LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: C.J. Dupont ₵
₵ 02-26-13 6:58 AM ₵

1 # HEALTH INSURANCE MARKET AMENDMENTS

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lyle W. Hillyard**

5 House Sponsor: ____________

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Insurance Code.

10 **Highlighted Provisions:**

11 This bill:

12 ▸ defines terms;

13 ▸ applies the provisions of the bill to a health insurer with at least 15% market share
14 in the fully insured market in the state;

15 ▸ requires a health insurer to provide due process protections to a physician before
16 denying a physician's application to be included on the health insurer's panel of
17 providers or terminating a physician from a panel of providers;

18 ▸ prohibits a health insurer from using economic reasons to deny a physician
19 participation on the insurer's panel of providers; and

20 ▸ provides a private right of action if the health insurer violates the requirements of
21 this bill.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 ENACTS:

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

29

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 without first providing the physician with the due

44 process protections required by this section.

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). 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, free of anticompetitive intent or purpose.
66 (c) 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

90 (B) participating or not participating in a particular health plan.
91 (4) A health insurer that violates the provisions of this section:
92 (a) is subject to regulatory action under this title; and
93 (b) may be held liable to the physician in a private right of action for the violations,
94 including proximately caused damages.

Legislative Review Note
as of 2-25-13 3:30 PM

Office of Legislative Research and General Counsel