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# A BILL FOR AN ACT

RELATING TO INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                                   **"CHAPTER**

5                                   **RENTAL NETWORK CONTRACT ARRANGEMENTS MODEL ACT**

6           § -1 **Definitions.** For the purposes of this Act, the  
7 following definitions shall apply:

8           "Commissioner" means the insurance commissioner.

9           "Contracting entity" means any person or entity that enters  
10 into direct contracts with providers for the delivery of health  
11 care services in the ordinary course of business.

12           "Covered individual" means an individual who is covered  
13 under a health insurance plan.

14           "Direct notification" is a written or electronic  
15 communication from a contracting entity to a provider  
16 documenting third party access to a provider network.



1 "Health care services" means services for the diagnosis,  
2 prevention, treatment, or cure of a health condition, illness,  
3 injury, or disease.

4 "Health insurance plan" means any hospital and medical  
5 expense incurred policy, nonprofit health care service plan  
6 contract, health maintenance organization subscriber contract,  
7 or any other health care plan or arrangement that pays for or  
8 furnishes medical or health care services, whether by insurance  
9 or otherwise.

10 "Health insurance plan" shall not include one or more, or  
11 any combination of, the following: coverage only for accident,  
12 or disability income insurance; coverage issued as a supplement  
13 to liability insurance; liability insurance, including general  
14 liability insurance and automobile liability insurance; workers'  
15 compensation or similar insurance; automobile medical payment  
16 insurance; credit-only insurance; coverage for on-site medical  
17 clinics; coverage similar to the foregoing as specified in  
18 federal regulations issued pursuant to Public Law No. 104-191,  
19 under which benefits for medical care are secondary or  
20 incidental to other insurance benefits; dental or vision  
21 benefits; benefits for long-term care, nursing home care, home  
22 health care, or community-based care; specified disease or



1 illness coverage, hospital indemnity or other fixed indemnity  
2 insurance, or other similar, limited benefits as are specified  
3 in regulations; Medicare supplemental health insurance as  
4 defined under Section 1882(g)(1) of the Social Security Act;  
5 coverage supplemental to the coverage provided under Chapter 55  
6 of Title 10 United States Code; or other similar limited benefit  
7 supplemental coverages.

8 "Provider" means a physician, a physician organization, or  
9 a physician hospital organization that is acting exclusively as  
10 an administrator on behalf of a provider to facilitate the  
11 provider's participation in health care contracts.

12 "Provider" does not include a physician organization or  
13 physician hospital organization that leases or rents the  
14 physician organization's or physician hospital organization's  
15 network to a third party.

16 "Provider network contract" means a contract between a  
17 contracting entity and a provider specifying the rights and  
18 responsibilities of the contracting entity and provider for the  
19 delivery of and payment for health care services to covered  
20 individuals.



1 "Third party" means an organization that enters into a  
2 contract with a contracting entity or with another third party  
3 to gain access to a provider network contract.

4 § -2 **Scope.** (a) This chapter does not apply to  
5 provider network contracts for services provided to medicaid,  
6 medicare, or state children's health insurance program  
7 beneficiaries.

8 (b) This chapter does not apply in circumstances where  
9 access to the provider network contract is granted to an entity  
10 operating under the same brand licensee program as the  
11 contracting entity.

12 (c) This chapter does not apply to a contract between a  
13 contracting entity and a discount medical plan organization.

14 § -3 **Registration.** (a) Any person that commences  
15 business as a contracting entity shall register with the  
16 commissioner within thirty days of commencing business in this  
17 State unless the person is licensed by the commissioner as an  
18 insurer, mutual benefit society, or health maintenance  
19 organization. Upon passage of this Act, each person, not  
20 licensed by the commissioner as a contracting entity shall  
21 register with the commissioner within ninety days of the  
22 effective date of this chapter.



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

3 (1) The official name of the contracting entity, including  
4 any designations used in this State under which the  
5 entity does business;

6 (2) The mailing address and main telephone number for the  
7 contracting entity's main headquarters; and

8 (3) The name and telephone number of the contracting  
9 entity's representative who shall serve as the primary  
10 contact with the commissioner.

11 (c) The information required by this section shall be  
12 submitted in written or electronic format, as prescribed by the  
13 commissioner.

14 (d) The commissioner may collect a reasonable fee for the  
15 purpose of administering the registration process.

16 **§ -4 Contracting entity rights and responsibilities.**

17 (a) A contracting entity may not grant access to a provider's  
18 health care services and contractual discounts pursuant to a  
19 provider network contract unless:

20 (1) The provider network contract specifically states that  
21 the contracting entity may enter into an agreement  
22 with a third party allowing the third party to obtain



1 the contracting entity's rights and responsibilities  
2 under the provider network contract as if the third  
3 party were the contracting entity; and

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

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

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

18 (2) Maintain an internet website or other readily  
19 available mechanism, such as a toll-free telephone  
20 number, through which a provider may obtain a listing,  
21 updated at least every ninety days, of the third  
22 parties to which the contracting entity or another



- 1           third party has executed contracts to grant access to  
2           the provider's health care services and contractual  
3           discounts pursuant to a provider network contract;
- 4           (3) Provide the third party with sufficient information  
5           regarding the provider network contract to enable the  
6           third party to comply with all relevant terms,  
7           limitations, and conditions of the provider network  
8           contract;
- 9           (4) Require that the third party who contracts with the  
10          contracting entity to gain access to the provider  
11          network contract identify the source of the  
12          contractual discount taken by the third party on each  
13          remittance advice or explanation of payment form  
14          furnished to a health care provider when the discount  
15          is pursuant to the contracting entity's provider  
16          network contract; and
- 17          (5) (A) Notify the third party who contracts with the  
18                contracting entity to gain access to the provider  
19                network contract of the termination of the  
20                provider network contract no later than thirty  
21                days prior to the effective date of the final  
22                termination of the provider network contract; and



1           (B) Require those that are by contract eligible to  
2           claim the right to access a provider's discounted  
3           rate to cease claiming entitlement to those rates  
4           or other contracted rights or obligations for  
5           services rendered after termination of the  
6           provider network contract.

7           (C) The notice required under subparagraph (A) can be  
8           provided through any reasonable means, including  
9           but not limited to: written notice, electronic  
10          communication, or an update to electronic  
11          database or other provider listing.

12          (c) Subject to any applicable continuity of care  
13 requirements, agreements, or contractual provisions:

14          (1) A third party's right to access a provider's health  
15          care services and contractual discounts pursuant to a  
16          provider network contract shall terminate on the date  
17          the provider network contract is terminated;

18          (2) Claims for health care services performed after the  
19          termination date of the provider network contract are  
20          not eligible for processing and payment in accordance  
21          with the provider network contract; and





1           (3) Claims for health care services performed before the  
2           termination date of the provider network contract, but  
3           processed after the termination date, are eligible for  
4           processing and payment in accordance with the provider  
5           network contract.

6           (d) (1) All information made available to provider in  
7           accordance with the requirements of this chapter shall  
8           be confidential and shall not be disclosed to any  
9           person or entity not involved in the provider's  
10          practice or the administration thereof without the  
11          prior written consent of the contracting entity; and

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

19          §   -5 **Third party rights and responsibilities.** (a) A  
20          third party, having itself been granted access to a provider's  
21          health care services and contractual discounts pursuant to a  
22          provider network contract, that subsequently grants access to



1 another third party is obligated to comply with the rights and  
2 responsibilities imposed on contracting entities under sections  
3 -4 and -6.

4 (b) A third party that enters into a contract with another  
5 third party to access a provider's health care services and  
6 contractual discounts pursuant to a provider network contract is  
7 obligated to comply with the rights and responsibilities imposed  
8 on third parties under this section.

9 (c) (1) A third party will inform the contracting entity and  
10 providers under the contracting entity's provider  
11 network contract of the location of a website, toll-  
12 free number, or other readily available mechanism, to  
13 identify the name of the person or entity to which the  
14 third party subsequently grants access to the  
15 provider's health care services and contractual  
16 discounts pursuant to the provider network contract;  
17 and

18 (2) The website will be updated on a routine basis as  
19 additional persons or entities are granted access.

20 The website shall be updated to reflect all current  
21 persons and entities with access every ninety days.

22 Upon request, a contracting entity shall make access



1 information available to a provider via telephone or  
2 through direct notification.

3 § -6 **Unauthorized access to provider network contracts.**

4 (a) It is an unfair insurance practice to knowingly access or  
5 utilize a provider's contractual discount pursuant to a provider  
6 network contract without a contractual relationship with the  
7 provider, contracting entity, or third party, as specified in  
8 this Act.

9 (b) Contracting entities and third parties shall comply  
10 with section -4(b)(2) or -5(c)(1) and -5(c)(2)  
11 concerning the services referenced on a remittance advice or  
12 explanation of payment. A provider may refuse the discount  
13 taken on the remittance advice or explanation of payment if the  
14 discount is taken without a contractual basis or in violation of  
15 these sections; provided that an error in the remittance advice  
16 or explanation of payment may be corrected within thirty days  
17 following notice by the provider.

18 (c) A contracting entity may not lease, rent, or otherwise  
19 grant to a third party, access to a provider network contract  
20 unless the third party accessing the health care contract is:



- 1           (1) A payer or third party administrator or another entity
- 2                   that administers or processes claims on behalf of the
- 3                   payer;
- 4           (2) A preferred provider organization or preferred
- 5                   provider network, including a physician organization
- 6                   or physician-hospital organization; or
- 7           (3) An entity engaged in the electronic claims transport
- 8                   between the contracting entity and the payer that does
- 9                   not provide access to the provider's services and
- 10                  discount to any other third party.

11           § -7 **Enforcement.** The commissioner shall enforce this  
12 Act."

13           SECTION 2. This Act shall take effect upon its approval.

14

INTRODUCED BY: \_\_\_\_\_

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*B/R*

JAN 26 2009



**Report Title:**

Insurance; Silent Preferred Provider Organizations

**Description:**

Prohibits unauthorized third-party rental network contract arrangements and allows health care providers to deny discounts to insurers that they have not contracted with.

