

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2507**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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ADOPTED DECEMBER 17, 2018

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Prohibits sale or lease of access to certain dental provider network contracts.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate.



1 AN ACT concerning certain dental provider networks, and  
2 supplementing chapter 30 of Title 17B of the New Jersey  
3 Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. As used in this act:

9 “Contracting entity” means any person or entity that enters into  
10 direct contracts with providers for the delivery of dental services in  
11 the ordinary course of business, including a third party  
12 administrator as defined by section 1 of P.L.2001, c.267  
13 (C.17B:27B-1) and a dental carrier.

14 “Covered person” means an individual who is covered under a  
15 dental benefits or health benefits plan for dental services.

16 “Dental benefits plan” means a benefits plan which pays or  
17 provides dental expense benefits for covered dental services and is  
18 delivered or issued for delivery in this State by or through a dental  
19 carrier on a stand-alone basis.

20 “Dental carrier” means a dental insurance company, dental  
21 service corporation, or dental plan organization authorized to  
22 provide a dental benefits plan in New Jersey or a health benefits  
23 plan in New Jersey that includes coverage for dental services.

24 “Dental services” means services for the diagnosis, prevention,  
25 treatment, or cure of a dental condition, illness, injury, or disease.  
26 Dental services shall not include those services delivered by a  
27 provider under a health benefits plan that are billed as medical  
28 services under that plan.

29 “Health benefits plan” means any hospital and medical expense  
30 incurred policy, health maintenance organization subscriber  
31 contract, or any other health care plan or arrangement that pays for  
32 or furnishes medical, dental, or health care services, whether by  
33 insurance or otherwise. Health benefits plan shall include a dental  
34 benefits plan. “Health benefits plan” shall not include one or more,  
35 or any combination of, the following: coverage only for accident, or  
36 disability income insurance; coverage issued as a supplement to  
37 liability insurance; liability insurance, including general liability  
38 insurance and private passenger automobile insurance; workers’  
39 compensation or similar insurance; automobile medical payment  
40 insurance; credit-only insurance; coverage for on-site medical  
41 clinics; coverage similar to the foregoing as specified in federal  
42 regulations issued pursuant to the federal “Health Insurance  
43 Portability and Accountability Act of 1996,” P.L.104-191, under  
44 which benefits for medical care are secondary or incidental to other  
45 insurance benefits; benefits for long-term care, nursing home care,  
46 home health care, or community-based care; specified disease or  
47 illness coverage, hospital indemnity or other fixed indemnity  
48 insurance, or such other similar, limited benefits as are specified in

1 regulations; Medicare supplemental health insurance as defined  
2 under section 1882(g)(1) of the federal Social Security Act (42  
3 U.S.C. s.1395ss(g)(1)); coverage supplemental to the coverage  
4 provided under chapter 55 of title 10, United States Code (10  
5 U.S.C. s.1071 et seq.); or other similar limited benefit supplemental  
6 coverages.

7 "Provider" means an individual or entity which, acting within the  
8 scope of its licensure or certification, provides dental services or  
9 supplies defined by the health benefits or dental benefits plan.  
10 Provider includes, but is not limited to, a dentist, physician or other  
11 health care professionals licensed pursuant to Title 45 of the  
12 Revised Statutes acting within the scope of his or her licensure.  
13 "Provider" shall not include a physician organization or physician  
14 hospital organization that leases or rents the physician  
15 organization's or physician hospital organization's network to a  
16 third party.

17 "Provider network contract" means a contract between a  
18 contracting entity and a provider specifying the rights and  
19 responsibilities of the contracting entity and providing for the  
20 delivery of and payment for dental services to covered persons.

21 "Third party" means a person or entity that enters into a contract  
22 with a contracting entity or with another third party to gain access  
23 to the dental services or contractual discounts of a provider network  
24 contract. "Third party" shall not include any employer or other  
25 group for whom the contracting entity or dental carrier provides  
26 administrative services, including at least the payment of claims.

27

28 2. a. A contracting entity shall not grant to a third party access to  
29 a provider network contract, or a provider's dental services or  
30 contractual discounts, or both, pursuant to a provider network contract,  
31 unless the contracting entity meets the requirements of subsections b.  
32 and c. of this section.

33 b. A dental carrier may grant access to its provider network  
34 contract to a third party if, at the time the contract is entered into, and  
35 at any time the contract is renewed, the dental carrier allows any  
36 provider which is part of the carrier's provider network to choose not  
37 to participate in third party access to the contract. The third party  
38 access provision of any provider contract shall be clearly identified in  
39 the provider contract. A dental carrier shall not grant third party  
40 access to the contract of any provider that does not participate in third  
41 party access.

42 c. A contracting entity may grant a third party access to a  
43 provider network contract, or services or discounts pursuant to a  
44 provider network contract, if:

45 (1) The contract specifically states that the contracting entity may  
46 enter into an agreement with third parties allowing the third parties to  
47 obtain the contracting entity's rights and responsibilities as if the third  
48 party were the contracting entity, and when the contracting entity is a

1 dental carrier, the provider chose to participate in third party access at  
2 the time the provider network contract was entered into or renewed;

3 (2) The third party accessing the contract agrees to comply with all  
4 of the contract's terms;

5 (3) The contracting entity identifies, in writing or electronic form  
6 to the provider, all third parties in existence as of the date the contract  
7 is entered into or renewed;

8 (4) The contracting entity includes on its website a listing, updated  
9 no less frequently than every 90 days, identifying all third parties;

10 (5) The contracting entity requires each third party to identify the  
11 source of the discount on all remittance advices or explanations of  
12 payment under which a discount is taken;

13 (6) The contracting entity notifies the third party of the termination  
14 of a provider network contract no later than 30 days from the  
15 termination date with the contracting entity;

16 (7) A third party ceases its right to a provider's discounted rate as  
17 of the date of termination of the provider's contract with the  
18 contracting entity; and

19 (8) The contracting entity delivers to participating providers a copy  
20 of the provider network contract relied on in the adjudication of a  
21 claim within 30 days after the date of a request from the provider.

22 d. No provider shall be bound by or required to perform dental  
23 treatment or services under a provider network contract that has been  
24 granted to a third party in violation of this act.

25  
26 3. This act shall not apply to:

27 a. a provider network contract for dental services provided to  
28 beneficiaries of the Medicaid program established pursuant to  
29 P.L.1968, c.413 (C.30:4D-1 et seq.), the Medicare program  
30 established pursuant to the federal Social Security Act, (42 U.S.C.  
31 s.1395 et seq.), the State Health Benefits Program, the School  
32 Employees' Health Benefits Program, or the NJ FamilyCare  
33 Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.);  
34 and

35 b. situations in which access to a provider network contract is  
36 granted to a contracting entity or dental carrier operating under the  
37 same brand licensee program as the contracting entity or to an  
38 entity that is an affiliate of the contracting entity. A listing of all  
39 affiliates of the contracting entity shall be made available to the  
40 provider, in writing or electronic form, prior to access being granted  
41 as provided in subsection b. of section 2 of this act.

42  
43 4. The Commissioner of Banking and Insurance shall, pursuant  
44 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
45 1 et seq.), adopt rules and regulations necessary to effectuate the  
46 purpose of this act. The commissioner shall ensure the rules and  
47 regulations for this act include penalty provisions for contracting  
48 entities and dental carriers that violate the provisions of this act.

## STATEMENT

(5) The contracting entity requires each third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is taken;

- 1       (6) The contracting entity notifies the third party of the termination  
2 of a provider network contract no later than 30 days from the  
3 termination date with the contracting entity;
- 4       (7) A third party ceases its right to a provider's discounted rate as  
5 of the date of termination of the provider's contract with the  
6 contracting entity; and
- 7       (8) The contracting entity delivers to participating providers a copy  
8 of the provider network contract relied on in the adjudication of a  
9 claim within 30 days after the date of a request from the provider.
- 10      Under the bill, no provider shall be bound by or required to perform  
11 dental treatment or services under a provider network contract that has  
12 been granted to a third party in violation of the bill.
- 13      The bill does not apply to provider network contracts for dental  
14 services provided to beneficiaries of the Medicaid program, the  
15 Medicare program, the State Health Benefits Program, the School  
16 Employees' Health Benefits Program, or the NJ FamilyCare  
17 Program. It also does not apply to situations in which access to a  
18 provider network contract is granted to an entity operating under the  
19 same brand licensee program as the contracting entity or that  
20 operates as an affiliate of the contracting entity.
- 21      The bill requires the Department of Banking and Insurance to  
22 adopt rules and regulations necessary to implement the bill. The  
23 rules and regulations must include penalty provisions for  
24 contracting entities and dental carriers that violate the provisions of  
25 the bill.