

28 **31A-22-641**, Utah Code Annotated 1953

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30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **31A-22-641** is enacted to read:

32 **31A-22-641. Prohibition against insurance plan anticompetitive behavior.**

33 (1) For purposes of this section:

34 (a) "Health insurer" means an accident and health insurer:

35 (i) that offers health benefit plans under this chapter or Chapter 8, Health Maintenance

36 Organizations and Limited Health Plans; and

37 (ii) that has a market share in the state's fully insured market of at least 15% as

38 determined in the department's annual Market Share Report published by the department.

39 (b) "Physician" means a physician or an osteopathic physician as defined in Section

40 58-67-102.

41 (2) (a) (i) Except as provided in Subsection (2)(a)(ii), a health insurer shall not deny a

42 physician's application to be on an insurer's provider panel or terminate a physician's

43 participation on an insurer's provider panel ~~§~~ :

43a (A) ~~§~~ without first providing the physician with the due

44 process protections required by this section ~~§~~ ; or

44a (B) in violation of Subsection (3) ~~§~~ .

45 (ii) Unless termination from an insurer's provider panel is necessary to avoid imminent

46 patient injury, a health insurer shall not terminate a physician from participation on the insurer's

47 provider panel without first providing the physician the due process protections required by this

48 section.

49 (b) Due process includes:

50 (i) a statement, sent by certified mail, return receipt requested, or equivalent electronic

51 communication that includes the requirements of Subsections (2)(b)(ii) through (iv);

52 (ii) a detailed explanation of the reasons for the proposed denial or termination of

53 provider panel participation;

54 (iii) notice of the physician's right to a full, fair, objective, and independent, in-person

55 hearing, pursuant to rules established by the department by administrative rule, at which the

56 physician may challenge the proposed denial or termination; and

57 (iv) at least 60 days advance notice before scheduling a hearing under Subsection

58 (2)(b)(iii).

59           (3) (a) ~~§~~→ [A health insurer shall include a physician on its panel of providers for the  
 60 insurer's health benefit plans if the physician meets educational, training, and experience  
 61 requirements, and has demonstrated current competence.

62           ~~(b)~~ ←§ A health insurer shall apply reasonable, nondiscriminatory standards for the  
 63 evaluation of a physician's qualifications ~~§~~→ [under this Subsection (3)] for inclusion on an  
 64a insurer's provider panel ←§ . The decision to include a  
 64 physician on an insurer's provider panel shall be based on an objective evaluation of the  
 65 physician's qualifications, §→ training, experience, and competency, ←§ free of anticompetitive  
intent or purpose.

66           ~~§~~→ ~~(c)~~ (b) ←§ A health insurer shall not consider any of the following with regard to  
determining

67 a physician's qualifications for inclusion on the insurer's provider panel:

68           (i) a physician's decision to advertise, decrease fees, or engage in other competitive acts  
 69 intended to solicit business;

70           (ii) a physician's:

71           (A) participation in prepaid group health plans;

72           (B) participation with other health plans not organizationally affiliated with the insurer;

73           (C) employment relationship with the insurer or an organization affiliated with the  
 74 insurer, or with an organization that is not affiliated with the insurer;

75           (D) participation in any manner of delivery of health services other than  
 76 fee-for-service; or

77           (E) support for, training of, or participation in a group practice that is not affiliated  
 78 with the insurer, or has members of a particular class of health professionals;

79           (iii) a physician's referrals to:

80           (A) a particular hospital or hospital system;

81           (B) a particular outpatient center for surgical services;

82           (C) a health care facility, as defined in Section 26-21-2, that is not affiliated with, or  
 83 does not contract with, the insurer; or

84           (D) a physician's office or clinic, whether for individual or group practice, that is not  
 85 affiliated with, or does not contract with, the insurer; or

86           (iv) a physician or a partner, associate, or employee of the physician:

87           (A) providing medical or health care services at, having an ownership interest in, or  
 88 occupying a leadership position on the medical staff of a hospital, hospital system, or health  
 89 care facility; or