



December 26, 2023

The Honorable Phil Murphy  
Governor, State of New Jersey  
PO Box 001  
Trenton, New Jersey 08625

Dear Governor Murphy:

On behalf of the New Jersey Dental Association, I respectfully request that you sign into law S.765/A.3246, sponsored by Senators Pou, Pennacchio and Bramnick as well as Assemblypersons Lampitt, Murphy, Schaer and Conaway. The groundbreaking legislation before you is a result of long, thoughtful, negotiations between the dental provider community and dental insurance carriers which, if enacted, will improve patient transparency; protect consumer choice; and enable dentists to be compensated for procedures and services they provide.

We understand there may be concerns about the lack of enforcement mechanisms within the legislation. However, we disagree, and see no need for new enforcement provisions within the bill.

Under current law, dentists are beholden to the State Board of Dentistry for licensure. They must adhere to the provisions of the Dental Practice Act. We believe the provisions of this legislation clearly fall under the jurisdictional requirements of N.J.A.C. 13:30-8.7 PATIENT RECORDS. In fact, we believe this legislation strengthens consumer protections and transparency by codifying N.J.A.C. 13:30-8.7(4), of which dentists must currently comply, and, if they do not, are subject to State Board action. Moreover, dental insurance carriers retain the right, under contract, to remove a dentist from their network.

What S.765/A.3246 does is end the use of "disallow" clauses by dental insurance carriers. Disallow clauses are when a carrier denies a claim and prohibits the doctor from collecting any fees associated with a covered service or procedure they have already performed. The doctor routinely does not know the covered procedure will be disallowed until they receive an explanation of benefits from the carrier. This is materially different from the denial of a claim where a carrier does not provide remuneration for the covered service or procedure but does require the patient to pay for it.

Disallow clauses materially interfere with the doctor-patient relationship by forcing the dental marketplace into preselecting what types of procedures will be paid for and which will not. This places doctors in the untenable position of either providing the ethically right dental care to their patients and risk not being compensated, or ignoring the right healthcare choice for their patients to ensure the dental practice is economically viable.

S.765/A.3246 is pro-consumer. Dentists must secure written consent prior to treatment occurring. As stated previously, the State Board of Dentistry requires dentists, by regulation, to discuss treatment options, alternatives, and payment responsibilities before a procedure or service is performed, and they are subject to discipline if they do not. This legislation codifies that patients understand their financial obligations before treatment begins, eliminating any unexpected or surprise billing.

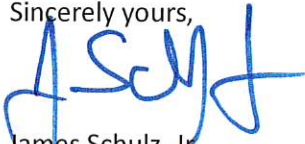
This legislation puts patients in charge of decision making when it comes to their dental care. Patients will have the freedom to choose which services, products, and materials they want, without outside interference by insurance companies. It strengthens the doctor-patient relationship by facilitating and ensuring transparency and mutual understanding of the patient's treatment plan.

Moreover, S.765/A.3246, puts guiderails in place regarding carriers' use of bundling and down-coding by defining how and when these applications may be used for claims processing and adjudication.

This legislation does not take away an insurance carrier's right to deny claims, nor does it compel insurance carriers to pay claims they may otherwise not. It does not allow a doctor to charge more than the negotiated fee, or balance bill beyond the copayment or deductible for covered services – something that is required by insurance carriers. It will not increase premium costs because the legislation does nothing to encumber more expenses by carriers.

Thank you for your time and consideration of our request for your favorable action on S.765/A.3246. As always, I am happy to address any questions, comments, or concerns you, or your staff, may have.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'J. Schulz, Jr.', written over a light blue horizontal line.

James Schulz, Jr.  
Director, Governmental & Public Affairs

cc: Senator Nellie Pou  
Assemblywoman Pamela Lampitt