



General Assembly

January Session, 2021

Raised Bill No. 6589

LCO No. 3771



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

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:

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 Section 38a-1 of the general statutes is repealed and the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

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

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

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

12 (3) "Annuities" means all agreements to make periodical payments
13 where the making or continuance of all or some of the series of the

14 payments, or the amount of the payment, is dependent upon the
15 continuance of human life or is for a specified term of years. This
16 definition does not apply to payments made under a policy of life
17 insurance.

18 (4) "Commissioner" means the Insurance Commissioner.

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

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

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

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

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

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

44 specific requirements imposed by the commissioner upon a subject
45 company at the time of admission or subsequent thereto.

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

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

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

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

73 (15) "Mutual insurer" means any insurer without capital stock, the
74 managing directors or officers of which are elected by its members.

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

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

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

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

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

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

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

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

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

98 (3) "Dental office" means a dental office, or an office, laboratory or
99 operation or consultation room in which dental medicine, dental
100 surgery or dental hygiene is carried on as a portion of such office's,
101 laboratory's or room's regular business, that is owned or operated by a
102 dentist who, or a professional service corporation organized and
103 existing under chapter 594a of the general statutes for the purpose of

104 rendering professional dental services that, is authorized to own or
105 operate such office, laboratory or room under section 20-122 of the
106 general statutes;

107 (4) "Health carrier" has the same meaning as provided in section 38a-
108 591a of the general statutes;

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

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

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

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

130 (9) "Participating dental provider contract" means a contract between
131 a health carrier, or the health carrier's contractor or subcontractor, and a
132 participating dental provider under which the participating dental
133 provider agrees to provide dental services to the health carrier's covered
134 persons, with an expectation of receiving payment or reimbursement

135 directly or indirectly from the health carrier, other than coinsurance,
136 copayments or deductibles; and

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

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

146 (A) A health carrier and an intermediary or a participating dental
147 provider shall allow a third party to gain access to such participating
148 dental provider contract, except the health carrier may permit a third
149 party to gain access to such participating dental provider contract if, at
150 the time the health carrier allows the third party to gain access to such
151 participating dental provider contract, the health carrier allows each
152 participating dental provider that is a party to such participating dental
153 provider contract to:

154 (i) Decline to participate in such third party's access to such
155 participating dental provider contract; or

156 (ii) If such third party is a health carrier that gains access to such
157 participating dental provider contract by leasing or purchasing such
158 participating dental provider contract, contract with such third party; or

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

164 (i) Such participating dental provider contract:

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

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

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

177 (ii) Such third party agrees to comply with all terms of such
178 participating dental provider contract, including, but not limited to, all
179 terms concerning patient steering;

180 (iii) The health carrier, or the health carrier's contractor or
181 subcontractor, discloses, in writing, to each participating dental
182 provider under such participating dental provider contract the identity
183 of such third party on the date that the health carrier, or the health
184 carrier's contractor or subcontractor, enters into a contract with such
185 third party to allow such third party to gain access to such participating
186 dental provider contract;

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

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

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

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

205 (vi) If the health carrier, or the health carrier's contractor or
206 subcontractor, intends to terminate such participating dental provider
207 contract, the health carrier, or the health carrier's contractor or
208 subcontractor, sends a written notice to such third party disclosing such
209 intended termination not later than thirty days before the intended
210 termination date;

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

214 (viii) The health carrier, or the health carrier's contractor or
215 subcontractor, provides a copy of such participating dental provider
216 contract to any participating dental provider under such participating
217 dental provider contract not later than thirty days after such
218 participating dental provider submits a request to the health carrier, or
219 the health carrier's contractor or subcontractor, for such copy.

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

225 (c) The requirements of subsection (b) of this section shall not apply

226 to any contract that grants access to a participating dental provider
227 contract:

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

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

238 (3) For dental services provided to beneficiaries in this state under the
239 Medicaid program under Title XIX of the Social Security Act, as
240 amended from time to time, or the Children's Health Insurance Program
241 (CHIP) under Title XXI of the Social Security Act, as amended from time
242 to time.

243 (d) The commissioner may adopt regulations, in accordance with the
244 provisions of chapter 54 of the general statutes, to implement the
245 provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2022</i>	38a-1
Sec. 2	<i>January 1, 2022</i>	New section

Statement of Purpose:

To specify the circumstances in which a health carrier, or a health carrier's contractor or subcontractor, may enter into a contract with a third party for the purpose of providing the third party with access to a participating dental provider contract.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]