



General Assembly

Substitute Bill No. 6620

January Session, 2023



AN ACT PROMOTING COMPETITION IN CONTRACTS BETWEEN HEALTH CARRIERS AND HEALTH CARE PROVIDERS.

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

1 Section 1. (NEW) (*Effective October 1, 2023*) (a) As used in this
2 section:

3 (1) "All-or-nothing clause" means any provision in a health care
4 contract that:

5 (A) Requires the health carrier or health plan administrator to
6 include all members of a health care provider in a network plan; or

7 (B) Requires the health carrier or health plan administrator to enter
8 into any additional contract with an affiliate of the health care provider
9 as a condition to entering into a contract with such health care
10 provider;

11 (2) "Anti-steering clause" means any provision in a health care
12 contract that restricts the ability of the health carrier or health plan
13 administrator from encouraging an enrollee to obtain a health care
14 service from a competitor of a hospital or health system, including
15 offering incentives to encourage enrollees to utilize specific health care
16 providers;

17 (3) "Anti-tiering clause" means any provision in a health care
18 contract that:

19 (A) Restricts the ability of the health carrier or health plan
20 administrator to introduce and modify a tiered network plan or assign
21 health care providers into tiers; or

22 (B) Requires the health carrier or health plan administrator to place
23 all members of a health care provider in the same tier of a tiered
24 network plan;

25 (4) "Gag clause" means any provision in a health care contract that:

26 (A) Restricts the ability of the health care provider, health carrier or
27 health plan administrator to disclose any price or quality information,
28 including, but not limited to, the allowed amount, negotiated rates or
29 discounts, any fees for services or any other claim-related financial
30 obligations included in the provider contract, to any governmental
31 entity as authorized by law or such government entity's contractors or
32 agents, any enrollee, any treating health care provider of an enrollee,
33 plan sponsor or potential eligible enrollees and plan sponsors; or

34 (B) Restricts the ability of either any health care provider, health
35 carrier or health plan administrator to disclose out-of-pocket costs to
36 any enrollee;

37 (5) "Health benefit plan", "network", "network plan" and "tiered
38 network" have the same meanings as provided in section 38a-472f of
39 the general statutes;

40 (6) "Health care contract" means any contract, agreement or
41 understanding, either orally or in writing, entered into, amended,
42 restated or renewed between a health care provider and a health
43 carrier, health plan administrator, plan sponsor or its contractors or
44 agents for delivery of health care services to an enrollee of a health
45 benefit plan;

46 (7) "Health care provider" means any for-profit or nonprofit entity,
47 corporation or organization, parent corporation, member, affiliate,
48 subsidiary or entity under common ownership that is or whose
49 members are licensed or otherwise authorized by this state to furnish,
50 bill for or receive payment for health care service delivery in the
51 normal course of business, including, but not limited to, a health
52 system, hospital, hospital-based facility, freestanding emergency
53 department, imaging center, physician group with eight or more
54 physicians, urgent care center, as defined in section 19a-493d of the
55 general statutes, and any physician or physician group in a practice of
56 fewer than eight physicians that is employed by or an affiliate of any
57 hospital, medical foundation or insurance company;

58 (8) "Health carrier" has the same meaning as provided in section
59 38a-591a of the general statutes; and

60 (9) "Health plan administrator" means any third-party administrator
61 who acts on behalf of a plan sponsor to administer a health benefit
62 plan.

63 (b) No health care provider, health carrier, health plan administrator
64 or any agent or other entity that contracts on behalf of a health care
65 provider, health carrier, or health plan administrator, may offer, solicit,
66 request, amend, renew or enter into a health care contract on or after
67 January 1, 2024, that directly or indirectly includes any of the following
68 provisions:

69 (1) An all-or-nothing clause;

70 (2) An anti-steering clause;

71 (3) An anti-tiering clause; or

72 (4) A gag clause.

73 (c) Any clause in a health care contract, written policy, written
74 procedure or agreement entered into, renewed or amended on or after

75 January 1, 2024, that is contrary to the provisions set forth in
76 subsection (b) of this section shall be null and void. All remaining
77 clauses of such health care contract, written policy, written procedure
78 or agreement shall remain in effect for the duration of the contract
79 term.

80 (d) Nothing in this section shall be construed to modify, reduce or
81 eliminate the existing privacy protections and standards pursuant to
82 the federal Health Insurance Portability and Accountability Act of
83 1996, P.L. 104-191, as amended from time to time, the federal Genetic
84 Information Nondiscrimination Act of 2008, P.L. 110-233, as amended
85 from time to time, or the federal Americans with Disabilities Act of
86 1990, 42 USC 12101, as amended from time to time.

87 (e) The Attorney General may:

88 (1) Issue in writing and cause to be served upon any parties to a
89 health care contract by subpoena, a demand requiring that such parties
90 submit to the Attorney General any records from a health care contract
91 that are necessary for the Attorney General to investigate suspected
92 violations of subsection (b) of this section; or

93 (2) Seek a temporary or permanent injunction and such other relief
94 as may be appropriate to enjoin a health care provider, health carrier,
95 health plan administrator or any agent or other entity that contracts on
96 behalf of a health care provider, health carrier or health plan
97 administrator from continuing to enforce contract provisions that
98 violate the requirements as set forth in subsection (b) of this section. If
99 the court determines that any such violation exists, it may grant such
100 injunctive relief and such other relief as justice may require and may
101 set a time period within which such health care provider, health
102 carrier, health plan administrator or any agent or other entity that
103 contracts on behalf of a health care provider, health carrier or health
104 plan administrator shall comply with any such order.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2023</i>	New section
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INS *Joint Favorable Subst.*