



General Assembly

Substitute Bill No. 6589

January Session, 2021



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 Section 38a-1 of the general statutes is repealed and the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 corporation organized and existing under
103 chapter 594a of the general statutes for the purpose of rendering
104 professional dental services that, is authorized to own or operate such

105 office, laboratory or room under section 20-122 of the general statutes;

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

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

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

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

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

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

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

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

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

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

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

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

163 (i) Such participating dental provider contract:

164 (I) Provides that the health carrier, or the health carrier's contractor
165 or subcontractor, may enter into such contract with a third party and

166 grant such access to a third party, and such third party may obtain the
167 rights and responsibilities of such health carrier, or such health carrier's
168 contractor or subcontractor, as if such third party were such health
169 carrier, or such health carrier's contractor or subcontractor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Statement of Legislative Commissioners:
In Section 2(a)(3), "service" was deleted for accuracy.

INS Joint Favorable Subst.