

Senate Bill 158

By: Senators Burke of the 11th, Kirk of the 13th, Watson of the 1st, Hill of the 6th and McKoon of the 29th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide for certain health care provider network restrictions and requirements; to provide for
3 definitions; to require registration by rental preferred provider networks; to provide for
4 applicability; to provide for penalties; to provide for related matters; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
9 adding a new chapter to read as follows:

10 "CHAPTER 20C

11

12 33-20C-1.

13 As used in this chapter, the term:

14 (1) 'Affiliate' means an entity owned or controlled, either directly or through a parent or
15 subsidiary entity, by a contracting entity that accesses the rates, terms, or conditions of
16 health care services.

17 (2) 'Contracting entity' means any person or entity that enters into direct contracts with
18 health care providers for the delivery of health care services in the ordinary course of
19 business, including a health care organization or hospital organization when leasing or
20 renting the health care organization's or hospital organization's network to a third party.

21 (3) 'Covered person' means an individual who is covered under a health insurance plan.

22 (4) 'Health care services' means the examination or treatment of persons for the
23 prevention of illness or the correction or treatment of any physical or mental condition
24 resulting from illness, injury, or other human physical problem.

25 (5) 'Health insurer' means an accident and sickness insurer, health care corporation,
 26 health maintenance organization, provider sponsored health care corporation, or any
 27 similar entity regulated by the Commissioner.

28 (6) 'Provider network contract' means a contract between a contracting entity and a
 29 provider specifying the rights and responsibilities of the contracting entity and provider
 30 for the delivery of and payment for health care services to covered persons.

31 (7) 'Rental preferred provider network' means a preferred provider network that contracts
 32 with a health insurer or other payor or with another preferred provider network to grant
 33 access to the terms and conditions of its contract with providers of health care services.
 34 Such contracts are often referred to as 'renting' or 'leasing' the network. The term 'rental
 35 preferred provider network' does not refer to a proprietary network of a licensed insurer
 36 or to arrangements providing for access to the proprietary network of a licensed insurer
 37 by affiliates of the licensed insurer or by entities receiving administrative services from
 38 the licensed insurer or its affiliates.

39 (8) 'Third party' means an organization that enters into a contract with a contracting
 40 entity or with another third party to gain access to a provider network contract.

41 33-20C-2.

42 (a) Any person who commences business as a rental preferred provider network shall
 43 register with the Commissioner within 30 days of commencing business in this state unless
 44 such person is licensed by the Commissioner as a health insurer. Each rental preferred
 45 provider network not licensed by the Commissioner on July 1, 2016, shall be required to
 46 register with the Commissioner no later than September 30, 2016, and shall be placed on
 47 an approved list maintained by the Commissioner.

48 (b) Registration shall consist of the submission of the following information:

49 (1) The official name of the rental preferred provider network, including any d/b/a
 50 designations used in this state;

51 (2) The mailing address and main telephone number for the rental preferred provider
 52 network's main headquarters; and

53 (3) The name and telephone number of the rental preferred provider network
 54 representative who shall serve as the primary contact with the department.

55 (c) The information required by this Code section shall be submitted in written or
 56 electronic format, as prescribed by the Commissioner by rule or regulation.

57 (d) The Commissioner may, pursuant to rule or regulation, collect a reasonable fee for the
 58 purpose of administering the registration process.

59 (e) The Commissioner shall maintain an approved list of rental preferred provider
 60 networks.

61 33-20C-3.

62 (a) A rental preferred provider network shall not:

63 (1) Knowingly access or utilize a network provider's contractual discount pursuant to a
64 provider network contract without a contractual relationship with the network provider,
65 rental preferred provider network, or third party; or

66 (2) Lease, rent, or otherwise grant to a third party access to a provider network contract
67 unless:

68 (A) The third party is a payor or third-party administrator or another entity that
69 administers or processes claims on behalf of the payor;

70 (B) The provider network contract states that the contracting entity may enter into an
71 agreement with a third party allowing the third party to obtain the contracting entity's
72 rights and responsibilities under the provider network contract as if the third party were
73 the contracting entity;

74 (C) The provider network contract, and all agreements between a contracting entity and
75 any third party, prohibits such third party from increasing the contractual discounts or
76 otherwise reducing the compensation to a network provider to an amount below that
77 which the network provider was entitled from the contracting entity for health care
78 services at the time the third party was granted access to the provider network contract
79 unless such third party becomes a contracting entity; and

80 (D) The third party accessing the provider network contract is contractually obligated
81 to comply with all applicable terms, limitations, and conditions of the provider network
82 contract.

83 (b) A contracting entity that grants access to a network provider's health care services and
84 contractual discounts to any third party pursuant to a provider network contract shall
85 maintain an Internet website, mobile communication device application, or other readily
86 available mechanism, such as a toll-free telephone number, through which a network
87 provider may obtain a listing, updated at least every 30 days, of the third parties to which
88 the contracting entity or another third party has executed contracts to grant access to such
89 network provider's health care services and contractual discounts pursuant to a provider
90 network contract.

91 (c) All information made available to a network provider in accordance with the
92 requirements of this chapter shall be confidential and shall not be disclosed to any person
93 or entity not employed by the network provider or involved in the network provider's
94 practice or the administration thereof without the prior written consent of the contracting
95 entity; provided, however, that this shall not preclude a network provider from disclosing
96 such information to an outside consultant or attorney for the purpose of assisting the
97 network provider with any disputes with a contracting entity.

98 (d) Nothing contained in this chapter shall be construed to prohibit a contracting entity
 99 from requiring a network provider to execute a reasonable confidentiality agreement to
 100 ensure that confidential or proprietary information disclosed by the contracting entity is not
 101 used for any purpose other than the network provider's direct practice management or
 102 billing activities.

103 33-20C-4.

104 (a) A third party, having itself been granted access to a network provider's health care
 105 services and contractual discounts pursuant to a provider network contract, that
 106 subsequently grants access to another third party shall be obligated to comply with the
 107 rights and responsibilities imposed on contracting entities pursuant to this chapter.

108 (b) A third party that enters into a contract with another third party to access a network
 109 provider's health care services and contractual discounts pursuant to a provider network
 110 contract shall be obligated to comply with the rights and responsibilities imposed on third
 111 parties under this Code section.

112 33-20C-5.

113 This chapter shall not apply to:

114 (1) Provider network contracts for services provided to Medicaid, medicare, the state
 115 health benefit plan under Article 1 of Chapter 18 of Title 45, or State Children's Health
 116 Insurance Program (SCHIP) beneficiaries;

117 (2) Employers, church plans, or government plans receiving administrative services from
 118 a rental preferred provider network or its affiliates, or pharmacy benefits managers;

119 (3) Circumstances where access to the provider network contract is granted to an entity
 120 operating under the same brand licensee program as the contracting entity;

121 (4) The provision of any medical services for injuries covered under Chapter 9 of
 122 Title 34, relating to workers' compensation; or

123 (5) Self-funded, employer sponsored health insurance plans regulated under the
 124 Employee Retirement Income Security Act of 1974, as codified and amended at 29
 125 U.S.C. Section 1001, et seq.

126 33-20C-6.

127 Any person or entity that is not duly licensed or that should be licensed by the department
 128 or that is not duly registered or that should be registered with the department pursuant to
 129 Code Section 33-20C-2 and acts as a rental preferred provider network, as defined in
 130 paragraph (7) of Code Section 33-20C-1, shall be subject to penalties set forth in
 131 subsection (g) of Code Section 33-2-24. The Commissioner shall have the authority, in

132 addition to any other remedies and damages allowed by law, to seek to restrain or enjoin
133 any person or entity, whether or not such person or entity is licensed or registered pursuant
134 to this title, that is determined to be in violation of Code Section 33-20C-2 or 33-20C-3,
135 and such person or entity shall be liable for attorney fees and litigation expenses incurred
136 in the action to restrain or enjoin such violation."

137 **SECTION 2.**

138 All laws and parts of laws in conflict with this Act are repealed.