

**Proposed Substitute  
Bill No. 6589**

LCO No. 5797

**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 Section 38a-1 of the general statutes is repealed and the  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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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| 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 |