



**PA 21-187**—sHB 6589

*Insurance and Real Estate Committee*

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

**SUMMARY:** This act prohibits the parties to a dental provider contract from allowing third-party access to the contract (i.e., the health carrier’s dental network) unless the third party meets certain requirements. It also:

1. allows participating dental providers to decline to participate in third-party access if these parties grant a third party access to the contract in violation of the act’s provisions and
2. prohibits health carriers (e.g., insurers and HMOs) and their contractors or subcontractors from refusing to contract with a dental provider because the provider declines third-party access to the contract.

The act applies to contracts entered, amended, or renewed on or after January 1, 2022.

EFFECTIVE DATE: January 1, 2022

**DEFINITIONS**

Under the act, a “participating dental provider” is a dentist or dental office providing services to patients under a participating dental provider contract. A “participating dental provider contract” is a contract between a participating dental provider and a carrier or its contractor or subcontractor in which the provider agrees to provide services to covered individuals with an expectation that the carrier pays or reimburses them.

A “third party” is a person who contracts with a health carrier or its contractors or subcontractors to gain access to dental services or discounts provided under a participating dental provider contract, but it excludes an employer or other group that the health carrier (or its contractors or subcontractors) administers.

**CONTRACTS BETWEEN A HEALTH CARRIER AND AN INTERMEDIARY OR PARTICIPATING DENTAL PROVIDER**

The act generally prohibits participating dental provider contracts between a health carrier and an intermediary (i.e., a person authorized to negotiate and execute these contracts on behalf of dentists or dental offices or networks) or participating dental provider from allowing a third party to gain access to the contract. However, it allows the health carrier to grant a third party access if, within 30 days after executing, renewing, or amending the third-party contract (or a later date mutually agreed to), the health carrier allows each participating dental

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provider to (1) decline to participate in third-party access to the contract or (2) contract directly with the third party, if the third party is a health carrier.

Under the act, a dental provider declining third-party access does not constitute grounds for a health carrier to terminate the contract.

### CONTRACTS BETWEEN PARTICIPATING DENTAL PROVIDERS OR INTERMEDIARIES AND HEALTH CARRIERS

The act also limits contracts between (1) a participating dental provider or an intermediary and (2) a health carrier (or its contractors or subcontractors). It generally prohibits these contracts from allowing the health carrier or its contractors or subcontractors to give the third party access to the participating dental provider contract. However, it allows this access if the participating dental provider contract:

1. allows the health carrier or its contractors or subcontractors to contract with a third party and grants it access, and allows the third party to obtain the health carrier's rights and responsibilities as if it were the health carrier or its contractors or subcontractors, as applicable;
2. clearly identifies the provisions allowing the health carrier, or its contractor or subcontractor, to grant third-party access; and
3. allows a participating dental provider to decline to participate in third-party access.

It also establishes requirements for participating dental provider contracts that allow a health carrier to grant access to a third party. In such an event, the third party must comply with all terms of the contract and the health carrier (or its contractor or subcontractor) must:

1. disclose electronically or in writing the third party's identity to each participating dental provider under the contract on the date it contracts with it for access;
2. make publicly available on its website a list containing the name of every third party with which it contracts that is granted access to the participating dental provider contract and update it at least every 90 days;
3. require a third party to identify the source of any discount provided under the contract on each remittance advice or explanation of payment under which the third party takes this discount, excluding electronic transactions required by the federal Health Insurance Portability and Accountability Act;
4. notify a third party in writing before the contract termination date, with the third party's right to a discounted rate under the contract ending when the contract does, if it intends to end a participating provider contract; and
5. provide a copy of a participating provider contract to any participating dental provider within 30 days of request.

### EXEMPTIONS

The act exempts from its provisions any contract that grants the following

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entities access to a participating dental provider contract:

1. a health carrier or other entity operating in accordance with the health carrier's (or contractor's or subcontractor's) brand licensee program when the health carrier or other entity is a party to the provider contract;
2. a health carrier's (or contractor's or subcontractor's) affiliate that is a party to the dental provider contract, if the health carrier, contractor, or subcontractor makes a list of affiliates publicly available on its website; or
3. dental services provided to Medicaid beneficiaries or through the Children's Health Insurance Program (CHIP).