next five years.

- b. **The extent to which the proposed insurance coverage might increase the appropriate or inappropriate use of the treatment or service.**

No evidence has been presented to the Advisory Commission that indicates the dentist mandate has led to an increase in either the appropriate or inappropriate use of treatments or services.

- c. **The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service.**

Insureds are currently able to choose between qualified dentists and medical doctors. This freedom of choice would not be guaranteed under health insurance or subscription contracts issued or issued for delivery in Virginia in the absence of §38.2-3410.

- d. **The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five years.**

It is assumed that continued insurance coverage will have little affect on the number of dental providers over the next five years because this mandate has been in effect since 1968. However, it can also be assumed that the elimination of this mandate could result in a decrease in the number of dentists that will become qualified to perform certain services and that the number of medical doctors with such training may increase.

- e. **The extent to which insurance coverage might be expected to increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.**

It is unlikely that this mandate affects the administrative expenses of insurers significantly because it does not increase the number of covered services. In the absence of the mandate, the number of claims for the same services rendered by qualified medical doctors would be expected to increase. Insurers, however, generally argue that utilization of particular services increase when additional provider categories are mandated.

- f. **The impact of coverage on the total cost of health care.**

The impact of the dentist mandate on the total cost of health care is unknown.

Medical Efficacy

- a. **The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service.**

This criterion is not applicable to the dentist statute because it does not mandate additional covered services or treatments.

b. **If the legislation seeks to mandate coverage of an additional class of practitioners:**

- 1) **The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered.**

The medical results achieved by dentists performing services within the scope of their licensure have not been challenged by any party. The absence of such a challenge leads the Advisory Commission to believe that consumers, the insurance industry, and members of the health care system consider the rendering of covered services by dentists within the scope of their licensure to be efficacious.

- 2) **The methods of the appropriate professional organization that assure clinical proficiency.**

The Advisory Commission did not receive any information from proponents or opponents which identified or challenged methods that assure the clinical proficiency of dentists.

Effects of Balancing the Social, Financial and Medical Efficacy Considerations

- a. **The extent to which the benefit addresses a medical or a broader social need and whether it is consistent with the role of health insurance.**

The dentist mandate protects the freedom of choice of the insured and requires reimbursement for covered services rendered by a health care provider trained and licensed in the Commonwealth of Virginia to render such services. This appears to address a medical need and to be consistent with the role of health insurance.

- b. **The extent to which the need for coverage outweighs the costs of mandating the benefit for all policyholders.**

It has not been demonstrated that the costs associated with this mandate would be avoided in its absence. This is largely due to the fact that only the categories of providers reimbursed and not the number of covered services would change if this mandate were eliminated.

- c. **The extent to which the need for coverage may be solved by mandating the availability of the coverage as an option for policyholders.**

The need for reimbursement for covered services rendered by dentists would not likely be met by mandating the availability of this provision. Under such circumstances, group policyholders would no longer be required to provide such a benefit to their certificate holders. The option to elect coverage would not be available to the individual certificate holders. Since the majority of insured Virginians obtain coverage through their employers, the mandated availability of this coverage likely would not meet the need for coverage.

RECOMMENDATION

As a result of the evaluation documented in this report, the Special Advisory Commission on Mandated Health Insurance Benefits recommends to the General Assembly of Virginia that §38.2-3410 regarding the inclusion of dentist in the terms "physician" and "doctor" when used in a health insurance or subscription contract remain unchanged.

CONCLUSION

Section 38.2-3410 provides that when used in an accident and sickness insurance policy or subscription contract issued or issued for delivery in the Commonwealth of Virginia the terms "physician" or "doctor" must be construed to include a dentist performing covered services within the scope of his or her professional license. This language prohibits an insurer from denying a claim for a covered service on the basis that a licensed dentist rendered the service rather than a medical doctor. Section 38.2-3410 also allows the insured a certain level of choice when selecting a health care provider to perform covered services.

Although the exact financial impact of §38.2-3410 is unknown, the cost figures available at this time indicate that this requirement does not add appreciably to the cost of health insurance in Virginia. In addition, it has not been demonstrated that the costs associated with this mandate would be avoided in its absence.

The Advisory Commission has found that the benefits of §38.2-3410 outweigh the identifiable costs associated with it and that the performance of covered services by dentists within the scope of their licensure is efficacious.