



General Assembly

Amendment

January Session, 2023

LCO No. 7830



Offered by:
REP. WOOD K., 29th Dist.

To: Subst. House Bill No. 6620

File No. 326

Cal. No. 225

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective January 1, 2025*) (a) As used in this section:

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

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

8 (B) Requires the health carrier or health plan administrator to enter
9 into any additional contract with an affiliate of the health care provider
10 as a condition to entering into a contract with such health care 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 contract
18 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 network
24 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 the
39 general statutes, as amended by this act;

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 carrier,
43 health plan administrator, plan sponsor or its contractors or agents for

44 delivery of health care services to an enrollee of a health benefit plan;

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

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

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

61 (b) No health care provider, health carrier, health plan administrator
62 or any agent or other entity that contracts on behalf of a health care
63 provider, health carrier, or health plan administrator, may offer, solicit,
64 request, amend, renew or enter into a health care contract on or after
65 January 1, 2025, that directly or indirectly includes any of the following
66 provisions:

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

68 (2) An anti-steering clause;

69 (3) An anti-tiering clause; or

70 (4) A gag clause.

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

73 January 1, 2025, that is contrary to the provisions set forth in subsection
74 (b) of this section shall be null and void. All remaining clauses of such
75 health care contract, written policy, written procedure or agreement
76 shall remain in effect for the duration of the contract term.

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

84 Sec. 2. Subsection (f) of section 38a-472f of the general statutes is
85 repealed and the following is substituted in lieu thereof (*Effective January*
86 *1, 2025*):

87 (f) (1) Each health carrier shall develop standards, to be used by such
88 health carrier and its intermediaries, for selecting and tiering, as
89 applicable, participating providers and each health care provider
90 specialty. Each contract involving a tiered network entered into,
91 renewed or amended on or after January 1, 2025, between a health
92 carrier and participating provider shall include a provision requiring
93 that such health carrier provide to the participating provider, upon
94 request, a description of such standards used for selecting and tiering
95 such participating provider, including such provider's calculated score
96 and related data. Such data shall include, but not be limited to:

97 (A) Definitions and specifications of measures related to quality, cost,
98 efficiency, satisfaction and any other factors used to develop such
99 standards and measure performance under such standards, with
100 delineation of any inclusions or exclusions under each measure;

101 (B) A defined time period of not less than one year to measure
102 performance based on such standards; and

103 (C) A summary of the grievance process established pursuant to

104 subdivision (2) of this subsection for a participating provider to appeal
105 the results of such health carrier's tiering decisions and performance
106 measures.

107 (2) The standards developed by each health carrier pursuant to
108 subdivision (1) of this subsection shall remain in effect for not less than
109 one year. Each health carrier shall (A) provide not less than ninety days'
110 written notice to each participating provider before such health carrier
111 may implement any changes to such standards and measures, and (B)
112 establish a grievance process for a participating provider to appeal such
113 health carrier's tiering decisions and performance measures for such
114 participating provider.

115 ~~[(2)]~~ (3) No health carrier shall establish selection or tiering criteria in
116 a manner that would (A) allow the health carrier to discriminate against
117 high-risk populations by excluding or tiering participating providers
118 because they are located in a geographic area that contains populations
119 or participating providers that present a risk of higher-than-average
120 claims, losses or health care services utilization, or (B) exclude
121 participating providers because they treat or specialize in treating
122 populations that present a risk of higher-than-average claims, losses or
123 health care services utilization. Nothing in this subdivision shall be
124 construed to prohibit a health carrier from declining to select a health
125 care provider or facility for participation in such health carrier's network
126 who fails to meet legitimate selection criteria established by such health
127 carrier.

128 ~~[(3)]~~ (4) No health carrier shall establish selection criteria that would
129 allow the health carrier to discriminate, with respect to participation in
130 a network plan, against any health care provider who is acting within
131 the scope of such health care provider's license or certification under
132 state law. Nothing in this subdivision shall be construed to require a
133 health carrier to contract with any health care provider or facility willing
134 to abide by the terms and conditions for participation established by
135 such health carrier.

136 [(4)] (5) Each health carrier shall make the standards required under
 137 subdivision (1) of this subsection available to the commissioner for
 138 review and shall post on its Internet web site and make available to the
 139 public a plain language description of such standards, including all
 140 measures and corresponding definitions and specifications used to tier
 141 participating providers and to evaluate participating provider
 142 performance in each tier. Each health carrier shall post on its Internet
 143 web site a plain language description of the grievance process
 144 established pursuant to subdivision (2) of this subsection for a
 145 participating provider to appeal the results of such health carrier's
 146 tiering decisions and performance measures.

147 [(5)] (6) Nothing in this subsection shall require a health carrier, its
 148 intermediaries or health care provider networks with which such health
 149 carrier or intermediary contracts to (A) employ specific health care
 150 providers acting within the scope of such health care providers' license
 151 or certification under state law who meet such health carrier's selection
 152 criteria, or (B) contract with or retain more health care providers acting
 153 within the scope of such health care providers' license or certification
 154 under state law than are necessary to maintain a sufficient network."

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2025	New section
Sec. 2	January 1, 2025	38a-472f(f)