



December 9, 2020

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**RE: National Conference of Insurance Legislators (NCOIL) – Patient
Dental Care Bill of Rights-NCOIL 2020 Annual Meeting-Tampa, FL**

Dear Gentlemen:

On behalf of a group of the below signed associations and companies, we respectfully resubmit comments and suggested edits previously made to the model legislation sponsored by Representative Keiser on dental leasing and payment to be considered by NCOIL during its December meeting. Those previous comment and edits (“Previous Comments & Edits”) are included herewith for your convenience.

The Previous Comments & Edits have not changed. Written comments were discussed by the American Bankers Association in testimony outlining the comments and suggested amendments during the Health Insurance and Long Term Care Issue Committee at the Spring NCOIL Meeting in Charlotte, North Carolina. During this meeting, the Committee members stated that their priority was both uniformity and providers receiving clear information about pricing and their choices for reimbursement, something which the undersigned support and are willing to work with you to define.

As noted in the Previous Comments & Edits, nine states had enacted laws that address virtual card and other forms of electronic payment on healthcare claims, including dental claims. Since that time, four more states have passed similar laws. Those states are Indiana, Nebraska, Utah, and Vermont.¹

¹ Indiana HB 1372 (allows insurers to pay claims via electronic methods); Nebraska LB 774 (dental insurance plan cannot restrict methods of payment to virtual card); Utah HB 37 (insurer may offer credit card or other methods of payment, but a provider may elect not to receive via credit card or other methods); Vermont H 734 (dental insurance plan cannot restrict methods of payment to virtual cards).

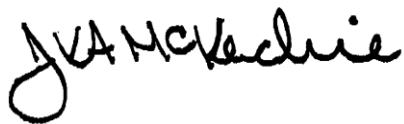
Consistent with the nine other laws, the laws in these four states address provider choice with virtual card payments, as reflected in the draft model legislation. None of these states require the disclosure described in subsection E(I)(3) or the provision related to a “dentist’s agent” in the draft model legislation. If uniformity across jurisdictions is an objective, the edits suggested by this group accomplish that by aligning the draft model legislation with the 13 laws in effect or to go into effect January 1, 2021, on this issue.

In addition, we believe any legislation that touches on the issue of payments should take into consideration the rapid change happening in financial technology and, by extension, financial regulation. Electronic funds transfers (EFTs) take a variety of forms, such as ACH, virtual card, and wire. In the last few years, new forms of EFTs have been commercialized, including eCheck, same-day ACH, Zelle, Real Time Payments through The Clearing House, push-to-debit (*e.g.*, Visa Direct, Mastercard Send), and transactions through digital wallets, like Venmo, Apple Pay and Google Pay.² While many of these new EFTs are commonly used today in peer-to-peer (P2P) and business-to-consumer (B2C) transactions, the expansion into business-to-business transactions (B2B), like claim payments to healthcare providers, is inevitable. For this reason, we urge that any legislation that is proposed (be it the NCOIL Model or individual state bills) that addresses payments should focus on choice, and let the marketplace decide payment options so long as choice is assured. That includes giving insurance payers the option to leverage various forms of EFT to reduce paper checks and accelerate payments, and providers the choice of EFT that best suits their practice.

We also urge consideration by the Financial Services & Multi-Lines Issues Committee before action is taken. If the provisions on payments in the model legislation were adopted across multiple jurisdictions, they would govern millions of dollars of financial transactions. The collateral effect a provision like subsection E(I)(3) or requiring an “agency” relationship to assess a fee on an EFT, as contemplated by the model legislation, and the implications of that effect on financial transactions generally outside of dental claims is something NCOIL should consider before taking any action.

We are always willing to meet and discuss our suggestions should that be helpful. Thank you again for your time and consideration.

Very Truly Yours,



Executive Director & Senior Vice President
American Bankers Association

² The Federal Reserve Bank has also announced a new 24/7 EFT network called FedNow to come online in the next few years.
HSA Council

On behalf of:
American Bankers Association
Change Healthcare
Echo Health Inc.
VPay, Inc.
Zelis