

House Bill 121

By: Representative McKillip of the 115th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
2 insurance generally, so as to prohibit the use of discretionary clauses in health and disability
3 insurance contracts; to provide a short title; to provide for definitions; to provide for related
4 matters; to provide for applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 This Act shall be known and may be cited as the "Discretionary Clause Prohibition Act."

8 **SECTION 2.**

9 Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance
10 generally, is amended by adding a new Code section to read as follows:

11 "33-24-18.1.

12 (a) As used in this Code section, the term:

13 (1) 'Commissioner' means the Commissioner of Insurance.

14 (2) 'Disability income protection coverage' means a policy, contract, certificate, or
15 agreement that provides for periodic payments, weekly or monthly, for a specified period
16 during the continuance of disability resulting from either sickness or injury or a
17 combination of them.

18 (3) 'Health care services' means services for the diagnosis, prevention, treatment, cure,
19 or relief of a health condition, illness, injury, or disease.

20 (4) 'Health carrier' means an entity subject to the insurance laws and regulations of this
21 state, or subject to the jurisdiction of the Commissioner, that contracts or offers to
22 contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health
23 care services, including a sickness and accident insurance company, a health maintenance
24 organization, a nonprofit hospital and health service cooperation, or any other entity
25 providing a plan of health insurance, health benefits, or health services.

26 (5) 'Person' means an individual, a corporation, a partnership, an association, a joint
27 venture, a joint stock company, a trust, an unincorporated organization, any similar entity,
28 or combination of the foregoing.

29 (b) No policy, contract, certificate, or agreement offered or issued in this state by a health
30 carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care
31 services may contain a provision purporting to reserve discretion to the health carrier to
32 interpret the terms of the contract, or to provide standards of interpretation or review that
33 are inconsistent with the laws of this state.

34 (c) No policy, contract, certificate, or agreement offered or issued in this state providing
35 for disability income protection coverage may contain a provision purporting to reserve
36 discretion to the insurer to interpret the terms of the contract, or to provide standards of
37 interpretation or review that are inconsistent with the laws of this state.

38 (d) Any person who knowingly or negligently violates this Code section shall be subject
39 to the penalties provided by Code Section 33-2-24 or to any greater applicable penalty
40 provided by law."

41 **SECTION 3.**

42 This Act shall be applicable to policies issued on or renewed after July 1, 2011.

43 **SECTION 4.**

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