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No

IS 6/5/08

Title 17.
Chapter
48G.(New)
Dental Decision
Regulation
§§1-3, 7-9 -
C.17:48G-1 to
17:48G-6
§§4-6 -
C.45:6-70 to
45:6-72
§10 - C.45:6-1a
§11 - Note to
§§1-10

P.L. 2007, CHAPTER 259, *approved January 11, 2008*
Assembly Substitute (*Second Reprint*) for
Assembly, No. 2134

1 AN ACT ¹【concerning the practice of dentistry and dental insurance
2 claims】 regulating dental decisions by insurers and third party
3 administrators, providing for limited professional registration
4 certificates¹, and supplementing Titles 17 and 45 of the Revised
5 Statutes.

6
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*

9
10 1. As used in this act:
11 "Adverse dental decision" means a dental decision by an insurer
12 or a third party administrator, or any other person acting on its
13 behalf to deny, reduce, or fail to provide payment, in whole or in
14 part, for a covered service based upon a dental decision.

15 "Board" means the New Jersey State Board of Dentistry.

16 "Dental decision" means a decision which is based upon a dental
17 diagnosis or a dental judgment related to dental services performed
18 or to be performed in the State of New Jersey, including, but not
19 limited to, any decision relating to: the quality or appropriateness of
20 dental services rendered or proposed to be rendered by a dentist;
21 reasonable necessity for or customary performance of a dental
22 service; or diagnosis or prognosis of a dental condition.

23 "Insurer" means an insurance company, health service
24 corporation, hospital service corporation, medical service
25 corporation, dental service corporation, dental plan organization or
26 health maintenance organization authorized to issue dental contracts
27 or plans in this State.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted January 8, 2007.

² Assembly amendments adopted in accordance with Governor's recommendations January 7, 2008.

1 "Third party administrator" means "third party administrator" as
2 defined by section 1 of P.L.2001, c.267 (C.17B:27B-1).

3
4 2. a. An insurer may make dental decisions in connection with
5 the processing or payment of dental claims or otherwise in the
6 course of its dental benefit administration activity. Dental decisions
7 made by an insurer shall be consistent with the following:

8 (1) an initial adverse dental decision shall be made by a dentist
9 duly licensed in this or another state;

10 (2) if a treating dentist questions the adverse dental decision and
11 specifies in writing the basis of the disagreement with the adverse
12 dental decision, the insurer, within 30 days shall:

13 (a) designate a reviewing dentist who is duly licensed in this
14 State or who has been issued a limited registration certificate
15 pursuant to section 4 of this act; and

16 (b) notify the treating dentist in writing promptly of the name
17 and address where the reviewing dentist can be contacted and the
18 telephone number which can be used to contact the reviewing
19 dentist;

20 (3) if an agreement is not reached within a reasonable period of
21 time, not to exceed 30 days from the insurer's notice issued pursuant
22 to subparagraph (b) of paragraph (2) of this subsection, the insurer
23 shall make its decision and communicate the results of the
24 reviewing dentist's dental decision to the treating dentist.

25 b. Within 14 days of a written request by the treating dentist, or
26 the patient or the patient's authorized representative, for the basis of
27 an adverse dental decision by a reviewing dentist, provided to the
28 treating dentist pursuant to paragraph (3) of subsection a. of this
29 section, the insurer shall send a written notice containing the full
30 name, address and telephone number of the reviewing dentist and a
31 narrative statement specifically identifying the basis for the
32 decision.

33
34 3. a. A third party administrator may make dental decisions in
35 connection with the processing or payment of dental claims or
36 otherwise in the course of its dental benefit administration activity.
37 Dental decisions made by a third party administrator shall be
38 consistent with all of the following:

39 (1) an initial adverse dental decision shall be made by a dentist
40 duly licensed in this or another state;

41 (2) if a treating dentist questions the adverse dental decision and
42 specifies in writing the basis of the disagreement with the adverse
43 dental decision, the third party administrator within 30 days shall:

44 (a) designate a reviewing dentist who is duly licensed in this
45 State or who has been issued a limited registration certificate
46 pursuant to section 4 of this act; and

1 (b) notify the treating dentist in writing promptly of the name
2 and business address where the reviewing dentist can be contacted
3 and telephone number which can be used to contact the reviewing
4 dentist;

5 (3) if an agreement is not reached within a reasonable period of
6 time, not to exceed 30 days from the third party administrator's
7 notice issued pursuant to subparagraph (b) of paragraph (2) of this
8 subsection, the third party administrator shall make its decision and
9 communicate the results of the reviewing dentist's dental decision
10 to the treating dentist.

11 b. Within 14 days of a written request by the treating dentist, or
12 the patient or the patient's authorized representative, for the basis of
13 an adverse dental decision by a reviewing dentist, provided to the
14 treating dentist pursuant to paragraph (3) of subsection a. of this
15 section, the third party administrator shall send a written notice
16 containing the full name, address and telephone number of the
17 reviewing dentist and a narrative statement specifically identifying
18 the basis for the decision.

19
20 4. The New Jersey State Board of Dentistry shall issue to a
21 dentist in good standing holding an active license to practice
22 dentistry in any other state a limited registration certificate
23 authorizing the registrant to make dental decisions pursuant
24 P.L. c. (C.) (pending before the Legislature as this bill), if
25 there is no pending dental license disciplinary action and no adverse
26 information disclosed in a criminal background check or data bank
27 search. A limited registration certificate shall not be deemed to
28 authorize the registrant to treat patients or otherwise engage in the
29 private practice of dentistry in this State.

30
31 5. Each applicant for a limited registration certificate and each
32 registrant shall pay to the board a fee in the amount established by
33 the board, not to exceed a sum equal to 20 percent of the fee
34 established for the issuance of a two-year active dentist registration;
35 except that, the fee for submitting the application for the initial
36 limited registration certificate shall be \$125, which shall be deemed
37 to include the fee which would otherwise be due for the unexpired
38 portion of the first biennial registration period. The board shall
39 process and issue a limited registration certificate to each qualified
40 applicant within 30 days of its receipt of a completed application
41 therefor.

42
43 6. Dentists licensed in New Jersey and holders of limited
44 registration certificates are intended to be subject to the same
45 standards of honesty, integrity and competency. In exercising its
46 powers under R.S.45:6-1 et seq., the board shall apply the same

1 standards as to honesty, integrity and competency to New Jersey
2 dentists and to holders of limited registration certificates.

3

4 7. This act shall not be construed:

5 a. To regulate insurers' or third party administrators' making any
6 decision, including, but not limited to, a decision concerning benefit
7 or insurance coverage, that does not involve the making of a dental
8 decision;

9 b. To regulate insurers' or third party administrators' use of a
10 protocol for denying or limiting benefit payments for dental
11 services where the protocol:

12 (1) has been approved for use by a dentist who is duly licensed in
13 this State or who has been issued a limited registration certificate
14 pursuant to section 4 of this act; and

15 (2) does not involve evaluation of an individual patient's dental
16 care or condition; or

17 c. To regulate the application of contract limitations and
18 exclusions, the credentialing of dentists or the conduct of
19 retrospective fraud reviews.

20

21 8. This act shall be construed to apply only to insurers and third
22 party administrators or persons acting on their behalf who make
23 dental decisions.

24

25 9. Nothing in this act shall be construed to confer jurisdiction
26 upon the board to make any dental benefit coverage determinations
27 or to direct any insurer, benefit plan, administrator or other payor to
28 make any payment or otherwise to regulate the conduct of an
29 insurer or third party administrator.

30

31 10. In addition to the current membership of the board as
32 prescribed by R.S.45:6-1, the Governor shall appoint, in the same
33 manner as presently prescribed by law for the appointment of
34 members, one additional member to the board who shall have
35 resided and practiced dentistry in this State for at least 10 years
36 immediately preceding his or her appointment ²[and who shall have
37 a background in and be actively involved in dental consulting. In
38 making the appointment, the Governor shall give due consideration
39 to, but shall not be bound by, recommendations submitted by the
40 New Jersey Association of Health Plans]².

41

42 11. Sections 4, 5 and 6 shall take effect on the 30th day after the
43 date of enactment, and the remainder of this act shall take effect on
44 the 90th day following enactment, but the board shall take such
45 anticipatory administrative action in advance as shall be necessary
46 for the implementation of this act.

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5

Regulates dental decisions by insurers and third party administrators and provides for limited dentist registration certificates.

ASSEMBLY, No. 2134

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 30, 2006

Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)

SYNOPSIS

Requires certain persons making dental decisions regarding insurance coverage to be licensed by the New Jersey State Board of Dentistry.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the licensure of certain persons making dental
2 decisions and supplementing chapter 6 of Title 45 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 "Dental decision" means an opinion or decision, made in the
10 context of a review of insurance coverage provided by an entity
11 authorized to conduct business in this State, where that opinion or
12 decision deviates from a treatment decision of a treating dentist and
13 relates to the:

14 a. Quality or appropriateness of dental services rendered by a
15 dentist;

16 b. The reasonable necessity for or customary performance of a
17 dental service;

18 c. The diagnosis of a dental condition; or

19 d. The selection of an alternative plan of treatment in the context
20 of a review of dental treatment or care provided, or proposed to be
21 provided, by a dentist.

22 "Professional dental practice" means the furnishing of dental
23 services in New Jersey as defined in R.S.45:6-19, including the
24 offering or rendering of dental decisions as well as offering or
25 rendering dental decisions relating to the delivery of a dental
26 service to a patient in New Jersey.

27
28 2. Any person who engages in professional dental practice,
29 either within or outside this State, without first securing a license to
30 practice dentistry from the New Jersey State Board of Dentistry
31 shall be deemed to be engaging in unauthorized or unlicensed
32 practice of dentistry in violation of R.S.45:6-13, and may be subject
33 to prosecution by the board and the Attorney General pursuant to
34 section 12 of P.L.1978, c.73 (C.45:1-25).

35
36 3. a. A dentist, in rendering a dental decision, shall prepare a
37 written record, including at a minimum:

38 (1) The dentist's full name, address, and telephone number,
39 which shall be reflected on any determination transmitted to the
40 patient or treating dentist;

41 (2) A narrative statement specifically identifying the dental or
42 medical records reviewed, findings on any clinical examination
43 undertaken, any diagnostic aids used, the findings made, and the
44 resulting determination reached; and

45 (3) A specific justification for determining that a clinical
46 examination was not warranted if such examination was not
47 undertaken.

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2134

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 2006

The Assembly Regulated Professions and Independent Authorities Committee reports favorably and with committee amendments Assembly Bill No. 2134.

As amended, this bill provides that the practice of dentistry includes dental decision making and stipulates that persons who make dental decisions, either in New Jersey or outside this State, for persons receiving treatment in this State are required to be licensed by the New Jersey State Board of Dentistry. As defined in the bill, "dental decision" means an opinion or decision that involves a dental diagnosis or a dental judgment, which includes, but is not limited to, any decision involving the: quality or appropriateness of dental services rendered or proposed to be rendered by a dentist; reasonable necessity for or customary performance of a dental service; or diagnosis or prognosis of a dental condition.

The bill further provides that any person engaged in making dental decisions who is not licensed by the New Jersey State Board of Dentistry may be subject to prosecution for the unlicensed practice of dentistry.

In addition, the bill mandates that a dentist who renders a dental decision prepare a written record that shall be furnished, or cause to be furnished, by the dentist rendering a dental decision upon the request of the treating dentist, the patient, or the authorized representative. Dental decisions must be supported by the record and consistent with accepted standards of care. Violations of the bill's provisions regarding the written record shall be deemed professional misconduct, subjecting the violator to the board's potential suspension or revocation of the violator's license to practice dentistry.

COMMITTEE AMENDMENTS

Amendments adopted by the committee clarify the definitions of "dental decision" and "professional dental practice." As amended, "dental decision" is defined as any opinion or decision involving a dental diagnosis or a dental judgment, not just one made in the context

of a review of insurance coverage. As amended by committee, “professional dental practice” means the furnishing of dental services in New Jersey, including offering or rendering dental decisions for treatment or payment relating to the delivery of a dental service to a patient in New Jersey.

In addition, the amendments specify that in rendering a dental decision, a dentist shall include in the written record the dentist’s full name, address, and telephone number, which shall be furnished, or caused to be furnished, to the patient and treating dentist. The bill originally required that such information be reflected on any determination transmitted to either the patient or the treating dentist.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY SUBSTITUTE FOR ASSEMBLY, No. 2134

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2007

The Senate Commerce Committee reports favorably the Assembly Substitute (1R) for Assembly Bill No. 2134.

The substitute provides that an insurer or a third party administrator may make dental decisions in connection with the processing or payment of a dental claim.

The substitute defines an "insurer" as an insurance company, health service corporation, hospital service corporation, medical service corporation, dental service corporation, dental plan organization or health maintenance organization authorized to issue dental benefits in this State. The substitute also defines a "dental decision" as a decision which is based upon a dental diagnosis or a dental judgment related to dental services performed or to be performed in the State of New Jersey, including, but not limited to, any decision relating to: the quality or appropriateness of dental services rendered or proposed to be rendered by a dentist; reasonable necessity for or customary performance of a dental service; or diagnosis or prognosis of a dental condition.

The substitute provides that a dentist licensed out-of-State may receive a limited registration certificate authorizing that dentist to make dental decisions.

The substitute provides that an initial adverse dental decision shall be made by a dentist duly licensed in this or another state. If a treating dentist questions the adverse dental decision and specifies in writing the basis of the disagreement with the adverse dental decision, the insurer or third party administrator, as the case may be, shall, within 30 days, designate a reviewing dentist who is duly licensed in this State or who has been issued a limited registration certificate pursuant to the substitute and notify the treating dentist in writing promptly of the name and address where the reviewing dentist can be contacted and the telephone number which can be used to contact the reviewing dentist. If an agreement is not reached within a reasonable period of time, not to exceed 30 days from the date of the notice, the insurer or third party administrator shall make its decision and communicate the results of the reviewing dentist's dental decision to the treating dentist.

Within 14 days of a written request by the treating dentist, or the patient or the patient's authorized representative, for the basis of an adverse dental decision by a reviewing dentist, the insurer or third party administrator shall send a written notice containing the full name, address and telephone number of the reviewing dentist and a narrative statement specifically identifying the basis for the decision.

The substitute also adds to the current membership of the New Jersey State Board of Dentistry one additional member who shall have resided and practiced dentistry in this State for at least 10 years immediately preceding his or her appointment and who shall have a background in and be actively involved in dental consulting. This additional member shall be appointed in the same manner as presently prescribed. In making the appointment, the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the New Jersey Association of Health Plans.

Finally, the substitute provides that nothing in the bill shall be construed to regulate an insurer or third party administrator from making any other decision that does not involve a dental decision.

This substitute is identical to the Senate Committee Substitute for Senate Bill No. 1849, also reported by the committee today.

STATEMENT TO

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 2134

with Assembly Floor amendments
(Proposed By Assemblyman COHEN)

ADOPTED: JANUARY 8, 2007

This Assembly floor amendment revises the title of the bill.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 2134
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JANUARY 5, 2007

SUMMARY

Synopsis: Regulates dental decisions by insurers and third party administrators and provides for limited dentist registration certificates.

Type of Impact: Minimal Impact. General Fund.

Agencies Affected: Department of Law and Public Safety, Division of Consumer Affairs

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		Expenditure Offset by	
State Revenue		Licensure Fees.	

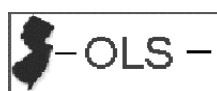
- The Office of Legislative Services estimates that the licensure fee provided by the bill will offset the cost to the New Jersey State Board of Dentistry, in the Division of Consumer Affairs, for issuing the limited dentist registration certificates.
- Regulates dental decisions by insurers and third party administrators.
- Establishes limited dentist registration certificates through the New Jersey Board of Dentistry.

BILL DESCRIPTION

Assembly Substitute for Assembly Bill No. 2134 of 2006 provides that an insurer or a third party administrator may make dental decisions in connection with the processing or payment of a dental claim.

The bill establishes a new limited registration certificate for a licensed dentist not practicing in the State of New Jersey. Out of state dentists approved for limited registration certificates may receive a limited registration certificate authorizing dentist to make dental decisions.

This bill also increases the New Jersey State Board of Dentistry by one member.



FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the licensure fee provided by the bill will offset the cost to the New Jersey State Board of Dentistry, in the Division of Consumer Affairs, for issuing the limited dentist registration certificates.

According to the Division of Consumer Affairs, there are 8,123 active dentists and 4,827 active dental hygienists registered in New Jersey. It is unknown how many out of state dentist may become licensed through this bill to obtain the limited dentist registration certificate.

Section: Law and Public Safety

*Analyst: Kristin A. Brunner
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 2134

STATE OF NEW JERSEY

212th LEGISLATURE

DATED: FEBRUARY 14, 2007

SUMMARY

- Synopsis:** Regulates dental decisions by insurers and third party administrators and provides for limited dentist registration certificates.
- Type of Impact:** Minimal Impact. General Fund.
- Agencies Affected:** Department of Law and Public Safety, Division of Consumer Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Expenditure Offset by Licensure Fees		
State Revenue			

- The Office of Legislative Services estimates that the licensure fee provided by the bill will offset the cost to the New Jersey State Board of Dentistry, in the Division of Consumer Affairs, for issuing the limited dentist registration certificates.
- Regulates dental decisions by insurers and third party administrators and provides for limited dentist registration certificates.
- Establishes limited dentist registration certificates through the New Jersey Board of Dentistry.

BILL DESCRIPTION

Assembly Substitute for Assembly Bill No. 2134 (1R) of 2006 provides that an insurer or a third party administrator may make dental decisions in connection with the processing or payment of a dental claim.

The bill establishes a new limited registration certificate for a licensed dentist not practicing in the State of New Jersey. Out of state dentists approved for limited registration certificates may receive a limited registration certificate authorizing dentist to make dental decisions.

This bill also increases the New Jersey State Board of Dentistry by one member.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the licensure fee provided by the bill will offset the cost to the New Jersey State Board of Dentistry, in the Division of Consumer Affairs, for issuing the limited dentist registration certificates.

According to the Division of Consumer Affairs, there are 8,123 active dentist and 4,827 active dental hygienist registered in New Jersey. It is unknown how many out of state dentist may become licensed through this bill to obtain the limited dentist registration certificate.

Section: Law and Public Safety

*Analyst: Kristin A. Brunner
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

SENATE, No. 1849

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED MAY 11, 2006

Sponsored by:
Senator BARBARA BUONO
District 18 (Middlesex)

SYNOPSIS

Requires certain persons making dental decisions regarding insurance coverage to be licensed by the New Jersey State Board of Dentistry.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the licensure of certain persons making dental
2 decisions and supplementing chapter 6 of Title 45 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 "Dental decision" means an opinion or decision that involves a
10 dental diagnosis or a dental judgment, which includes, but is not
11 limited to, any decision involving the: quality or appropriateness of
12 dental services rendered or proposed to be rendered by a dentist;
13 reasonable necessity for or customary performance of a dental
14 service; or diagnosis or prognosis of a dental condition.

15 "Professional dental practice" means the furnishing of dental
16 services in New Jersey as defined in R.S.45:6-19, including offering
17 or rendering dental decisions for treatment or payment relating to
18 the delivery of a dental service to a patient in New Jersey.

19
20 2. Any person who engages in professional dental practice,
21 either within or outside this State, without first securing a license to
22 practice dentistry from the New Jersey State Board of Dentistry
23 shall be deemed to be engaging in unauthorized or unlicensed
24 practice of dentistry in violation of R.S.45:6-13, and may be subject
25 to prosecution by the board and the Attorney General pursuant to
26 section 12 of P.L.1978, c.73 (C.45:1-25).

27
28 3. a. A dentist, in rendering a dental decision, shall prepare a
29 written record, including at a minimum:

30 (1) The dentist's full name, address, and telephone number,
31 which shall be furnished, or caused to be furnished, by the dentist
32 rendering the dental decision to the patient and treating dentist;

33 (2) A narrative statement specifically identifying the dental or
34 medical records reviewed, findings on any clinical examination
35 undertaken, any diagnostic aids used, the findings made, and the
36 resulting determination reached; and

37 (3) A specific justification for determining that a clinical
38 examination was not warranted if such examination was not
39 undertaken.

40 b. A legible copy of the written record required by subsection a.
41 of this section shall be furnished, or caused to be furnished, by the
42 dentist rendering the dental decision, within 14 days, upon the
43 request of the treating dentist, the patient or the authorized
44 representative.

45 c. A dental decision shall be reasonably supported by findings
46 within the written record as required by subsections a. and b. of this
47 section and consistent with recognized standards of care.

1 d. Violations of subsections a., b., or c. of this section shall be
2 deemed professional misconduct pursuant to subsection e. of
3 section 8 of P.L.1978, c.73 (C.45:1-21).

4

5 4. The New Jersey State Board of Dentistry shall adopt rules and
6 regulations pursuant to the "Administrative Procedure Act,"
7 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the
8 purposes of this act.

9

10 5. This act shall take effect on the first day of the sixth month
11 following the date of enactment.

12

13

14

STATEMENT

15

16 This bill provides that the practice of dentistry includes dental
17 decision making and stipulates that persons who make dental
18 decisions, either in New Jersey or outside this State, for persons
19 receiving treatment in this State are required to be licensed by the
20 New Jersey State Board of Dentistry. As defined in the bill, "dental
21 decision" means an opinion or decision that involves a dental
22 diagnosis or a dental judgment, which includes, but is not limited
23 to, any decision involving the: quality or appropriateness of dental
24 services rendered or proposed to be rendered by a dentist;
25 reasonable necessity for or customary performance of a dental
26 service; or diagnosis or prognosis of a dental condition.

27 The bill further provides that any person engaged in making
28 dental decisions who is not licensed by the New Jersey State Board
29 of Dentistry may be subject to prosecution for the unlicensed
30 practice of dentistry.

31 In addition, the bill mandates that a dentist who renders a dental
32 decision prepare a written record that shall be furnished, or cause to
33 be furnished, by the dentist rendering a dental decision upon the
34 request of the treating dentist, the patient, or the authorized
35 representative. Dental decisions must be supported by the record
36 and consistent with accepted standards of care. Violations of the
37 bill's provisions regarding the written record shall be deemed
38 professional misconduct, subjecting the violator to the board's
39 potential suspension or revocation of the violator's license to
40 practice dentistry.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1849**

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2007

The Senate Commerce Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1849.

The committee substitute provides that an insurer or a third party administrator may make dental decisions in connection with the processing or payment of a dental claim.

The substitute defines an "insurer" as an insurance company, health service corporation, hospital service corporation, medical service corporation, dental service corporation, dental plan organization or health maintenance organization authorized to issue dental benefits in this State. The substitute also defines a "dental decision" as a decision which is based upon a dental diagnosis or a dental judgment related to dental services performed or to be performed in the State of New Jersey, including, but not limited to, any decision relating to: the quality or appropriateness of dental services rendered or proposed to be rendered by a dentist; reasonable necessity for or customary performance of a dental service; or diagnosis or prognosis of a dental condition.

The substitute provides that a dentist licensed out-of-State may receive a limited registration certificate authorizing that dentist to make dental decisions.

The substitute provides that an initial adverse dental decision shall be made by a dentist duly licensed in this or another state. If a treating dentist questions the adverse dental decision and specifies in writing the basis of the disagreement with the adverse dental decision, the insurer or third party administrator, as the case may be, shall, within 30 days, designate a reviewing dentist who is duly licensed in this State or who has been issued a limited registration certificate pursuant to the substitute and notify the treating dentist in writing promptly of the name and address where the reviewing dentist can be contacted and the telephone number which can be used to contact the reviewing dentist. If an agreement is not reached within a reasonable period of time, not to exceed 30 days from the date of the notice, the insurer or third party administrator shall make its decision and communicate the results of the reviewing dentist's dental decision to the treating dentist. Within 14 days of a written request by the treating dentist, or the

patient or the patient's authorized representative, for the basis of an adverse dental decision by a reviewing dentist, the insurer or third party administrator shall send a written notice containing the full name, address and telephone number of the reviewing dentist and a narrative statement specifically identifying the basis for the decision.

The substitute also adds to the current membership of the New Jersey State Board of Dentistry one additional member who shall have resided and practiced dentistry in this State for at least 10 years immediately preceding his or her appointment and who shall have a background in and be actively involved in dental consulting. This additional member shall be appointed in the same manner as presently prescribed. In making the appointment, the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the New Jersey Association of Health Plans.

Finally, the substitute provides that nothing in the bill shall be construed to regulate an insurer or third party administrator from making any other decision that does not involve a dental decision.

This committee substitute is identical to the Assembly Substitute (1R) for Assembly Bill No. 2134, also reported by the committee today.

**ASSEMBLY SUBSTITUTE FOR ASSEMBLY BILL NO. 2134
(FIRST REPRINT)**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Substitute for Assembly Bill No. 2134 (First Reprint) with my recommendations for reconsideration.

A. Summary of the Bill

This bill would amend and supplement current law governing the regulation of dental decisions by insurers and third party administrators. In this regard, this bill provides that an insurer or a third party administrator may make dental decisions in connection with the processing or payment of a dental claim. The bill specifies, however, that dental decisions made by an insurer or third party administrator must be consistent with certain guidelines set forth in the bill, including a requirement that any decision to deny a claim must be based in the first instance on a determination made by a licensed dentist. The bill further provides that a dentist licensed out of state may receive a limited registration certificate authorizing that dentist to make dental decisions pursuant to the bill, and subjecting the out-of-state dentist to discipline by the New Jersey Board of Dentistry.

In addition, this bill would alter the current composition of the New Jersey Board of Dentistry by requiring the appointment of an additional member who shall have resided and practiced dentistry in the State for at least ten years and who shall have a background in and be actively involved in dental consulting.

B. Recommended Action

I compliment the sponsors of this bill for recognizing the importance of establishing clear standards and guidelines governing decisions by insurance companies and third party administrators in the processing and payment of dental claims. These decisions have a direct effect upon the health and welfare of New Jersey's citizens. It is imperative that decisions about dental services performed or to be performed in the State of New Jersey are made with all due care and with a fair opportunity to challenge adverse decisions as to which the treating dentist disagrees.

I support the sponsors' efforts to ensure that those making dental decisions for services performed or to be performed in New Jersey should be registered in this State and subject to oversight by the New Jersey Board of Dentistry. This bill helps to ensure that these professionals are subject to the same standards of honesty, integrity, and competency as others making dental decisions in this State.

While I support most of the provisions of this bill, I am concerned about the section that would expand the current membership of the Board of Dentistry. It is axiomatic that the professional boards of this State exist to serve and preserve public health, safety, and welfare by establishing appropriate standards of practice, providing oversight of practitioners, administering appropriate discipline, and hearing grievances of the public regarding those regulated professionals. The current configuration of the Board does not require that

any particular business segment in which dentists practice be represented. I am concerned that adding a new member to this Board who is required to be actively involved in a particular business segment - dental consulting - would establish an undesirable precedent and could detract from the primary mission of the Board, which is to protect the public as a whole. I believe the public would be better served if the new member added to the Board by this bill is qualified for his or her service by the same criteria applicable to current dentist-members of the Board.

Accordingly, I herewith return Assembly Substitute for Assembly Bill No. 2134 (First Reprint) and recommend that it be amended as follows:

Page 5, Section 10, Lines 16-20: Delete "and who shall have a background in and be actively involved in dental consulting. In making the appointment, the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the New Jersey Association of Health Plans"

Page 5, Section 11, Line 22:

Re-number Section 11 as
Section 10

Respectfully,

/s/ Jon S. Corzine

Governor

[seal]

Attest:

/s/ Kenneth H. Zimmerman

Chief Counsel to the Governor