Senate Bill 158
By: Senators Burke of the 11th, Kirk of the 13th, Watson of the 1st, Hill of the 6th and McKoon of the 29th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide for certain health care provider network restrictions and requirements; to provide for definitions; to require registration by rental preferred provider networks; to provide for applicability; to provide for penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by adding a new chapter to read as follows:

CHAPTER 20C

As used in this chapter, the term:

1. 'Affiliate' means an entity owned or controlled, either directly or through a parent or subsidiary entity, by a contracting entity that accesses the rates, terms, or conditions of health care services.

2. 'Contracting entity' means any person or entity that enters into direct contracts with health care providers for the delivery of health care services in the ordinary course of business, including a health care organization or hospital organization when leasing or renting the health care organization's or hospital organization's network to a third party.

3. 'Covered person' means an individual who is covered under a health insurance plan.

4. 'Health care services' means the examination or treatment of persons for the prevention of illness or the correction or treatment of any physical or mental condition resulting from illness, injury, or other human physical problem.
(5) 'Health insurer' means an accident and sickness insurer, health care corporation, health maintenance organization, provider sponsored health care corporation, or any similar entity regulated by the Commissioner.

(6) 'Provider network contract' means a contract between a contracting entity and a provider specifying the rights and responsibilities of the contracting entity and provider for the delivery of and payment for health care services to covered persons.

(7) 'Rental preferred provider network' means a preferred provider network that contracts with a health insurer or other payor or with another preferred provider network to grant access to the terms and conditions of its contract with providers of health care services. Such contracts are often referred to as 'renting' or 'leasing' the network. The term 'rental preferred provider network' does not refer to a proprietary network of a licensed insurer or to arrangements providing for access to the proprietary network of a licensed insurer by affiliates of the licensed insurer or by entities receiving administrative services from the licensed insurer or its affiliates.

(8) 'Third party' means an organization that enters into a contract with a contracting entity or with another third party to gain access to a provider network contract.

33-20C-2.

(a) Any person who commences business as a rental preferred provider network shall register with the Commissioner within 30 days of commencing business in this state unless such person is licensed by the Commissioner as a health insurer. Each rental preferred provider network not licensed by the Commissioner on July 1, 2016, shall be required to register with the Commissioner no later than September 30, 2016, and shall be placed on an approved list maintained by the Commissioner.

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

(1) The official name of the rental preferred provider network, including any d/b/a designations used in this state;

(2) The mailing address and main telephone number for the rental preferred provider network's main headquarters; and

(3) The name and telephone number of the rental preferred provider network representative who shall serve as the primary contact with the department.

(c) The information required by this Code section shall be submitted in written or electronic format, as prescribed by the Commissioner by rule or regulation.

(d) The Commissioner may, pursuant to rule or regulation, collect a reasonable fee for the purpose of administering the registration process.

(e) The Commissioner shall maintain an approved list of rental preferred provider networks.
(a) A rental preferred provider network shall not:

   (1) Knowingly access or utilize a network provider's contractual discount pursuant to a rental preferred provider network contract without a contractual relationship with the network provider, rental preferred provider network, or third party; or

   (2) Lease, rent, or otherwise grant to a third party access to a provider network contract unless:

      (A) The third party is a payor or third-party administrator or another entity that administers or processes claims on behalf of the payor;

      (B) The provider network contract states that the contracting entity may enter into an agreement with a third party allowing the third party to obtain the contracting entity's rights and responsibilities under the provider network contract as if the third party were the contracting entity;

      (C) The provider network contract, and all agreements between a contracting entity and any third party, prohibits such third party from increasing the contractual discounts or otherwise reducing the compensation to a network provider to an amount below that which the network provider was entitled from the contracting entity for health care services at the time the third party was granted access to the provider network contract unless such third party becomes a contracting entity; and

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

(b) A contracting entity that grants access to a network provider's health care services and contractual discounts to any third party pursuant to a provider network contract shall maintain an Internet website, mobile communication device application, or other readily available mechanism, such as a toll-free telephone number, through which a network provider may obtain a listing, updated at least every 30 days, of the third parties to which the contracting entity or another third party has executed contracts to grant access to such network provider's health care services and contractual discounts pursuant to a provider network contract.

(c) All information made available to a network provider in accordance with the requirements of this chapter shall be confidential and shall not be disclosed to any person or entity not employed by the network provider or involved in the network provider's practice or the administration thereof without the prior written consent of the contracting entity; provided, however, that this shall not preclude a network provider from disclosing such information to an outside consultant or attorney for the purpose of assisting the network provider with any disputes with a contracting entity.
(d) Nothing contained in this chapter shall be construed to prohibit a contracting entity from requiring a network provider to execute a reasonable confidentiality agreement to ensure that confidential or proprietary information disclosed by the contracting entity is not used for any purpose other than the network provider's direct practice management or billing activities.

33-20C-4.

(a) A third party, having itself been granted access to a network provider's health care services and contractual discounts pursuant to a provider network contract, that subsequently grants access to another third party shall be obligated to comply with the rights and responsibilities imposed on contracting entities pursuant to this chapter.

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

33-20C-5.

This chapter shall not apply to:

(1) Provider network contracts for services provided to Medicaid, medicare, the state health benefit plan under Article 1 of Chapter 18 of Title 45, or State Children's Health Insurance Program (SCHIP) beneficiaries;

(2) Employers, church plans, or government plans receiving administrative services from a rental preferred provider network or its affiliates, or pharmacy benefits managers;

(3) Circumstances where access to the provider network contract is granted to an entity operating under the same brand licensee program as the contracting entity;

(4) The provision of any medical services for injuries covered under Chapter 9 of Title 34, relating to workers' compensation; or


33-20C-6.

Any person or entity that is not duly licensed or that should be licensed by the department or that is not duly registered or that should be registered with the department pursuant to Code Section 33-20C-2 and acts as a rental preferred provider network, as defined in paragraph (7) of Code Section 33-20C-1, shall be subject to penalties set forth in subsection (g) of Code Section 33-2-24. The Commissioner shall have the authority, in
addition to any other remedies and damages allowed by law, to seek to restrain or enjoin any person or entity, whether or not such person or entity is licensed or registered pursuant to this title, that is determined to be in violation of Code Section 33-20C-2 or 33-20C-3, and such person or entity shall be liable for attorney fees and litigation expenses incurred in the action to restrain or enjoin such violation.”

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.