

Mandated Benefits Review

Senate Bill 1291
Dental Anesthesia

The Pennsylvania Health Care
Cost Containment Council

September 2000

The Pennsylvania Health Care Cost Containment Council (PHC4) was established as an independent state agency in 1986. Act 89 of 1986 (as reauthorized by Act 34 of 1993), provides that PHC4 review proposed mandated health benefits when requested by the Secretary of Health or appropriate committee chairmen in the Pennsylvania Senate or the House of Representatives. Act 34 provides for a preliminary PHC4 review of materials submitted by proponents and opponents of the proposed benefit to determine if documentation is sufficient to proceed with the formal Mandated Benefits Review process outlined in the Act. This report presents the results of PHC4's preliminary review.

For more information please contact:

The Pennsylvania Health Care Cost Containment Council

225 Market Street, Suite 400

Harrisburg, PA 17101

Phone 717-232-6787

Fax 717-232-3821

Marc P. Volavka

Executive Director

This mandated benefit review and other similar reviews completed by PHC4 are available on PHC4's web site:

www.phc4.org

Table of Contents

Executive Summary	1
Review of Senate Bill 1291	3
Overview of Senate Bill 1291	3
The Mandated Benefits Review Process	3
Analysis of Act 34 Requirements.....	4
References.....	15
List of Submissions for Senate Bill 1291	16
Copy of Senate Bill 1291	19

EXECUTIVE SUMMARY

After reviewing the analysis of Senate Bill 1291 – the Access to Dental Care Act – the Pennsylvania Health Care Cost Containment Council does not find sufficient evidence to support this legislation in its present form. Information required to complete a full cost-benefit analysis was not available. In particular, no data were available to determine possible *savings* of health care dollars. While an argument can be made that enactment of Senate Bill 1291 could potentially save money due to aggressive treatment of early stage dental disease, the amount of savings relative to the cost is not clear.

The need for appropriate dental care is well established; the need for general anesthesia in dental procedures is the question at hand. While it is likely that some dental patients go without treatment due to a lack of coverage for general anesthesia, there was no information available to determine the extent of treatment deferral or the number of patients who forgo treatment entirely.

Ultimately, while the Council is sympathetic to the suffering endured by children and special needs patients with dental disease, it is not clear whether the enactment of Senate Bill 1291 would eliminate the barriers to dental care faced by these individuals. There was no evidence to suggest that coverage for general anesthesia would remove the barriers to receiving appropriate dental care. Because Senate Bill 1291 would require coverage of general anesthesia for dental procedures regardless of whether the patient has dental coverage, patients may still be deterred from treatment by the cost of the dental treatment itself when they do not have dental coverage. In addition, because only 486 of the 10,835 dentists in Pennsylvania are licensed to administer general anesthesia, the availability of general anesthesia in dental treatment may be limited.

We note the following points:

- The Access to Dental Care Act would require health insurance policies to provide coverage for general anesthesia to eligible dental patients including 1) children under five and 2) special needs individuals. It was estimated that fewer than 3,500 Pennsylvanians per year would benefit from the enactment of Senate Bill 1291, at an estimated annual cost of \$4.5 million to \$7.7 million. One reason for the small number of beneficiaries is because Medical Assistance and CHIP (the Children’s Health Insurance Program) already offer this coverage to their enrollees, who are often at a higher risk for dental disease than the general population.
- This bill does not address the underlying cause of dental disease (i.e., poor dental hygiene). By increasing public awareness and education efforts and stressing better dental hygiene (especially in avoiding “baby bottle” syndrome), not only would some children be able to avoid painful dental disease, but the need for costly dental procedures performed under general anesthesia may also be reduced.
- Although a few instances of patients forgoing dental treatment due to the cost of general anesthesia were brought to PHC4’s attention, it does not appear that there is any widespread inadequacy in health care or financial hardship without such a mandate. To the contrary, the majority of the population with the most need for the proposed benefit already have coverage under Medical Assistance or CHIP (the Children’s Health Insurance Program).
- The safety of general anesthesia used in dental procedures has been called into question by the opponents of this legislation – noting that rare, but significant, risks are associated with the administration of general anesthesia. Insurers expressed concern that providing

coverage for general anesthesia but not for other, possibly safer, types of anesthesia and sedation may result in some patients choosing general anesthesia simply because it would result in the least out-of-pocket cost.

- Senate Bill 1291 specifically excludes dental policies from the types of policies to which the mandate applies, and in doing so would require that the proposed benefits be included in the major medical policy. Because dental care is covered under dental riders and not major medical, this arrangement would be unique and represent a disjuncture in benefits structure. Insurers suggest that the benefits proposed in Senate Bill 1291 may be more appropriately administered under dental riders. Although no information was available to determine the extent of administrative expenses incurred by enactment of Senate Bill 1291, insurers argue that significant expenses may be incurred by requiring major medical insurers to recruit, credential, and maintain a network of pediatric dental providers.
- Senate Bill 1291 would allow a parent/guardian to require that general anesthesia for dental treatment be administered in a hospital regardless of the opinion of the dentist. This would be an unprecedented arrangement whereby the parent/guardian would be allowed to *override* the opinion of the medical professional in treatment decisions, rather than making decisions *in consultation* with the health care provider. Further, allowing the parent/guardian to require that the general anesthesia be administered in a hospital setting may inadvertently suggest that the hospital is the “best setting” for general anesthesia, when, in reality, fewer than 10 Pennsylvania hospitals are equipped to handle pediatric dental cases. Insurers expressed concern that they would be required to cover dental anesthesia in a hospital, even in cases where general anesthesia may not be medically necessary.
- Finally, the Council’s enabling legislation provides for a preliminary review of submitted materials to determine if documentation received is sufficient to proceed with the formal Mandated Benefits Review process outlined in Act 34 of 1993. We conclude that neither supporters nor opponents of the bill provided sufficient information to warrant a full review by a Mandated Benefits Review Panel; nor, given the documentation received, do we believe a panel of experts would come to conclusions different than the ones reached here.

While the costs of particular mandates may appear to have minimal impact, the Council suggests that caution must be used when considering health care mandates. In particular, attention must be given to the cumulative financial impact of enacting mandates. It should also be remembered that while mandates increase the cost of health insurance generally, a state mandate will cover, on average, only 42% of the state’s population (only 33% of the state’s population if the mandate applies only to group plans).

With regard to mandates in general, the rise in the number of uninsured Pennsylvanians is of particular concern. The Health Insurance Association of America (HIAA) has reported that the number of uninsured under age 65 in Pennsylvania has jumped 34% since 1991, more than double the national increase of 16%. The role of mandates in this trend is not clear. It can be noted, however, that the number of mandates in Pennsylvania (currently almost 30) has grown in concert with rising costs of health insurance and the growing number of uninsured.

Review of Senate Bill 1291

The Access to Dental Care Act

Overview of Senate Bill 1291

The Access to Dental Care Act would require basic health insurance policies (i.e., major medical policies) to provide coverage for general anesthesia and associated medical costs to eligible dental patients. Eligible patients include: 1) children under five years of age and 2) individuals who are severely disabled mentally, physically, or developmentally and are extremely fearful or uncooperative, whose dental needs are deemed important enough that dental care cannot be deferred. Coverage for dental anesthesia would be required whether administered in a hospital, outpatient, or office setting. A parent or guardian would be allowed to require that the general anesthesia be administered in a hospital or outpatient setting, regardless of the opinion of the dentist. While SB 1291 would require coverage for the cost of general anesthesia and associated medical costs, it would not require the health insurance policy to cover the costs of the dental treatment for which the anesthesia is being administered.

The Mandated Benefits Review Process

The Pennsylvania Health Care Cost Containment Council's enabling legislation, Act 89 of 1986 (as reauthorized by Act 34 of 1993), provides that the Council review proposed mandated health benefits when requested by the Secretary of Health or appropriate committee chairmen in the Pennsylvania Senate or the House of Representatives.

In March 2000, Senator Edwin G. Holl, Chairman of the Senate Banking and Insurance Committee, requested that the Council review the provisions of Senate Bill 1291 (PN 1668 – Senator Hart).

Notification was published in the *Pennsylvania Bulletin* (April 8, 2000) requesting that interested parties submit documentation and information pertaining to the bill to the Council by June 8, 2000. Letters were also sent to potentially interested individuals and organizations informing them of the pending review and inviting them to submit documentation pursuant to the notice. Following the initial comment period, an opportunity was provided for interested individuals and organizations to examine the responses received and submit additional comments based on that review by August 1, 2000. The Pennsylvania Department of Health and the Pennsylvania Insurance Department were notified and received copies of the submissions.

A list of the submissions received and a copy of the bill are attached.

Act 34 provides for a preliminary Council review of submitted materials to determine if documentation submitted is sufficient to proceed with the formal Mandated Benefits Review process outlined in the Act. This report presents the results of the Council's preliminary review.

**Analysis of Documentation Submitted by Opponents and Proponents in
Response to the Eight Categories Required by Act 34, Section 9**

Act 34 of 1993 provides that the documentation submitted to the Council by supporters and opponents of a proposed mandated benefit should address eight specific areas. In reviewing these eight points, determination is made whether the information received is sufficient to warrant the formal Mandated Benefits Review process outlined in the Act. Following are Council findings pertaining to the documentation received for Senate Bill 1291 addressing each of these eight points.

(i) *The extent to which the proposed benefit and the services it would provide are needed by, available to and utilized by the population of the Commonwealth.*

According to the Pennsylvania Dental Association (PDA), “children’s dental disease is the single most chronic disease of childhood. ... Dental disease alone will progress to infection, acute and disabling chronic pain, loss of oral functions and malnutrition.” They illustrate the severity of dental disease by stating that, “over 50 million school hours nationwide are lost each year to toothaches.” The Pennsylvania Dental Association further contends that, untreated tooth decay, periodontal disease and other oral conditions are impairments that can substantially limit a child’s development and an individual’s participation in major life activities. Indeed, the need for appropriate dental care is well established. The question at hand is the need for *general anesthesia coverage* for pediatric and special needs dental procedures.

According to the Pennsylvania Dental Association, general anesthesia is most often needed in order to treat children who may not be able to quietly sit in the dental chair. This is also the case for special needs patients who may be uncooperative in a dental office. Because of the need for dental care among these populations, general anesthesia may be an option when the patient would otherwise go without care.

According to the Pennsylvania Dental Association, “the prevalence and severity of dental disease are significantly increased in the disabled population; in many instances, the disability itself either directly contributes to oral disease or greatly exaggerates an existing condition. This is particularly true of those disabilities that preclude preventative and routine oral hygiene practices either from being performed by the individual or administered to them.” The Arc of Pennsylvania states that, “without general anesthesia, the dental care of special needs patients would not be possible, even though there is no other medical reason to administer general anesthesia. Combative behavior in the dental chair is common and many dentists, unable to administer general anesthesia, refuse to treat the patient because it is not safe for either patient or dentist.” The Pennsylvania Dental Association adds that there are no comparable alternatives to general anesthesia for this group when it is needed to provide dental care.

Other submissions, however, question the appropriateness of administering general anesthesia to children and special needs patients for dental procedures. While opponents agree that some children and special needs patients may become anxious about a visit to the dentist’s office, they suggest that other methods – such as “tell-show-do” techniques, distraction, parental participation and praise – may help calm their fears. In cases where these traditional techniques are not successful, these patients may require additional resources such as mild sedation. Opponents suggest that rendering a child and special needs patient unconscious through the administration of general anesthesia should occur only in rare instances, as a method of last resort only in those cases where other, less extreme methods have been tried and failed.

One of the concerns expressed by opponents is that the decision to use general anesthesia might be a decision of convenience rather than medical necessity. For example, Highmark noted that for most medical procedures, the *nature of the procedure* dictates the need for general anesthesia, whereas Senate Bill 1291 allows the *disposition of the patient* to be the determining factor.

The need for this mandate varies among economic sub-populations. The Pennsylvania Dental Association submitted information which suggested that childhood tooth decay is disproportionately concentrated among low income children, noting that 80 percent of pediatric dental disease is found in 25 percent of the pediatric population. These children are likely to be covered by Medical Assistance and CHIP (the Children's Health Insurance Program) and have access to benefits for general anesthesia for dental care through these programs. According to the Pennsylvania Dental Association, "the majority of the population with the most need for this proposed benefit is already covered for dental treatment."

With regard to the availability of general anesthesia, the Pennsylvania Chamber of Business and Industry makes an important point, "not all dentists are qualified to administer general anesthesia, nor are all dental offices equipped for such procedures." According to the State Board of Dentistry in the Pennsylvania Department of State, only 486 of the 10,835 dentists licensed to practice in Pennsylvania have the certificate needed to administer general anesthesia. Moreover, few hospitals are equipped to accommodate pediatric dental procedures in Pennsylvania (fewer than ten) and very few pediatric dentists have privileges to practice in hospitals.

Two parties submitted information directly addressing the issue of utilization. The Pennsylvania Dental Association estimated the number of procedures per year using a 1995 survey administered by the American Academy of Pediatric Dentistry (AAPD). In this survey, the average number of patients treated under general anesthesia was 49. The PDA extrapolates these numbers and concludes that if the 179 pediatric dentists in Pennsylvania each treat an average of 49 cases under general anesthesia, approximately 8,800 pediatric dental patients in Pennsylvania will require general anesthesia for treatment each year. Highmark discussed figures (also from the Pennsylvania Dental Association) which estimated that as many as 20,000 dental procedures involving general anesthesia are performed on Pennsylvania children under age 11 each year. Highmark also noted that, "According to the American Dental Association, over 3 million dental procedures were performed under general anesthesia in the U.S. in 1990."

In addition, insurers raised concerns about the potential for increased utilization if Senate Bill 1291 were enacted stating that, in general, increased coverage leads to increased utilization.

(ii) *The extent to which insurance coverage for the proposed benefit already exists, or if no such coverage exists, the extent to which this lack of coverage results in inadequate health care or financial hardship for the population of the Commonwealth.*

With regard to insurance coverage for general anesthesia, it is important to note that dental treatment is typically offered under a rider, separate from the major medical policy. Health insurance purchasers have the option of buying these riders for their dental coverage.

Senate Bill 1291, however, specifically excludes dental policies from the types of policies to which the mandate applies. In doing so, Senate Bill 1291 would require that the proposed benefits be included in the major medical policy. Because dental care is covered under riders, opponents of Senate Bill 1291 question the appropriateness of mandating coverage for dental anesthesia under the major medical policy rather than under the dental care riders. Insurers claim that

mandating coverage for benefits related to dental care under the traditional major medical policy is an unprecedented arrangement.

Senate Bill 1291 would require coverage of general anesthesia for dental procedures regardless of whether the patient has dental coverage. It would not, however, require insurance to cover the cost of the underlying dental condition. Because the underlying treatment is not covered by the mandate, the cost of the dental treatment could still prove to be a deterrent for some patients without dental coverage. As the Insurance Federation wrote, "if the anesthesia costs were sufficient to discourage the treatment, there is every reason to expect that the dental bills themselves will be equally discouraging."

In addressing the current levels of insurance coverage for general anesthesia administered during dental procedures, the Pennsylvania Dental Association suggests that such coverage is random. The PDA writes that, "insurance coverage is generally not available for medical expenses when dental care is provided utilizing dental anesthesia. There are sporadic and isolated cases when benefits have been provided due to pressure from insured parties who have challenged the ambiguity of the benefits of their policy." To illustrate this point, the PDA provided several letters from dentists whose pediatric and special needs patients were denied insurance benefits for general anesthesia.

The Pennsylvania Dental Association referred to the results of a survey of 1,500 pediatric dentists conducted by the American Academy of Pediatric Dentistry in 1995. According to this study, "most practitioners (56 percent) felt that less than 25 percent of their patients are able to obtain such coverage [for general anesthesia]. Almost three-quarters (74 percent) estimated that less than 50 percent of their patients could obtain these benefits under their plans." The Pennsylvania Dental Association also noted that this survey revealed that, "only 40 percent of respondents felt coverage determinations were uniform throughout the medical benefits industry."

Highmark pointed out that general anesthesia is a covered benefit if performed in conjunction with other covered services, such as treatment of fractures and dislocations of the jaw, extraction of impacted wisdom teeth when covered by bone, and dental treatment which is accident related. Independence Blue Cross stated that they also currently provide coverage for general anesthesia for dental care for children and disabled adults if the patient has dental coverage and if the general anesthesia is medically necessary.

As noted previously, general anesthesia for dental procedures is a covered benefit under Medical Assistance and the Children's Health Insurance Program (CHIP).

In reference to whether inadequate health care results from a possible lack of insurance coverage, the Pennsylvania Dental Association wrote, "conscious sedation or other approaches to treatment provided comparable results only 40 percent of the time. Practitioners estimate that utilizing other approaches that at least provided treatment, but with an acknowledged compromised result, occurred 34 percent of the time. Even more discouraging were practitioners' estimates that deferral of treatment, with subsequent increase in dental disease, or the complete lack of treatment, occurred 31 percent of the time."

The Pennsylvania Dental Association again refers to the survey conducted by the American Academy of Pediatric Dentistry in addressing financial considerations. They write that, "the costs associated with the hospital and with general anesthesia were cited as the most common factor influencing parental decisions when coverage is denied. ... If cost were not an issue, under half of pediatric dentists who responded to this survey indicated that they would recommend care under general anesthesia more frequently. The remaining 52 percent felt that their recommendations would continue unchanged, regardless of financial considerations."

In summary, the information submitted was not sufficient to fully determine the extent of current insurance coverage for general anesthesia benefits for dental care, particularly for those who

would benefit from enactment of Senate Bill 1291 (i.e., those covered by private health insurance). Further, evidence submitted addressing whether or not the possible lack of coverage results in inadequate health care or financial hardship was largely anecdotal. In the absence of more information, full discussion of these issues is not possible.

(iii) *The demand for the proposed benefit from the public and the source and extent of the opposition to mandating the benefit.*

The supporters of Senate Bill 1291 include dental professionals and representatives of special needs populations. Information was submitted in support of Senate Bill 1291 by the Pennsylvania Dental Association, the Pennsylvania Society of Oral and Maxillofacial Surgeons, the American Academy of Pediatric Dentistry, the Arc of Pennsylvania, and Representative Stanley E. Saylor (the prime sponsor of House Bill 2155, a companion bill to Senate Bill 1291).

Groups opposed to Senate Bill 1291 include businesses and insurers. The Council received written opposition addressing Senate Bill 1291 from the Pennsylvania Chamber of Business and Industry, the Insurance Federation of Pennsylvania, the Managed Care Association of Pennsylvania, Highmark Blue Cross Blue Shield, Independence Blue Cross, and Blue Cross of Northeastern Pennsylvania.

In addition to the above mentioned groups, AFLAC – the American Family Life Assurance Company of Columbus, submitted information requesting that Senate Bill 1291 be modified to exempt certain types of supplemental policies from the requirements of the bill.

Demand for Senate Bill 1291

The proponents' argument can be summarized in the following statement from the Pennsylvania Society of Oral and Maxillofacial Surgeons. They assert that when insurers deny coverage for general anesthesia for dental procedures, "the result is either compromised dental care or the denial of treatment for tooth decay and dental disease. By not having these dental problems addressed immediately, they become more complicated and severe, even life-threatening from infection, and, thus, are more costly to treat at a later date." The Pennsylvania Dental Association supports this position and states that, "Senate Bill 1291 would help alleviate much of the suffering that children and special needs patients endure when the decision has been made to compromise care because it is made unaffordable."

Much of the support for this mandate is centered around the need for appropriate dental care and the severity of dental disease. For example, the Pennsylvania Dental Association states that, "children's dental disease is the single most chronic disease of childhood." Additional arguments based upon need are summarized in section (i) above.

Opposition to Senate Bill 1291

Many opponents suggest that before mandating coverage of general anesthesia for dental care, issues regarding the safety of the procedure should be addressed. According to the Insurance Federation, since this mandate has the potential to increase the use of general anesthesia as opposed to other forms of anesthesia, as well as increase the use of general anesthesia in the dentist's office, safety issues related to general anesthesia for dental care should be thoroughly examined before enacting this bill. Highmark's submission agrees, stressing, "of primary concern when considering Senate Bill 1291, is that it requires insurers to provide coverage for potentially unsafe procedures. It has been established that mandating insurance coverage of specific treatments leads to an increase in the utilization of the benefit."

Insurers are concerned that mandating coverage of dental anesthesia may encourage the use of this form of anesthesia over other forms that may be safer and less expensive. Opponents propose that House Bill 1394, which contains safety-related issues of training and facilities and currently before the Pennsylvania House of Representatives, should be addressed prior to enactment of a mandate such as Senate Bill 1291.

In addition to addressing issues of safety, another primary concern is that the benefits for general anesthesia would be required to be covered under the major medical policy. As the Insurance Federation noted, “the chief objection of insurers is less to the cost of the measure than to the disjuncture in benefits structure ...” Independence Blue Cross delves further into this issue and notes that insurers would be required to pay for anesthesia administered during dental care even if the patient has no dental coverage. Further, insurers would face substantial administrative expenses in building and maintaining a network for pediatric dental anesthesia.

Another chief concern about Senate Bill 1291 is the provision which would “permit a guardian or parent of an eligible dental patient to require that dental work and anesthesia be performed in a health care facility regardless of the opinion of the dentist.” This provision raises two main concerns. Firstly, as Highmark noted, “This requirement sets forth a potentially dangerous precedent – removing the medical decision-making process from the purview of health care providers.” As Blue Cross of Northeastern Pennsylvania notes, “the parent, who may not have a thorough understanding of the complications and dangers associated with general anesthesia and/or inpatient hospitalization would be ultimately responsible for these decisions.” The Arc of Pennsylvania was also concerned about this provision and questioned the practicality of dentists administering general anesthesia when their professional opinion has been overridden by a parent/guardian.

Another major concern is summarized by Independence Blue Cross in that, “it should be acknowledged that very few hospitals have pediatric dental equipment or pediatric dentists on staff who can administer anesthesia.” Insurers expressed concern that they would be required to cover dental anesthesia in a hospital, even in cases where general anesthesia may not be medically necessary or the hospital may not be equipped for pediatric dental care.

Opposition to Mandates in General

Most of the submissions opposing SB 1291 also expressed strong opposition to mandates in general. Typically, opponents of mandates include insurers and purchasers of health care coverage, who argue that employers and their employees are in the best position to determine health care coverage options that are suited to their needs from a cost and quality standpoint.

Opposition to mandates in general is based on both cost and policy issues. Among the arguments made were that mandates increase the cost of health insurance and the number of uninsured, provide incentive for large employers to self insure, and have a disproportionate effect on small businesses. The point was made that any one mandate should be considered as contributing to the cumulative effect of mandates on businesses and on their ability to make affordable health insurance available to their employees. Workers end up paying for mandated benefits in the form of reduced wages or fewer benefits, as well as higher insurance premiums.

In support of these points, Highmark includes a study from Milliman and Robertson which emphasizes the cumulative effect of mandates on the cost of health insurance, though it does not specifically mention coverage for general anesthesia for dental care. Milliman and Robertson estimated that the cost of 12 of the most common mandates can increase the cost of health insurance by as much as 30%.¹ Pennsylvania has already enacted over 25 mandates, including 6 of the 12 most common discussed by Milliman and Robertson.

A 1999 study by Jensen and Morissey, *The Price of State Mandated Benefits*, supports the contention that mandates cost money. Jensen and Morissey report that in Virginia, mandates

accounted for 21% of claims; in Maryland they accounted for 11 to 22% of claims; and in Massachusetts 13% of claims.²

Opponents claim that the growing number of mandates hurts Pennsylvania's business climate. In general, the submissions from the business community point out that an increase in the cost of health care could encourage businesses to drop coverage for their employees, resulting in a rise in the number of uninsured.

Along these lines, the Kaiser Family Foundation reports that the number of small businesses (under 199 employees) providing health insurance for their workers has declined over the past several years. The study, conducted by KPMG Peat Marwick, found that the percentage of U.S. small business workers receiving employer sponsored health coverage declined from 52% in 1996 to 47% in 1998.³ When employers who canceled their employees' health insurance policies have been polled on why they did so, the majority claimed that it was because the price was too high. Lower income employees are most likely to lose coverage. Insufficient information was submitted to determine whether these percentages are consistent with the experience in Pennsylvania.

The rise in the number of uninsured Pennsylvanians is an immediate and serious concern. The Health Insurance Association of America (HIAA) has reported that the number of uninsured under age 65 in Pennsylvania has jumped 34% since 1991, more than double the national increase of 16%.⁴

Jensen and Morrissey's report claims that between 20-25% of uninsured Americans lack coverage because of the cost of benefit mandates.⁵ Consumers may be forced into purchasing very expensive benefits or joining the ranks of the uninsured.

Another point noted by opponents is that though increasing the cost of health insurance generally, mandates only benefit a limited percentage of Pennsylvania citizens. Because ERISA preempts self-insured firms from state mandates, a state mandate that applies to private group plans, will cover, on average only 33% of the state's population. One that applies to private group plans *and* individual policies will cover about 42% of a state's population.⁶ As the number of mandates increases, studies have indicated that more firms seek to self-insure to avoid being subject to mandates.

In summary, proponents argue that when insurers refuse coverage of general anesthesia, the resulting dental care is compromised, if not altogether avoided. Opponents argue that the safety of general anesthesia administered during dental care should be addressed before a mandate is enacted. Opponents also question the inclusion of general anesthesia for dental care as part of a major medical benefit, rather than as part of a dental rider. Opponents are concerned that parents/guardians would be able to override the opinion of the dentists and require that general anesthesia be administered in a health care facility, even though the number of facilities which are able to accommodate such procedures is limited. Finally, opposition to the proposed legislation is also based upon the impact of mandates on the number of Pennsylvanians without any health insurance, as well as the concern that the cumulative impact of mandates has a negative effect on Pennsylvania's business climate.

(iv) All relevant findings bearing on the social impact of the lack of the proposed benefit.

As discussed in section (i) above, the Pennsylvania Dental Association claims that "children's dental disease is the single most chronic disease of childhood." Left untreated, dental disease may progress to infection, acute and chronic pain, loss of oral functions and malnutrition. To

illustrate the seriousness of dental disease, the Pennsylvania Dental Association notes that over 50 million school hours nationwide are lost each year to toothaches.

The Managed Care Association of Pennsylvania advocated increased public awareness and education about proper dental hygiene and treatment. They suggest that from both public health and cost containment perspectives, prevention of dental disease and tooth decay is prudent. They suggest, for example, that a public education campaign may be successful in addressing preventable conditions such as “baby bottle syndrome” – a condition which occurs when a child takes a bottle of sweetened liquid such as milk or formula to bed at night, allowing the liquid to develop into acids which may damage teeth. By increasing public awareness and stressing better dental hygiene, not only would some children be able to avoid painful dental disease, but the need for dental procedures performed under general anesthesia may also be reduced.

It should be recognized that whenever general anesthesia is administered, even during dental procedures, there is the potential for adverse events such as breathing problems, cardiovascular collapse and ventricular arrhythmia. More serious complications can also occur, as was the case last year when a three-year old child died while receiving general anesthesia in a dental office in Luzerne County. While such adverse events are rare, one source estimated that over the past decade in the United States, the annual incidence of death during anesthesia for dental procedures was approximately 1 in 670,000 to 1,000,000.⁷ Regardless of the rarity of adverse events, a recent article suggests, “most clinicians ... would agree that further information is needed about the safety of outpatient dental anesthesia.”⁸

(v) Where the proposed benefit would mandate coverage of a particular therapy, the results of at least one professionally accepted, controlled trial comparing the medical consequences of the proposed therapy, alternative therapies, and no therapy.

The proposed benefit does not mandate coverage of a particular therapy.

(vi) Where the proposed benefit would mandate coverage of an additional class of practitioners, the result of at least one professionally accepted, controlled trial comparing the medical results achieved by the additional class of practitioners and those practitioners already covered by benefits.

Senate Bill 1291 mandates coverage of general anesthesia administered for dental treatment. Dentists are already recognized practitioners by companies offering dental riders; they are, however, often not currently recognized practitioners by companies offering major medical coverage.

Opponents point out that Senate Bill 1291 would require companies offering major medical policies to recruit, credential, and maintain a network of pediatric dentists to carry out the intent of the mandate. These administrative changes cause insurers significant concern. Some insurers pointed out that they have created separate dental networks for the specific purpose of offering dental benefits. To require that the administration of general anesthesia for dental treatment be covered under the major medical policy would cause duplicative work for insurers who already offer separate dental networks and create substantial new work for insurers who do not currently offer any dental services. They further note that few pediatric dentists are qualified to administer dental anesthesia and developing a network of qualified dentists may be difficult.

Proponents challenge this position by suggesting that insurers will not need to re-establish dental networks which should already be in place. They argue that if Senate Bill 1291 is enacted, the

same number of providers will still be performing the procedure. The intent of the legislation, proponents argue, is simply to eliminate “arbitrary distinctions” often used in determining coverage.

(vii) The results of any other relevant research.

A recent study demonstrated that in 75% of cases where general anesthesia was recommended for the extraction of children’s teeth, the extraction could be completed without the use of general anesthesia. This study found that pain as a presenting symptom, young age, and multiple treatment needs were poor predictors of the need for dental general anesthesia and did not automatically preclude successful treatment without dental general anesthesia. The article stated that, “The fact remains that ultimately it is for practitioners to ensure that dental general anesthesia (DGA) is avoided where reasonably possible ... used only as the last resort after everything else has been shown to be inappropriate.”⁹

All other research and analysis relevant to this issue is included elsewhere in this report.

(viii) Evidence of the financial impact of the proposed legislation, including at least:

(A) The extent to which the proposed benefit would increase or decrease cost for treatment or service.

None of the submissions received by the Council directly addressed this issue. There are, however, two important issues to consider.

First, there are several, less expensive alternatives to general anesthesia. For example, local anesthesia may be used to control pain in a region of the patient’s body. Several levels of sedation, including conscious sedation, may also be used to relieve the patient of some of their anxiety. Both local anesthesia and sedation are substantially less expensive than general anesthesia. By providing coverage for general anesthesia but not for methods such as local anesthesia or sedation, patients may be more likely to select the more expensive method of general anesthesia simply because it would result in the least out-of-pocket cost.

Secondly, it should be recognized that the location where the general anesthesia is administered will have a great impact upon the cost of the procedure. For example, the costs of anesthesia and associated fees will be significantly higher when administered in a hospital as opposed to an office setting. By allowing the parent/guardian to require that the general anesthesia be administered in a hospital might inadvertently suggest that the hospital is the “best setting” for general anesthesia to be administered. As previously discussed, however, very few hospitals in Pennsylvania are actually equipped to provide such services.

The Council, however, did not receive sufficient information to fully address the extent to which the proposed benefit would *increase* or *decrease* the costs for this service.

(B) The extent to which similar mandated benefits in other states have affected charges, costs and payments for services.

According to the Pennsylvania Dental Association, 23 states have adopted laws or regulation requiring insurance to cover dental anesthesia for dental patients. These states include: Minnesota in 1995; Louisiana, Tennessee and Wisconsin in 1997; California, Colorado, Florida,

Maryland, Missouri, New Hampshire and Oklahoma in 1998; Connecticut, Georgia, Indiana, Kansas, Mississippi, New Jersey, North Carolina, North Dakota and South Dakota in 1999; and Iowa, Nebraska, and Virginia in 2000.

The Pennsylvania Dental Association submitted the following information regarding the projected costs of similar legislation in other states. In Louisiana, Blue Cross/Blue Shield estimated the costs to the insurance plan at approximately \$2 per year, representing a .13 percent increase in premiums. In Mississippi, a financial impact finding showed that the percentage increase in insurance premiums amounted to .042 percent of the premiums. In Alabama, it was estimated that coverage for general anesthesia for dental procedures would cost an additional \$1 per year for a family policy.

The Council also received information addressing the cost of a similar mandate in Maryland – which was projected at approximately \$1 per policy per year. This information was derived from a bill which did not become effective until January 1, 1999, and then applied to contracts issued or renewed after that date. Opponents pointed out that insufficient time has passed to make a reliable determination of actual costs based on Maryland's experience.

While information was submitted addressing the *projected* financial impact in these other states, the Council did not receive information on the retrospective impact of such legislation. It is, therefore, not possible to comment whether these cost projections have been realized since the passage of legislation in these other states.

(C) *The extent to which the proposed benefit would increase the appropriate use of treatment or service.*

According to the Pennsylvania Dental Association, the number of patients who currently use general anesthesia for dental procedures is rather small. The PDA referred to a 1995 survey of dentists which found that one percent of pediatric dental patients were utilizing general anesthesia. The question at hand is whether or not the use of general anesthesia will increase if Senate Bill 1291 is enacted and whether any increase in usage is appropriate.

The American Academy of Pediatric Dentistry suggested that, "by the very nature of this intervention, the numbers of patients affected is limited, and it would not be subject to over-utilization by either providers or patients. A limited number of practitioners have proficiency in administering general anesthesia, and the parents of children receiving oral health care would not provide consent for general anesthesia unless it is clearly in the best interests of the child..."

The Insurance Federation, on the other hand, suggested that utilization of general anesthesia will increase if Senate Bill 1291 is enacted, noting that, "increased insurance coverage generally spurs greater utilization." Other opponents also expressed concern that patients may choose general anesthesia over alternative forms of anesthesia simply because they would have insurance coverage for general anesthesia, whereas they may not have coverage for other types of anesthesia such as conscious sedation.

Concerns about increased utilization appear to have merit given information submitted by the Pennsylvania Dental Association which suggested that almost half (48%) of pediatric dentists indicated that, if cost were not an issue, they would recommend care under general anesthesia more frequently.

Another important issue with regard to appropriateness is that in addition to requiring coverage for all children under five years of age, Senate Bill 1291 also requires coverage for general anesthesia for an "individual who is severely disabled mentally, physically, developmentally, emotionally, or behaviorally and who is extremely uncooperative, unmanageable, anxious, fearful"

regardless of age. The PDA stated that, "43 million people have at least one impairment that would qualify as a disability. ... A great majority of people fall into the broad category of "disabled" by possessing inherent fears, apprehensions, behavioral disorders and/or mental conditions that may totally preclude the delivery of dental care in the typical dental environment. The mental and/or physically handicapped are not the only portion of the population requiring special attention for dental treatment." The Insurance Federation noted that since apprehension about a dental procedure is rather common, even among adults, a large segment of the population could potentially be classified as uncooperative, unmanageable, anxious, and fearful. With the eligibility of patients for general anesthesia determined by such subjective criteria, concerns about appropriateness arise.

(D) *The impact of the proposed benefit on administrative expenses of health care insurers.*

Insurers are particularly concerned about the administrative changes and costs which enactment of Senate Bill 1291 would require. Because the benefits would be covered under major medical rather than dental riders, insurers would be required to create a network of dental providers. The administrative costs associated with Senate Bill 1291, therefore, are potentially higher than the administrative costs of other health insurance mandates.

As Independence Blue Cross points out, "there are great administrative costs associated with recruiting, credentialing, contracting and managing a new network of providers. It is for that reason that we presently contract with another company for our dental riders and use their contracted network.

The only cost estimate put forth was that of Highmark, who estimated that Senate Bill 1291 would incur \$150,000 of administrative expenses annually for the Highmark insurance plans.

Based on the information submitted, it was not possible to estimate how much administrative costs would increase for insurers throughout Pennsylvania, although it is certain that administrative expenses would rise.

(E) *The impact of the proposed benefits on benefits costs of purchasers.*

While all submissions agreed that premiums would increase as a result of Senate Bill 1291, only one submission attempted to estimate the amount of increase. According to the Pennsylvania Dental Association, the benefits contained in Senate Bill 1291 would raise annual health insurance premiums by \$2.66 per insured.

The actual cost to purchasers, however, is likely to be greater. First, it is likely that utilization of general anesthesia for dental treatments will increase due to enactment of the mandate. Secondly, inconsistent information was received addressing the cost for general anesthesia. For example, information submitted to the Council suggested that general anesthesia procedures for dental treatment of children could range between \$1,250 and \$2,150. Finally, administrative charges will be incurred by requiring insurers to recruit, credential, and maintain a network of pediatric dental care providers. These administrative costs could add another 10% or more to the cost of the mandate.

(F) *The impact of the proposed benefits on the total cost of health care within the Commonwealth.*

All of the information submitted to the Council agreed that the total cost of health care within Pennsylvania will rise if Senate Bill 1291 is enacted. The Pennsylvania Dental Association projected that enactment of Senate Bill 1291 would cost almost \$6.5 million annually. Highmark estimated that enactment of Senate Bill 1291 would result in an additional \$1.3 million annually in claims for Highmark alone.

Based on the information submitted to the Council, we estimate that health care costs would increase between \$4.5 million and \$7.7 million annually if Senate Bill 1291 were enacted. This estimate is based upon information submitted by the Pennsylvania Dental Association which assumes that the 179 pediatric dentists in Pennsylvania will each perform an average of 49 general anesthesia procedures on children each year (i.e., 8,771 total procedures) and that 59% or 5,175 of these cases will be privately funded. Assuming that this mandate will apply to only 42% of the privately insured population due to ERISA, approximately 2,175 cases per year would be covered by the provisions in Senate Bill 1291 at current utilization levels. The Council's estimate also accounted for a 50% increase in utilization due to (1) the use of these benefits by special needs patients as well as pediatric patients, (2) past experience which suggests that mandating coverage of specific treatments leads to an increase in the utilization of the benefit, and (3) survey results presented by the Pennsylvania Dental Association which indicate that almost half of dentists would recommend general anesthesia more frequently if cost was not an issue. Further, based on arguments that many patients forgo treatment entirely due to the out-of-pocket costs involved, utilization is likely to increase if these out-of-pocket costs were reduced or eliminated through enactment of this mandate. The Council, therefore, estimated 3,265 procedures per year would be covered by the benefits in Senate Bill 1291. Hospital fees and anesthesia costs were estimated to be between \$1,250 and \$2,150 per case. Finally, it was estimated that administrative expenses would add an additional 10% per year to the cost of the mandate. This figure does not include any additional costs which may be incurred by creating a dental network.

While there were claims that the passage of Senate Bill 1291 would result in savings in health care dollars, no studies or data supporting this issue were made available to the Council, nor could we locate any in our independent research. The Council strives to determine the cost benefit of health care insurance mandates, but with insufficient information, the Council could not determine a cost savings in mandating coverage for general anesthesia for dental treatment.

References

- ¹ “The Cost of Health Insurance Mandates.” National Center for Policy Analysis. Brief Analysis No. 237. August 13, 1997.
- ^{2, 5, 6} Jensen G and Morrisey M. “Mandated Benefit Laws and Employer-Sponsored Health Insurance.” Health Insurance Association of America. January 1999.
- ³ Hamilton M. “Health-Care Coverage Declines at Small Firms.” The Washington Post. Page E03. February 24, 1999.
- ⁴ “Pennsylvania’s Rate of Uninsured Rises Dramatically.” *The Patriot News*. Page B7. January 24, 2000.
- ^{7,8} Brandom BW and Herlich A. “Safety of outpatient dental anaesthesia for children.” *The Lancet*. Volume 354. November 27, 1999. Page 1836.
- ⁹ Tyrer GL. “Referrals for dental general anaesthetics – how many really need GA?” *British Dental Journal*. Volume 187, Number 8. October 23, 1999. Pages 440-443.

Submissions for Senate Bill 1291

AFLAC – The American Family Life Assurance Company of Columbus (Richard J. Gmerek)

1. Cover letter regarding Senate Bill 1291 dated June 8, 2000.
2. “Statement of AFLAC Regarding Health Care Cost Containment Council's Review of Senate Bill 1291.”
3. Excerpt from the Health Insurance Portability and Accountability Act of 1996 at Section 2791(5); Individuals Health Coverage, under Subsection (c): Excepted Benefits. Public Law 104-191. August 21, 1996.
4. National Association of Insurance Commissioners Health Carrier External Review Model Act.
5. Omnibus language found in NAIC External Review Model Act.

American Academy of Pediatric Dentistry (Paul S. Casamassimo, DDS, MS, President)

1. Letter regarding Senate Bill 1291 dated June 8, 2000.
2. “Impact Report on Legislation to Mandate Medical Benefits when Dental Care is Provided under General Anesthesia for Young and Special Needs Patients.”

The Arc of Pennsylvania (Martie Worley, Executive Director)

1. Letter regarding Senate Bill 1291 dated August 1, 2000.

Blue Cross of Northeastern Pennsylvania (Connie Jewett, Vice President, External Affairs)

1. Letter regarding Senate Bill 1291 dated June 8, 2000.

Highmark Blue Cross Blue Shield (Bruce R. Hironimus, Vice President, Government Affairs)

1. Cover letter regarding Senate Bill 1291 dated June 8, 2000.
2. “Mandated Benefit Submission to the Pennsylvania Health Care Cost Containment Council: Senate Bill 1291: Dental Anesthesia Mandate.” June 8, 2000.
3. Tyrer GL. “Referrals for dental general anaesthetics – how many really need GA?” *British Dental Journal*. Volume 187, Number 8. October 23, 1999. Pages 440-443.
4. Fronstin P. “Sources of Health Insurance and Characteristics of the Uninsured: Analysis of the March 1999 Current Population Survey.” Employee Benefit Research Institute. January 2000.
5. “The Cost of Health Insurance Mandates.” National Center for Policy Analysis. Brief Analysis No. 237. August 13, 1997.
6. Thorpe K and Florence C. “Why Are Workers Uninsured? Employer-Sponsored Health Insurance in 1997.” *Health Affairs*. Volume 18, Number 2. March/April 1999.
7. Fronstin P. “Employment-Based Health Benefits: Who Is Offered Coverage vs. Who Takes It.” Employee Benefit Research Institute. EBRI Issue Brief Number 213. September 1999.
8. Miller JE. “Déjà Vu All Over Again: The Soaring Cost of Private Health Insurance and Its Impact on Consumers and Employers.” National Coalition on Health Care. May 2000.
9. Brandom BW and Herlich A. “Safety of outpatient dental anaesthesia for children.” *The Lancet*. Volume 354. November 27, 1999. Page 1836.

10. Shepherd AR and Hill FJ. "Orthodontic extractions: a comparative study of inhalation sedation and general anaesthesia." *British Dental Journal*. Volume 188, Number 6. March 25, 2000. Pages 329-331.
11. Hamilton M. "Health-Care Coverage Declines at Small Firms." *The Washington Post*. Page E03. February 24, 1999.
12. Jensen G and Morrisey M. "Mandated Benefit Laws and Employer-Sponsored Health Insurance." Health Insurance Association of America. January 1999.
13. "Analysis of Health Care Mandates and Controls." For the Minnesota Council of Health Plans, Minnesota Chamber of Commerce, and Minnesota Business Partnership. March 18, 1999.
14. Seward J and Henderson J. "Report on the Cost of Health Care System Mandates: Executive Summary." Baylor University. January 1999.
15. Hilzenrath D. "Health Costs Hitting Small Firms Harder." *The Washington Post*. Page E01. December 14, 1999.
16. Geisel J. "Health Cost Jump 7.3% in '99: Study." *Business Insurance*. December 13, 1999.
17. The General Assembly of Pennsylvania. House Bill 1394, Session of 1999. Printer's Number 3386. As reported from Committee on Professional Licensure, House of Representatives, as amended, April 18, 2000.
18. Letter regarding articles on dental treatment performed under general anesthesia dated June 26, 2000.
19. Kanellis MJ, Damiano PC, and Momany ET. "Medicaid Costs Associated with the Hospitalization of Young Children for Restorative Dental Treatment Under General Anesthesia." *Journal of Public Health Dentistry*. Volume 60, Number 1. Winter 2000. Pages 28-32.
20. Griffin SO, Gooch BF, Beltran E, Sutherland JN, and Barsley R. "Dental Services, Costs, and Factors Associated with Hospitalization for Medicaid-eligible Children, Louisiana 1996-97." *Journal of Public Health Dentistry*. Volume 60, Number 1. Winter 2000. Pages 21-27.

Independence Blue Cross (Mary Ellen McMillen, Vice President, Legislative Policy)

1. Letter regarding Senate Bill 1291 dated April 20, 2000.

The Insurance Federation of Pennsylvania, Inc. (John R. Doubman, Secretary and Counsel)

1. Letter regarding Senate Bill 1291 and addressing requirements of Act 34 dated June 8, 2000.
2. "Dentist charged with overdosing children on sedatives." *Sunday News*. Lancaster, PA. April 30, 2000.
3. Letter regarding Senate Bill 1291 dated July 24, 2000.

Managed Care Association of Pennsylvania (Kimberly J. Kockler, Executive Director)

1. Letter regarding Senate Bill 1291 and addressing requirements of Act 34 dated May 31, 2000.

Pennsylvania Chamber of Business and Industry (Fred A. Sembach, Vice President, Government Affairs)

1. Letter regarding Senate Bill 1291 dated June 8, 2000.

Pennsylvania Dental Association (Philip T. Siegel, DDS, Chair, PDA Council on Government Relations)

1. Letter regarding Senate Bill 1291 and addressing requirements of Act 34 dated June 8, 2000.
2. "The Children's and Special Needs Patients Access for Quality Dental Care Act: General Anesthesia Reimbursement of Dental Treatment." Pennsylvania Dental Association.
3. Photographs of dental patients.
4. "Indigent dental care efforts ongoing." Letter to the Editor from Philip T. Siegel, DDS, Fort Washington.
5. "How many children can we expect to have decay?"
6. Letters from PDA member dentists addressing reimbursement for pediatric dental anesthesia.
7. "Number of schooldays associated with acute conditions per 100 youths 5-17 years of age, by sex, race, family income, and type of condition: United States, 1995."
8. "Associated Medical Costs."
9. Fiscal Impact Analysis of HB 2155: Children's and Special Needs Patients Access to Quality Dental Care Act." Pennsylvania Dental Association.
10. "Fiscal Estimate"
11. "Mandated Health Insurance Services Evaluation." Excerpt. Performed by William M. Mercer, Inc. for the Health Care Access and Cost Commission. December 15, 1998.
12. Letter regarding Senate Bill 1291 dated August 1, 2000.

Pennsylvania Society of Oral and Maxillofacial Surgeons (John Ciabattoni, DDS, President)

1. Letter regarding Senate Bill 1291 dated June 8, 2000.

Representative Stanley E. Saylor

1. Memo to the House Insurance Committee Members regarding House Bill 2155 (a companion bill to Senate Bill 1291) dated May 12, 2000.
2. Fiscal Note for SB 479. Department of Legislative Services, Maryland General Assembly.
3. "Mandated Health Insurance Services Evaluation." Excerpt. Performed by William M. Mercer, Inc. for the Health Care Access and Cost Commission. December 15, 1998.
4. Bill Analysis for Senate Bill 479. Economic Matters Committee, Maryland General Assembly.
5. "Position of the Maryland State Dental Association on Insurance Reimbursement of Pediatric Dental Anesthesia."
6. Letter from Martin Wasserman, Secretary of the Maryland Department of Health and Mental Hygiene, to Thomas Bromwell, Chairman of the Finance Committee in the Maryland General Assembly, addressing general anesthesia for dental care.