

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Goldman, Paddie, Oliverson,  
Bonnen of Galveston, Huberty, et al.

H.B. No. 2486

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain required disclosures and prohibited practices  
3 of certain employee benefit plans and health insurance policies  
4 that provide benefits for dental care services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 1451.205, Insurance Code, is amended to  
7 read as follows:

8 Sec. 1451.205. DISCLOSURE OF BENEFIT TERMS. (a) An  
9 employee benefit plan or health insurance policy shall:

10 (1) if applicable, disclose that the benefit for  
11 dental care services offered is limited to the least costly  
12 treatment; and

13 (2) specify in dollars and cents the amount of the  
14 payment or reimbursement to be provided for dental care services or  
15 define and explain the standard on which payment of benefits or  
16 reimbursement for the cost of dental care services is based, such  
17 as:

18 (A) "usual and customary" fees;

19 (B) "reasonable and customary" fees;

20 (C) "usual, customary, and reasonable" fees; or

21 (D) words of similar meaning.

22 (b) A person or entity who provides or issues an employee  
23 benefit plan or health insurance policy or the employer or employee  
24 organization, if applicable, shall establish an Internet website to

1 provide resources and information to dentists, insureds,  
2 participants, employees, and members.

3 (c) An employee benefit plan or health insurance policy  
4 provider or issuer shall make accessible on the Internet website  
5 established under Subsection (b) information about the plan or  
6 policy sufficient for patients and dentists to determine the type  
7 of dental care services covered by the plan or policy, the  
8 percentage of the allowed charges for a covered service that will be  
9 paid or reimbursed under the plan or policy, and, for a contracting  
10 provider dentist, an estimate of the amount of the payment or  
11 reimbursement available for the provider's services under the plan  
12 or policy. Access to the Internet website must be at no charge to  
13 patients under the plan or policy and dentists providing dental  
14 care services to the patients.

15 SECTION 2. Section 1451.206(a), Insurance Code, is amended  
16 to read as follows:

17 (a) The employee benefit plan or health insurance policy  
18 shall:

19 (1) provide:

20 (A) [~~(1)~~] that payment or reimbursement for a  
21 noncontracting provider dentist shall be the same as payment or  
22 reimbursement for a contracting provider dentist; [~~and~~]

23 (B) [~~(2)~~] that the party to or beneficiary of the  
24 plan or policy may assign the right to payment or reimbursement to  
25 the dentist who provides the dental care services; and

26 (C) one or more methods of payment or  
27 reimbursement that provide the dentist 100 percent of the

1 contracted amount of the payment or reimbursement and that do not  
2 require the dentist to incur a fee to access the payment or  
3 reimbursement; and

4 (2) disclose on the Internet website required under  
5 Section 1451.205 and on request of a dentist or a party to or  
6 beneficiary of the plan or policy the fees, if any, associated with  
7 the methods of payment or reimbursement available under the plan or  
8 policy.

9 SECTION 3. Sections 1451.207(a) and (c), Insurance Code,  
10 are amended to read as follows:

11 (a) An employee benefit plan or health insurance policy may  
12 not:

13 (1) interfere with or prevent an individual who is a  
14 party to or beneficiary of the plan or policy from selecting a  
15 dentist of the individual's choice to provide a dental care service  
16 the plan or policy offers if the dentist selected is licensed in  
17 this state to provide the service;

18 (2) deny a dentist the right to participate as a  
19 contracting provider under the plan or policy if the dentist is  
20 licensed to provide the dental care services the plan or policy  
21 offers;

22 (3) authorize a person to regulate, interfere with, or  
23 intervene in the provision of dental care services a dentist  
24 provides a patient, including diagnosis, if the dentist practices  
25 within the scope of the dentist's license; ~~or~~

26 (4) require a dentist to make or obtain a dental x-ray  
27 or other diagnostic aid in providing dental care services; or

1           (5) deduct the amount of an overpayment of a claim from  
2 a payment or reimbursement for a dental care service provided by a  
3 dentist who did not receive the overpayment.

4           (c) This section does not prohibit the predetermination of  
5 benefits for dental care expenses before the attending dentist  
6 provides treatment. In this subsection, "predetermination" means  
7 an estimate by the patient's employee benefit plan or health  
8 insurance policy provider or issuer of:

9           (1) the patient's eligibility under the plan or policy  
10 for benefits or covered services;

11           (2) the amount of the patient's deductible, copayment,  
12 or coinsurance related to benefits or covered services; and

13           (3) the maximum benefit limits for benefits or covered  
14 services.

15           SECTION 4. Subchapter E, Chapter 1451, Insurance Code, is  
16 amended by adding Section 1451.208 to read as follows:

17           Sec. 1451.208. PRIOR AUTHORIZATION OF DENTAL CARE SERVICES.

18           (a) For purposes of this section, "prior authorization" means a  
19 written and verifiable determination that one or more specific  
20 dental care services are covered under the patient's employee  
21 benefit plan or health insurance policy and are payable and  
22 reimbursable in a specific stated amount, subject to applicable  
23 coinsurance and deductible amounts. The term:

24           (1) includes preauthorization or similar  
25 authorization; and

26           (2) does not include a predetermination as defined by  
27 Section 1451.207(c).

1       (b) For services for which a prior authorization is  
2 required, on request of a patient or treating dentist, an employee  
3 benefit plan or health insurance policy provider or issuer shall  
4 provide to the dentist a written prior authorization of benefits  
5 for a dental care service for the patient. The prior authorization  
6 must include a specific benefit payment or reimbursement amount.  
7 Except as provided by Subsection (c), the plan or policy provider or  
8 issuer may not pay or reimburse the dentist in an amount that is  
9 less than the amount stated in the prior authorization.

10       (c) An employee benefit plan or health insurance policy  
11 provider or issuer that preauthorizes a dental care service under  
12 Subsection (b) may deny a claim for the dental care service or  
13 reduce payment or reimbursement to the dentist for the service only  
14 if:

15               (1) the denial or reduction is in accordance with the  
16 patient's employee benefit plan or health insurance policy benefit  
17 limitations, including an annual maximum or frequency of treatment  
18 limitation, and the patient met the benefit limitation after the  
19 date the prior authorization was issued;

20               (2) the documentation for the claim fails to  
21 reasonably support the claim as preauthorized;

22               (3) the preauthorized dental care service was not  
23 medically necessary based on the prevailing standard of care on the  
24 date of the service, or is subject to denial under the conditions  
25 for coverage under the patient's plan or policy in effect at the  
26 time the service was preauthorized, because of a change in the  
27 patient's condition or because the patient received additional

1 dental care services after the date the prior authorization was  
2 issued;

3 (4) a payor other than the employee benefit plan or  
4 health insurance policy provider or issuer is responsible for  
5 payment of the claim;

6 (5) the dentist received full payment for the  
7 preauthorized dental care service on which the claim is based;

8 (6) the claim is fraudulent;

9 (7) the prior authorization was based wholly or partly  
10 on a material error in information provided to the employee benefit  
11 plan or health insurance policy provider or issuer by any person not  
12 related to the provider or issuer; or

13 (8) the patient was otherwise ineligible for the  
14 dental care service under the patient's plan or policy, and the plan  
15 or policy provider or issuer did not know and could not reasonably  
16 have known that the patient was ineligible for the dental care  
17 service on the date the plan or policy provider or issuer  
18 preauthorized the dental care service.

19 SECTION 5. The changes in law made by this Act apply only to  
20 an employee benefit plan or health insurance policy that provides  
21 benefits for dental care services that is delivered, issued for  
22 delivery, renewed, or contracted for on or after the effective date  
23 of this Act. An employee benefit plan or health insurance policy  
24 that provides benefits for dental care services that is delivered,  
25 issued for delivery, renewed, or contracted for before the  
26 effective date of this Act is governed by the law as it existed  
27 immediately before the effective date of this Act, and that law is

1 continued in effect for that purpose.

2 SECTION 6. This Act takes effect September 1, 2019.

ADOPTED

MAY 22 2019

Letay Seal  
Secretary of the Senate

By: Schwertner

H.B. No. 2486

Substitute the following for \_\_\_B. No. \_\_\_\_\_:

By: C. Schwertner

C.S. \_\_\_B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain required disclosures and prohibited practices  
3 of certain employee benefit plans and health insurance policies  
4 that provide benefits for dental care services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 1451.205, Insurance Code, is amended to  
7 read as follows:

8 Sec. 1451.205. DISCLOSURE OF BENEFIT TERMS. (a) An  
9 employee benefit plan or health insurance policy shall:

10 (1) if applicable, disclose that the benefit for  
11 dental care services offered is limited to the least costly  
12 treatment; and

13 (2) specify in dollars and cents the amount of the  
14 payment or reimbursement to be provided for dental care services or  
15 define and explain the standard on which payment of benefits or  
16 reimbursement for the cost of dental care services is based, such  
17 as:

- 18 (A) "usual and customary" fees;
- 19 (B) "reasonable and customary" fees;
- 20 (C) "usual, customary, and reasonable" fees; or
- 21 (D) words of similar meaning.

22 (b) A person or entity who provides or issues an employee  
23 benefit plan or health insurance policy or the employer or employee  
24 organization, if applicable, shall establish an Internet website to



1 provide resources and information to dentists, insureds,  
2 participants, employees, and members.

3 (c) An employee benefit plan or health insurance policy  
4 provider or issuer shall make accessible on the Internet website  
5 established under Subsection (b) information about the plan or  
6 policy sufficient for patients and dentists to determine the type  
7 of dental care services covered by the plan or policy, the  
8 percentage of the allowed charges for a covered service that will be  
9 paid or reimbursed under the plan or policy, and, for a contracting  
10 provider dentist, an estimate of the amount of the payment or  
11 reimbursement available for the provider's services under the plan  
12 or policy. Access to the Internet website must be at no charge to  
13 patients under the plan or policy and dentists providing dental  
14 care services to the patients.

15 (d) An employee benefit plan or health insurance policy  
16 provider or issuer is not required to comply with Subsection (b) or  
17 (c) for a plan or policy that:

18 (1) provides for payment of the benefit for dental  
19 care services under the plan or policy:

20 (A) as an indemnity benefit based on a fixed  
21 schedule, regardless of the cost of the dental care service;

22 (B) on a cash-payment-only basis;

23 (C) directly to the beneficiary of the plan or  
24 policy or to the beneficiary's assigns; and

25 (D) regardless of other coverage; and

26 (2) does not provide for a copayment, a deductible, a  
27 network, or contracting provider dentists.

1 SECTION 2. Section 1451.206(a), Insurance Code, is amended  
2 to read as follows:

3 (a) The employee benefit plan or health insurance policy  
4 shall:

5 (1) provide:

6 (A) [~~1~~] that payment or reimbursement for a  
7 noncontracting provider dentist shall be the same as payment or  
8 reimbursement for a contracting provider dentist; ~~and~~

9 (B) [~~2~~] that the party to or beneficiary of the  
10 plan or policy may assign the right to payment or reimbursement to  
11 the dentist who provides the dental care services; and

12 (C) one or more methods of payment or  
13 reimbursement that provide the dentist 100 percent of the  
14 contracted amount of the payment or reimbursement and that do not  
15 require the dentist to incur a fee to access the payment or  
16 reimbursement; and

17 (2) disclose on the Internet website required under  
18 Section 1451.205 and on request of a dentist or a party to or  
19 beneficiary of the plan or policy the fees, if any, associated with  
20 the methods of payment or reimbursement available under the plan or  
21 policy.

22 SECTION 3. Sections 1451.207(a) and (c), Insurance Code,  
23 are amended to read as follows:

24 (a) An employee benefit plan or health insurance policy may  
25 not:

26 (1) interfere with or prevent an individual who is a  
27 party to or beneficiary of the plan or policy from selecting a

1 dentist of the individual's choice to provide a dental care service  
2 the plan or policy offers if the dentist selected is licensed in  
3 this state to provide the service;

4 (2) deny a dentist the right to participate as a  
5 contracting provider under the plan or policy if the dentist is  
6 licensed to provide the dental care services the plan or policy  
7 offers;

8 (3) authorize a person to regulate, interfere with, or  
9 intervene in the provision of dental care services a dentist  
10 provides a patient, including diagnosis, if the dentist practices  
11 within the scope of the dentist's license; [~~or~~]

12 (4) require a dentist to make or obtain a dental x-ray  
13 or other diagnostic aid in providing dental care services; or

14 (5) deduct the amount of an overpayment of a claim from  
15 a payment or reimbursement for a dental care service provided by a  
16 dentist who did not receive the overpayment.

17 (c) This section does not prohibit the predetermination of  
18 benefits for dental care expenses before the attending dentist  
19 provides treatment. In this subsection, "predetermination" means  
20 an estimate by the patient's employee benefit plan or health  
21 insurance policy provider or issuer of:

22 (1) the patient's eligibility under the plan or policy  
23 for benefits or covered services;

24 (2) the amount of the patient's deductible, copayment,  
25 or coinsurance related to benefits or covered services; and

26 (3) the maximum benefit limits for benefits or covered  
27 services.

1 SECTION 4. Subchapter E, Chapter 1451, Insurance Code, is  
2 amended by adding Section 1451.208 to read as follows:

3 Sec. 1451.208. PRIOR AUTHORIZATION OF DENTAL CARE SERVICES.

4 (a) For purposes of this section, "prior authorization" means a  
5 written and verifiable determination that one or more specific  
6 dental care services are covered under the patient's employee  
7 benefit plan or health insurance policy and are payable and  
8 reimbursable in a specific stated amount, subject to applicable  
9 coinsurance and deductible amounts. The term:

10 (1) includes preauthorization or similar  
11 authorization; and

12 (2) does not include a predetermination as defined by  
13 Section 1451.207(c).

14 (b) For services for which a prior authorization is  
15 required, on request of a patient or treating dentist, an employee  
16 benefit plan or health insurance policy provider or issuer shall  
17 provide to the dentist a written prior authorization of benefits  
18 for a dental care service for the patient. The prior authorization  
19 must include a specific benefit payment or reimbursement amount.  
20 Except as provided by Subsection (c), the plan or policy provider or  
21 issuer may not pay or reimburse the dentist in an amount that is  
22 less than the amount stated in the prior authorization.

23 (c) An employee benefit plan or health insurance policy  
24 provider or issuer that preauthorizes a dental care service under  
25 Subsection (b) may deny a claim for the dental care service or  
26 reduce payment or reimbursement to the dentist for the service only  
27 if:

1           (1) the denial or reduction is in accordance with the  
2 patient's employee benefit plan or health insurance policy benefit  
3 limitations, including an annual maximum or frequency of treatment  
4 limitation, and the patient met the benefit limitation after the  
5 date the prior authorization was issued;

6           (2) the documentation for the claim fails to  
7 reasonably support the claim as preauthorized;

8           (3) the preauthorized dental care service was not  
9 medically necessary based on the prevailing standard of care on the  
10 date of the service, or is subject to denial under the conditions  
11 for coverage under the patient's plan or policy in effect at the  
12 time the service was preauthorized, because of a change in the  
13 patient's condition or because the patient received additional  
14 dental care services after the date the prior authorization was  
15 issued;

16           (4) a payor other than the employee benefit plan or  
17 health insurance policy provider or issuer is responsible for  
18 payment of the claim;

19           (5) the dentist received full payment for the  
20 preauthorized dental care service on which the claim is based;

21           (6) the claim is fraudulent;

22           (7) the prior authorization was based wholly or partly  
23 on a material error in information provided to the employee benefit  
24 plan or health insurance policy provider or issuer by any person not  
25 related to the provider or issuer; or

26           (8) the patient was otherwise ineligible for the  
27 dental care service under the patient's plan or policy, and the plan

1 or policy provider or issuer did not know and could not reasonably  
2 have known that the patient was ineligible for the dental care  
3 service on the date the plan or policy provider or issuer  
4 preauthorized the dental care service.

5           SECTION 5. The changes in law made by this Act apply only to  
6 an employee benefit plan or health insurance policy that provides  
7 benefits for dental care services that is delivered, issued for  
8 delivery, renewed, or contracted for on or after the effective date  
9 of this Act. An employee benefit plan or health insurance policy  
10 that provides benefits for dental care services that is delivered,  
11 issued for delivery, renewed, or contracted for before the  
12 effective date of this Act is governed by the law as it existed  
13 immediately before the effective date of this Act, and that law is  
14 continued in effect for that purpose.

15           SECTION 6. This Act takes effect September 1, 2019.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 22, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2486** by Goldman (Relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services.), **As Passed 2nd House**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Insurance Code relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, SD, CLo, CMa, CP, LR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 18, 2019**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2486** by Goldman (Relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Insurance Code relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CLo, CMa, CP, LR



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 2, 2019**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2486** by Goldman (Relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services.), **As Engrossed**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Insurance Code relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CLo, CMa, CP, LR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 12, 2019**

**TO:** Honorable Eddie Lucio III, Chair, House Committee on Insurance

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2486** by Goldman (relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services.), **Committee Report 1st House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Insurance Code relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CMa, CP, LR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 1, 2019**

**TO:** Honorable Eddie Lucio III, Chair, House Committee on Insurance

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2486** by Goldman (Relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code relating to certain required disclosures and prohibited practices of certain employee benefit plans and health insurance policies that provide benefits for dental care services. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CMa, CP, LR