



Senate

General Assembly

File No. 14

January Session, 2009

Substitute Senate Bill No. 765

Senate, February 25, 2009

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING HEALTH CARE PROVIDER RENTAL NETWORK CONTRACT ARRANGEMENTS.

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

1 Section 1. Section 42-491 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) Any contracting entity that enters into or renews a contract with
4 a health care provider on or after January 1, 2009, and that sells, leases,
5 rents, assigns or grants access to such provider's health care services,
6 discounted rates or fees shall include in such contract a provision
7 specifically stating that such contracting entity may sell, lease, rent,
8 assign or grant access to such provider's health care services,
9 discounted rates or the fees established in such contract.

10 (b) Each such contracting entity that sells, leases, rents, assigns or
11 grants access to any covered entity, a physician panel or a health care
12 provider's health care services, discounted rates or fees shall:

13 (1) Maintain an Internet web site or a toll-free telephone number
14 through which a health care provider may obtain a listing of the
15 covered entities to which such provider's services, discounted rates or
16 fees [has] have been sold, leased, rented, assigned or granted access.
17 Such contracting entity shall update such listing on a routine basis not
18 less than every ninety days; and

19 (2) Upon request at the time of entering into such contract, provide a
20 list to the health care provider of all known covered entities to which
21 such contracting entity may sell, lease, rent, assign or grant access to
22 such provider's health care services, discounted rates or fees. Such
23 contracting entity shall update such list on a routine basis not less than
24 every ninety days.

25 (c) Each covered entity shall pay the health care provider's
26 discounted rates or fees in accordance with the terms and conditions
27 set forth in the contract between the contracting entity and such
28 provider.

29 (d) Subject to any applicable continuity of care requirements,
30 agreements or contractual provisions with a health care provider, a
31 covered entity's right to exercise a contracting entity's rights and
32 responsibilities under a contract shall terminate on the date such
33 contracting entity's contract with such provider is terminated.

34 (e) On and after January 1, 2009, all remittance advices, whether
35 written or electronic, shall clearly identify the following:

36 (1) The name of the covered entity responsible for payment to the
37 health care provider; and

38 (2) The name of the contracting entity through which the payment
39 rate and any discounts are claimed.

40 (f) On and after January 1, 2009, any contracting entity or covered
41 entity that issues a member identification card shall clearly mark on
42 such card the address of the Internet web site or toll-free telephone
43 number set forth in subdivision (1) of subsection (b) of this section.

44 (g) No covered entity that has been sold, leased, rented, assigned or
 45 granted access to a provider's health care services, discounted rates or
 46 fees by a contracting entity shall subsequently sell, lease, rent, assign
 47 or grant access to such provider's health care services, discounted rates
 48 or fees to any other third party.

49 Sec. 2. (NEW) (*Effective October 1, 2009*) (a) Any violation of section
 50 42-491 of the general statutes, as amended by this act, shall be deemed
 51 an unfair or deceptive insurance practice under section 38a-816 of the
 52 general statutes.

53 (b) The Insurance Commissioner may adopt regulations, in
 54 accordance with chapter 54 of the general statutes, to carry out the
 55 provisions of sections 42-490 to 42-493, inclusive, of the general
 56 statutes.

57 (c) Nothing in this section shall prohibit or limit any claim or action
 58 by a health care provider against a contracting entity or covered entity.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	42-491
Sec. 2	<i>October 1, 2009</i>	New section

Statement of Legislative Commissioners:

The new sentences in sections 1(b)(1) and 1(b)(2) were rewritten for consistency with the drafting conventions of the general statutes.

INS *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Insurance Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in a potential minimal revenue gain to the General Fund from the Department of Insurance (DOI) through the collection of fines and penalties.

It makes, amongst other provisions, violation of contracting provisions an unfair or deceptive insurance practice, punishable by 1) a fine of up to \$5,000 per violation to a \$50,000 maximum or 2) a fine of up to \$25,000 to a \$250,000 maximum in any six-month period, if the violation was knowingly committed.

The amount of revenue gain to DOI would be dependent upon the number of violations of these restrictions each year.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

OLR Bill Analysis**sSB 765*****AN ACT CONCERNING HEALTH CARE PROVIDER RENTAL NETWORK CONTRACT ARRANGEMENTS.*****SUMMARY:**

This bill changes a law enacted last year that established requirements for contracts between health care providers and contracting entities permitting certain third parties access to the contracts' terms. Specifically, the bill:

1. makes a violation of the law an unfair or deceptive insurance practice, subjecting a violator to penalties under law;
2. requires a contracting entity to update routinely and at least every 90 days its list of covered entities, which must be available to health care providers by law;
3. permits a health care provider to file claims against contracting and covered entities; and
4. authorizes the insurance commissioner to adopt regulations regarding the law.

The bill also explicitly prohibits a covered entity from subsequently selling, leasing, renting, assigning, or granting access to a health care provider's services, discounted rates, or fees to another third party.

EFFECTIVE DATE: October 1, 2009

LIST OF COVERED ENTITIES

By law, each contracting entity must:

1. give a provider who requests it, when first contracting with him

or her, a list of all known covered entities to which it may give access to the provider's services, rates, or fees and

2. maintain a website or toll-free telephone number through which a provider can obtain a listing of covered entities having access to his or her services, rates, or fees.

The bill requires a contracting entity to update the list of covered entities routinely and at least every 90 days.

BACKGROUND

Public Act 08-126

PA 08-126 established requirements regarding contracts between health care providers and contracting entities. A "health care provider" is any physician; physician group, network, or organization; independent practice association; or physician hospital organization. A "contracting entity" is one that contracts directly with a health care provider for (1) delivering health care services or (2) selling, leasing, renting, assigning, or granting access to a contract or its terms. But, a contracting entity does not sell, lease, rent, assign, or grant access to a contract or its terms when it administers a benefit plan that pays for health care services rendered under the plan. A health care provider is not a contracting entity.

The law requires, with some exceptions, a contracting entity that (1) enters into or renews a contract with a health care provider on or after January 1, 2009 and (2) sells, leases, rents, assigns, or grants access to the health care provider's services, discounted rates, or fees to include a contract provision that it can permit a covered entity access to the provider's services, discounted rates, or fees. The law includes requirements for a contracting entity when it permits such access.

A "covered entity" is an entity that (1) has not contracted directly with a health care provider but buys, leases, rents, is assigned, or accesses a provider's contract or its terms and (2) is responsible for paying for or coordinating health care services or establishing or extending health care provider networks.

The law requires covered entities that access a provider’s services to pay the discounted rates or fees established in the provider’s contract with the contracting entity. It specifies that a covered entity’s right to access a provider’s services, rates, or fees ends when the contract between the contracting entity and the provider terminates, except for any applicable (1) continuity of care requirements or (2) agreements or contractual provisions with the provider.

The law requires all written and electronic remittance advices (payment notices sent to providers) to clearly identify the name of the (1) contracting entity whose payment rates and discounts apply and (2) covered entity responsible for paying the provider.

CONNECTICUT UNFAIR INSURANCE PRACTICE ACT (CUIPA)

The law prohibits engaging in unfair or deceptive insurance acts or practices. CUIPA authorizes the insurance commissioner to issue regulations to implement the act, conduct investigations and hearings, issue cease and desist orders, ask the attorney general to seek injunctive relief in Superior Court, impose fines, revoke or suspend licenses, and order restitution.

Fines may be up to (1) \$5,000 per violation to a \$50,000 maximum, or (2) \$25,000 per violation to a \$250,000 maximum in any six-month period if knowingly committed. The law also imposes a fine of up to \$50,000, in addition to or in lieu of a license suspension or revocation, for violating a cease and desist order.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 19 Nay 0 (02/10/2009)