

1 H.278

2 Introduced by Representative Milkey of Brattleboro

3 Referred to Committee on

4 Date:

5 Subject: Health; health insurance; health care providers; rental network
6 contracts

7 Statement of purpose: This bill proposes to regulate the circumstances under
8 which a contracting entity can grant access to a provider's health care services
9 and contractual discounts under a provider network contract.

10 An act relating to rental network contracts

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 18 V.S.A. § 9418c is added to read:

13 § 9418c. RENTAL NETWORK CONTRACTS

14 (a) Definitions. As used in this section:

15 (1) "Contracting entity" means any entity that contracts directly or
16 indirectly with a health care provider for either the delivery of health care
17 services or the selling, leasing, renting, assigning, or granting of access to a
18 contract or terms of a contract. For purposes of this subchapter, the office of
19 Vermont health access, health care providers, physician hospital organizations,
20 health care facilities, and stand-alone dental plans are not contracting entities.

1 (2) “Covered individual” means any person eligible for health care
2 benefits under a health benefit plan and includes all of the following terms:
3 enrollee, subscriber, member, insured, dependent, covered individual, and
4 beneficiary.

5 (3) “Department” means the department of banking, insurance,
6 securities, and health care administration.

7 (4) “Direct notification” means a written or electronic communication
8 from a contracting entity to a provider documenting third party access to a
9 provider network.

10 (5) “Health care services” means services for the diagnosis, prevention,
11 treatment, or cure of a health condition, illness, injury, or disease.

12 (6) “Health plan” means a health insurer, disability insurer, health
13 maintenance organization, medical or hospital service corporation, workers’
14 compensation policy of a casualty insurer licensed to do business in Vermont,
15 and, to the extent permitted under federal law, any administrator of an insured
16 or self-insured plan. “Health plan” also includes a health plan that requires its
17 medical groups, independent practice associations, or other independent
18 contractors to pay claims for the provision of health care services.

19 (7)(A) “Provider” means a physician, a physician organization, or a
20 physician hospital organization that is acting exclusively as an administrator on

1 behalf of a provider to facilitate the provider's participation in health care
2 contracts.

3 (B) "Provider" does not include a physician organization or physician
4 hospital organization that leases or rents the physician organization's or
5 physician hospital organization's network to a third party.

6 (8) "Provider network contract" means a contract between a contracting
7 entity and a provider specifying the rights and responsibilities of the
8 contracting entity and provider for the delivery of and payment for health care
9 services to covered individuals.

10 (9) "Third party" means an organization that enters into a contract with
11 a contracting entity to gain access to a provider network contract.

12 (b) Scope. This section shall not apply to:

13 (1) Provider network contracts for services provided to Medicaid,
14 Medicare, or the state children's health insurance program (SCHIP)
15 beneficiaries.

16 (2) Circumstances in which access to the provider network contract is
17 granted to an entity operating under the same brand licensee program as the
18 contracting entity.

19 (c)(1) Registration. Any person that commences business as a contracting
20 entity shall register with the department within 30 days of commencing
21 business in this state unless such person is licensed by the department as an

1 insurer. Each person not licensed by the department as a contracting entity
2 upon the effective date of this section shall have 90 days within which to
3 register with the department.

4 (2) Registration shall consist of the submission of the following
5 information:

6 (A) the official name of the contracting entity;

7 (B) the mailing address and main telephone number for the
8 contracting entity's main headquarters; and

9 (C) the name and telephone number of the contracting entity's
10 representative who shall serve as the primary contact with the department.

11 (3) The information required by this subsection shall be submitted in
12 written or electronic format, as prescribed by the department.

13 (4) The department may collect a reasonable fee for the purpose of
14 administering the registration process.

15 (d)(1) Contracting entity rights and responsibilities. A contracting entity
16 may not grant access to a provider's health care services and contractual
17 discounts pursuant to a provider network contract unless:

18 (A) the provider network contract specifically states that the
19 contracting entity may enter into an agreement with a third party, allowing the
20 third party to obtain the contracting entity's rights and responsibilities under

1 the provider network contract as if the third party were the contracting entity;

2 and

3 (B) the third party accessing the provider network contract is
4 contractually obligated to comply with all applicable terms, limitations, and
5 conditions of the provider network contract.

6 (2) A contracting entity that grants access to a provider's health care
7 services and contractual discounts pursuant to a provider network contract
8 shall:

9 (A) identify and provide to the provider, upon request at the time a
10 provider network contract is entered into with a provider, a written or
11 electronic list of all third parties known at the time of contracting, to which the
12 contracting entity has or will grant access to the provider's health care services
13 and contractual discounts pursuant to a provider network contract;

14 (B) maintain a website or other readily available mechanism, such as
15 a toll-free telephone number, through which a provider may obtain a listing,
16 updated at least every 90 days, of the third parties to which the contracting
17 entity has executed contracts to grant access to such provider's health care
18 services and contractual discounts pursuant to a provider network contract;

19 (C) provide the third party with sufficient information regarding the
20 provider network contract to enable the third party to comply with all relevant
21 terms, limitations, and conditions of the provider network contract;

1 (D) require that the third party who contracts with the contracting
2 entity to gain access to the provider network contract identify the source of the
3 contractual discount taken by the third party on each remittance advice or
4 explanation of payment form furnished to a health care provider when such
5 discount is pursuant to the contracting entity's provider network contract;

6 (E) notify the third party who contracts with the contracting entity to
7 gain access to the provider network contract of the termination of the provider
8 network contract no later than 30 days prior to the effective date of the final
9 termination of the provider network contract; and

10 (F) require those that are by contract eligible to claim the right to
11 access a provider's discounted rate to cease claiming entitlement to those rates
12 or other contracted rights or obligations for services rendered after termination
13 of the provider network contract.

14 (3) The notice required under subdivision (2)(E) of this subsection can
15 be provided through any reasonable means, including written notice, electronic
16 communication, or an update to an electronic database or other provider listing.

17 (4) Subject to any applicable continuity of care requirements,
18 agreements, or contractual provisions:

19 (A) a third party's right to access a provider's health care services
20 and contractual discounts pursuant to a provider network contract shall
21 terminate on the date the provider network contract is terminated;

1 (B) claims for health care services performed after the termination
2 date of the provider network contract are not eligible for processing and
3 payment in accordance with the provider network contract; and

4 (C) claims for health care services performed before the termination
5 date of the provider network contract, but processed after the termination date,
6 are eligible for processing and payment in accordance with the provider
7 network contract.

8 (5)(A) All information made available to providers in accordance with
9 the requirements of this section shall be confidential and shall not be disclosed
10 to any person or entity not involved in the provider's practice or the
11 administration thereof without the prior written consent of the contracting
12 entity.

13 (B) Nothing in this section shall be construed to prohibit a
14 contracting entity from requiring the provider to execute a reasonable
15 confidentiality agreement to ensure that confidential or proprietary information
16 disclosed by the contracting entity is not used for any purpose other than the
17 provider's direct practice management or billing activities.

18 (e) Rental by third parties prohibited. A third party, having itself been
19 granted access to a provider's health care services and contractual discounts
20 pursuant to a provider network contract, may not further lease, rent, or
21 otherwise grant access to the contract to any other person.

1 (f)(1) Unauthorized access to provider network contracts. It is an unfair
2 insurance practice for the purposes of chapter 129 of Title 8 to knowingly
3 access or utilize a provider's contractual discount pursuant to a provider
4 network contract without a contractual relationship with the provider,
5 contracting entity, or third party, as specified in this section.

6 (2) Contracting entities and third parties are obligated to comply with
7 subdivision (d)(2)(B) of this section concerning the services referenced on a
8 remittance advice or explanation of payment. A provider may refuse the
9 discount taken on the remittance advice or explanation of payment if the
10 discount is taken without a contractual basis or in violation of these sections.
11 However, an error in the remittance advice or explanation of payment may be
12 corrected within 30 days following notice by the provider.

13 (3) A contracting entity may not lease, rent, or otherwise grant a third
14 party access to a provider network contract unless the third party accessing the
15 health care contract is:

16 (A) a payer, a third party administrator, or another entity that
17 administers or processes claims on behalf of the payer;

18 (B) a preferred provider organization or preferred provider network,
19 including a physician organization or physician hospital organization; or

1 (C) an entity engaged in the electronic claims transport between the
2 contracting entity and the payer that does not provide access to the provider's
3 services and a discount to any other third party.

4 (g) Enforcement. A violation of this section shall be considered an unfair
5 trade practice under chapter 129 of Title 8 and shall subject the violator to the
6 penalties contained in that chapter. The penalties contained in that chapter
7 shall be in addition to any other penalties that may be imposed under this title
8 or Title 8.

9 Sec. 2. EFFECTIVE DATE

10 This act shall take effect July 1, 2009.