



**Substitute House Bill No. 6589**

**Public Act No. 21-187**

**AN ACT CONCERNING THIRD-PARTY ACCESS TO PARTICIPATING DENTAL PROVIDER CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2022*):

Terms used in this title and section 2 of this act, unless it appears from the context to the contrary, shall have a scope and meaning as set forth in this section.

(1) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(2) "Alien insurer" means any insurer that has been chartered by or organized or constituted within or under the laws of any jurisdiction or country without the United States.

(3) "Annuities" means all agreements to make periodical payments where the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life or is for a specified term of years. This definition does not apply to payments made under a policy of life

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insurance.

(4) "Commissioner" means the Insurance Commissioner.

(5) "Control", "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with the person.

(6) "Domestic insurer" means any insurer that has been chartered by, incorporated, organized or constituted within or under the laws of this state.

(7) "Domestic surplus lines insurer" means any domestic insurer that has been authorized by the commissioner to write surplus lines insurance.

(8) "Foreign country" means any jurisdiction not in any state, district or territory of the United States.

(9) "Foreign insurer" means any insurer that has been chartered by or organized or constituted within or under the laws of another state or a territory of the United States.

(10) "Insolvency" or "insolvent" means, for any insurer, that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of: (A) Capital and surplus required by law for its organization and continued operation; or (B) the total par or stated value of its authorized and issued capital stock. For purposes of this subdivision "liabilities" shall include but not be limited to reserves required by statute or by regulations adopted by the commissioner in accordance with the provisions of chapter 54 or specific requirements imposed by the commissioner upon a subject

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company at the time of admission or subsequent thereto.

(11) "Insurance" means any agreement to pay a sum of money, provide services or any other thing of value on the happening of a particular event or contingency or to provide indemnity for loss in respect to a specified subject by specified perils in return for a consideration. In any contract of insurance, an insured shall have an interest which is subject to a risk of loss through destruction or impairment of that interest, which risk is assumed by the insurer and such assumption shall be part of a general scheme to distribute losses among a large group of persons bearing similar risks in return for a ratable contribution or other consideration.

(12) "Insurer" or "insurance company" includes any person or combination of persons doing any kind or form of insurance business other than a fraternal benefit society, and shall include a receiver of any insurer when the context reasonably permits.

(13) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy. The term includes policyholders, subscribers, members and beneficiaries. This definition applies only to the provisions of this title and does not define the meaning of this word as used in insurance policies or certificates.

(14) "Life insurance" means insurance on human lives and insurances pertaining to or connected with human life. The business of life insurance includes granting endowment benefits, granting additional benefits in the event of death by accident or accidental means, granting additional benefits in the event of the total and permanent disability of the insured, and providing optional methods of settlement of proceeds. Life insurance includes burial contracts to the extent provided by section 38a-464.

(15) "Mutual insurer" means any insurer without capital stock, the

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managing directors or officers of which are elected by its members.

(16) "Person" means an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a business trust, an unincorporated organization or other legal entity.

(17) "Policy" means any document, including attached endorsements and riders, purporting to be an enforceable contract, which memorializes in writing some or all of the terms of an insurance contract.

(18) "State" means any state, district, or territory of the United States.

(19) "Subsidiary" of a specified person means an affiliate controlled by the person directly, or indirectly through one or more intermediaries.

(20) "Unauthorized insurer" or "nonadmitted insurer" means an insurer that has not been granted a certificate of authority by the commissioner to transact the business of insurance in this state or an insurer transacting business not authorized by a valid certificate.

(21) "United States" means the United States of America, its territories and possessions, the Commonwealth of Puerto Rico and the District of Columbia.

Sec. 2. (NEW) (*Effective January 1, 2022*) (a) For the purposes of this section:

(1) "Covered person" means a policyholder, subscriber, enrollee or other individual participating in a network dental benefit plan;

(2) "Dentist" means an individual licensed and registered as a dentist under chapter 379 of the general statutes;

(3) "Dental office" means a dental office, or an office, laboratory or operation or consultation room in which dental medicine, dental

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surgery or dental hygiene is carried on as a portion of such office's, laboratory's or room's regular business, that is owned or operated by a dentist who, or a professional corporation organized and existing under chapter 594a of the general statutes for the purpose of rendering professional dental services that, is authorized to own or operate such office, laboratory or room under section 20-122 of the general statutes;

(4) "Health carrier" has the same meaning as provided in section 38a-591a of the general statutes;

(5) "Intermediary" means a person authorized to negotiate and execute a health care provider contract with a health carrier on behalf of a dentist, dental office or network;

(6) "Network" means the group or groups of participating dental providers providing dental services under a network dental benefit plan;

(7) "Network dental benefit plan" means an insurance policy or contract, certificate or agreement offered, delivered, issued for delivery, renewed, amended or continued in this state to provide, deliver, arrange for, pay for or reimburse any of the costs of dental services that requires a covered person to use, or creates incentives, including, but not limited to, financial incentives, for a covered person to use, dentists or dental offices that are managed, owned, under contract with or employed by the health carrier or the health carrier's contractor or subcontractor;

(8) "Participating dental provider" means a dentist or dental office that, under a participating dental provider contract with a health carrier or the health carrier's contractor or subcontractor, agrees to provide dental services to the health carrier's covered persons, with an expectation of receiving payment or reimbursement directly or indirectly from the health carrier, other than coinsurance, copayments or deductibles;

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(9) "Participating dental provider contract" means a contract between a health carrier, or the health carrier's contractor or subcontractor, and a participating dental provider under which the participating dental provider agrees to provide dental services to the health carrier's covered persons, with an expectation of receiving payment or reimbursement directly or indirectly from the health carrier, other than coinsurance, copayments or deductibles; and

(10) "Third party" means a person that enters into a contract with a health carrier, or the health carrier's contractor or subcontractor, to gain access to the dental services or discounts provided under a participating dental provider contract, but does not mean an employer or other group for whom the health carrier, or the health carrier's contractor or subcontractor, provides administrative services.

(b) (1) Except as provided in subsection (c) of this section, no participating dental provider contract entered into, renewed or amended on or after January 1, 2022, between:

(A) A health carrier and an intermediary or a participating dental provider shall allow a third party to gain access to such participating dental provider contract, except the health carrier may permit a third party to gain access to such participating dental provider contract if, not later than thirty days after the contract permitting such third-party access is executed, renewed or amended or a later date mutually agreed to by the health carrier and such third party, the health carrier allows each participating dental provider that is a party to such participating dental provider contract to:

(i) Decline to participate in such third party's access to such participating dental provider contract, which declination shall not, in and of itself, constitute grounds for the health carrier to terminate or cancel such participating dental provider contract; or

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(ii) Contract directly with such third party if such third party is a health carrier; or

(B) A participating dental provider or an intermediary and a health carrier, or the health carrier's contractor or subcontractor, shall permit the health carrier, or the health carrier's contractor or subcontractor, to enter into a contract with a third party that allows the third party to gain access to such participating dental provider contract unless:

(i) Such participating dental provider contract:

(I) Provides that the health carrier, or the health carrier's contractor or subcontractor, may enter into such contract with a third party and grant such access to a third party, and such third party may obtain the rights and responsibilities of such health carrier, or such health carrier's contractor or subcontractor, as if such third party were such health carrier, or such health carrier's contractor or subcontractor;

(II) Clearly identifies the provisions of such participating dental provider contract that allow the health carrier, or the health carrier's contractor or subcontractor, to grant such access to a third party; and

(III) Provides that a participating dental provider under such participating dental provider contract may decline to participate in such third party's access to such participating dental provider contract;

(ii) Such third party agrees to comply with all terms of such participating dental provider contract;

(iii) The health carrier, or the health carrier's contractor or subcontractor, discloses, in writing or by electronic means, to each participating dental provider under such participating dental provider contract the identity of such third party on the date that the health carrier, or the health carrier's contractor or subcontractor, enters into a contract with such third party to allow such third party to gain access to

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such participating dental provider contract;

(iv) The health carrier, or the health carrier's contractor or subcontractor:

(I) Makes a list containing the name of each third party that enters into a contract with such health carrier, or such health carrier's contractor or subcontractor, that allows such third party to gain access to such participating dental provider contract publicly available on such health carrier's, or such health carrier's contractor's or subcontractor's, Internet web site; and

(II) Updates the list required under subparagraph (B)(iv)(I) of this subdivision at least once every ninety days;

(v) The health carrier, or the health carrier's contractor or subcontractor, requires such third party to identify the source of any discount provided under such participating dental provider contract on each remittance advice or explanation of payment under which such third party takes such discount, except no such identification shall be required for an electronic transaction required under the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, as amended from time to time;

(vi) If the health carrier, or the health carrier's contractor or subcontractor, intends to terminate such participating dental provider contract, the health carrier, or the health carrier's contractor or subcontractor, sends a written notice to such third party disclosing such intended termination;

(vii) Such third party's right to a discounted rate under such participating dental provider contract ends on the termination date of such participating dental provider contract; and

(viii) The health carrier, or the health carrier's contractor or



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subcontractor, provides a copy of such participating dental provider contract to any participating dental provider under such participating dental provider contract not later than thirty days after such participating dental provider submits a request to the health carrier, or the health carrier's contractor or subcontractor, for such copy.

(2) No participating dental provider shall be required to provide dental services under a participating dental provider contract if a health carrier, or the health carrier's contractor or subcontractor, enters into a contract with a third party that allows the third party to gain access to the participating dental provider contract in violation of this section.

(3) No health carrier, and no health carrier's contractor or subcontractor, shall refuse to enter into a participating dental provider contract with a dentist or dental office because the dentist or dental office declines to participate in a third party's access to the participating dental provider contract.

(c) The requirements of subsection (b) of this section shall not apply to any contract that grants access to a participating dental provider contract:

(1) To a health carrier or other entity operating in accordance with the same brand licensee program as the health carrier, or the health carrier's contractor or subcontractor, that is a party to the participating dental provider contract;

(2) To an affiliate of the health carrier, or the health carrier's contractor or subcontractor, that is a party to the participating dental provider contract, provided such health carrier, or such health carrier's contractor or subcontractor, makes a list of such affiliates publicly available on such health carrier's, or such health carrier's contractor's or subcontractor's, Internet web site; or

(3) For dental services provided to beneficiaries in this state under the

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Medicaid program under Title XIX of the Social Security Act, as amended from time to time, or the Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act, as amended from time to time.