

Department of Legislative Services  
Maryland General Assembly  
2000 Session

**FISCAL NOTE**  
**Revised**

Senate Bill 373 (Senator Hollinger. *et al.*)

Economic and Environmental Affairs

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**Practice of Dentistry - Definition**

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This bill includes within the definition of “practice dentistry” the making of a determination that a dental service is not (1) medically or dentally necessary; or (2) medically or dentally appropriate.

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**Fiscal Summary**

**State Effect:** Expenditures for the State Employee Health Benefits Plan and the Medicaid program could increase by a minimal amount. Any additional disciplinary hearings by the State Board of Dental Examiners could be handled with existing resources. Minimal general fund revenue increase from the State’s 2% insurance premium tax on for-profit carriers. Minimal special fund revenue increase for MIA from the \$125 rate and form filing fee.

**Local Effect:** Expenditures for local jurisdiction employee health benefits could increase depending upon the current type of health care coverage offered and number of enrollees.

**Small Business Effect:** Potential minimal. To the extent that costs for carriers increase and carriers raise premiums, health insurance costs for small businesses could increase.

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## Analysis

**Current Law:** Making a determination of medical necessity or dental necessity is not considered the practice of dentistry.

### **State Expenditures:**

*State Employee Health Benefits Plan:* Generally, managed care dental plans and other carriers that offer dental coverage have asserted that a determination of medical or dental necessity is a coverage issue and in no way impacts on the dentist's delivery of dental services. Under the bill's provisions, if a carrier's medical director reviews an enrollee's proposed course of treatment and deems it to be not medically or dentally necessary, and if the enrollee suffers harm from the denial of a certain course of treatment, the medical director may be held liable for medical malpractice in a cause of action by the enrollee or enrollee's agent. Carriers may incur increased costs of litigation as a result of this bill, and may subsequently pass the costs on to employers, such as the State Employee Health Benefits Plan or on to the Medicaid program. Increases are expected to be minimal because it is assumed carriers will take other steps to minimize their liability risks.

*Board of Dental Examiners:* The bill subjects carriers' medical directors to the disciplinary authority of the Board of Dental Examiners in matters concerning the determination of medical or dental necessity as it relates to dental services. Any additional cases could be handled with existing board resources.

**Additional Comments:** The bill's provisions may conflict with the appeals and grievance law in Title 15 of the Insurance Article, which requires the Insurance Commissioner to make final decisions on complaints that involve determinations of medical necessity. The bill may prohibit the Commissioner from making those decisions in cases involving a dental service or dental operation unless the Commissioner is a licensed dentist.

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### **Additional Information**

**Prior Introductions:** Similar bills, SB 595 and HB 594, were introduced in the 1999 session. SB 595 passed the Senate but was not reported from the House Environmental Matters Committee. Likewise, HB 594 was not reported from the Environmental Matters Committee.

**Cross File:** None.

**Information Source(s):** Maryland Insurance Administration, Department of Health and

Mental Hygiene (Medicaid, Board of Dental Examiners), Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2000  
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