

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 SENATE

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 health insurer transparency; to provide for definitions; to require registration by
3 rental preferred provider networks; to provide for revocation of registration under certain
4 circumstances; to provide for applicability; to provide for violations; to provide for related
5 matters; to provide a short title; to provide for an effective date; to repeal conflicting laws;
6 and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 This Act shall be known and may be referred to as the "Insurer Transparency Act."

10 **SECTION 2.**

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

13 "CHAPTER 20C

14

15 33-20C-1.

16 As used in this chapter, the term:

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

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

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

25 (4) 'Health care services' means the examination or treatment of persons for the
26 prevention of illness or the correction or treatment of any physical or mental condition
27 resulting from illness, injury, or other human physical problem and includes, but is not
28 limited to:

29 (A) Hospital services which include the general and usual care, services, supplies, and
30 equipment furnished by hospitals;

31 (B) Medical services which include the general and usual services and care rendered
32 and administered by doctors of medicine, doctors of dental surgery, doctors of medicine
33 in dentistry, doctors of chiropractic, doctors of optometry, and doctors of podiatry; and

34 (C) Other health care services which include appliances and supplies; nursing care by
35 a registered nurse or a licensed practical nurse; care furnished by such other licensed
36 practitioners as may be expressly approved by the board of directors from time to time;
37 institutional services, including the general and usual care, services, supplies, and
38 equipment furnished by health care institutions and agencies or entities other than
39 hospitals; physiotherapy; ambulance services; drugs and medications; therapeutic
40 services and equipment, including oxygen and the rental of oxygen equipment; hospital
41 beds; iron lungs; orthopedic services and appliances, including wheelchairs, trusses,
42 braces, crutches, and prosthetic devices, including artificial limbs and eyes; and any
43 other appliance, supply, or service related to health care.

44 (5) 'Health insurer' means an accident and sickness insurer, fraternal benefit society,
45 hospital service corporation, medical service corporation, health care corporation, health
46 maintenance organization, provider sponsored health care corporation, or any similar
47 entity.

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

51 (7) 'Rental preferred provider network' means a preferred provider network that contracts
52 with a health insurer or other payor or with another preferred provider network to grant
53 access to the terms and conditions of its contract with providers of health care services.
54 Such contracts are often referred to as 'renting' or 'leasing' the network. The term 'rental
55 preferred provider network' does not refer to a proprietary network of a licensed insurer
56 or to arrangements providing for access to the proprietary network of a licensed insurer
57 by affiliates of the licensed insurer or by entities receiving administrative services from
58 the licensed insurer or its affiliates.

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

61 33-20C-2.

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

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

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

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

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

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

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

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

81 33-20C-3.

82 (a) The Commissioner shall remove a rental preferred provider network from the approved
83 list and thereby revoke the registration of such rental preferred provider network if the
84 Commissioner finds that the entity has:

85 (1) Knowingly accessed or utilized a provider's contractual discount pursuant to a
86 provider network contract without a contractual relationship with the provider, rental
87 preferred provider network, or third party; or

88 (2) Leased, rented, or otherwise granted to a third party access to a provider network
89 contract unless:

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

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

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

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

105 (b) A contracting entity that grants access to a provider's health care services and
106 contractual discounts to any third party pursuant to a provider network contract shall
107 maintain an Internet website, mobile app, or other readily available mechanism, such as a
108 toll-free telephone number, through which a provider may obtain a listing, updated at least
109 every 30 days, of the third parties to which the contracting entity or another third party has
110 executed contracts to grant access to such provider's health care services and contractual
111 discounts pursuant to a provider network contract.

112 (c) All information made available to a provider in accordance with the requirements of
113 this chapter shall be confidential and shall not be disclosed to any person or entity not
114 employed by the provider or involved in the provider's practice or the administration
115 thereof without the prior written consent of the contracting entity; provided, however, that
116 this shall not preclude a provider from disclosing such information to an outside consultant
117 or attorney for the purpose of assisting the provider with any disputes with a contracting
118 entity.

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

123 33-20C-4.

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

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

132 33-20C-5.

133 This chapter shall not apply to:

134 (1) Provider network contracts for services provided to Medicaid, Medicare, or State
135 Children's Health Insurance Program (SCHIP) beneficiaries;

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

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

140 (4) The provision of any medical services for injuries covered by workers' compensation;
141 or

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

145 33-20C-6.

146 A violation of this chapter shall be considered an unfair trade practice under Article 1 of
147 Chapter 6 of this title and shall be subject to the same enforcement as provided in such
148 article; provided, however, that the monetary penalty for a violation of this chapter shall
149 not be more than \$25,000.00 for each and every act or violation, unless the person knew
150 or reasonably should have known he or she was in violation of this chapter, in which case
151 the penalty shall not be more than \$50,000.00 for each and every act or violation."

152 **SECTION 3.**

153 This Act shall become effective July 1, 2016.

154 **SECTION 4.**

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