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## OLR Bill Analysis

**sHB 6589 (as amended by House "A")\***

### ***AN ACT CONCERNING THIRD-PARTY ACCESS TO PARTICIPATING DENTAL PROVIDER CONTRACTS.***

#### **SUMMARY**

This bill prohibits the parties to dental provider contracts from allowing third-party access to the contract (i.e., the health carrier's dental network) unless the third party meets certain requirements. It also (1) allows participating dental providers to decline to participate in third-party access if these parties grant a third party access to the contract in violation of the bill's provisions and (2) prohibits health carriers and their contractors or subcontractors from refusing to contract with a dental provider because the provider declines third-party access to the contract. The bill applies to contracts entered, amended, or renewed on or after January 1, 2022.

The bill defines the various parties to these contracts and the contracts themselves.

\*House Amendment "A" (1) prohibits a health carrier's contractor or subcontractor from refusing to participate in a dental provider contract because the dentist declined third-party access; (2) specifies that a dental provider declining third-party access does not, in and of itself, constitute grounds for a health carrier to terminate or cancel the contract; (3) removes provisions authorizing the insurance commissioner to adopt implementing regulations; (4) increases the time for a dental provider to decline third-party access to the contract or to contract directly with the third party, from immediately after a contract is executed to within 30 days after the execution; and (5) makes other minor changes.

EFFECTIVE DATE: January 1, 2022

#### **DEFINITIONS**

Under the bill, a “participating dental provider” is a dentist or dental office providing services to patients under a participating dental provider contract. A “participating dental provider contract” is a contract between a participating dental provider and a carrier or its contractor or subcontractor in which the provider agrees to provide services to people the carrier covers with an expectation that the carrier pays or reimburses him or her, excluding cost-sharing paid by the patients themselves (i.e., copayments, coinsurance, or deductibles).

A “health carrier” is an insurer, HMO, hospital or medical service corporation, or certain other entities that pay for or reimburse health service costs or provide health insurance plans or benefits.

A “third party” is a person who contracts with a health carrier or its contractors or subcontractors to gain access to dental services or discounts provided under a participating dental provider contract, but it excludes an employer or other group that the health carrier (or its contractors or subcontractors) administers.

A “dental office” is a dental office, or an office, laboratory, or operation or consultation room (1) in which dental medicine, dental surgery, or dental hygiene is regularly performed in the course of business and (2) that is owned or operated by a dentist or professional service corporation legally allowed to own or operate it.

### **CONTRACTS BETWEEN A HEALTH CARRIER AND AN INTERMEDIARY OR PARTICIPATING DENTAL PROVIDER**

The bill prohibits participating dental provider contracts between a health carrier and an intermediary (i.e., a person authorized to negotiate and execute these contracts on behalf of dentists, or dental offices or networks) or participating dental provider from allowing a third party to gain access to the participating dental provider contract. However, it allows the health carrier to grant a third party access if, within 30 days after executing, renewing, or amending the contract (or a later date mutually agreed to), the health carrier allows each participating dental provider that is a party to the contract to (1) decline to participate in third-party access to the contract or (2)

contract directly with the third party, if the third party is a health carrier.

Under the bill, a dental provider declining third-party access does not, in and of itself, constitute grounds for a health carrier to terminate the contract.

**CONTRACTS BETWEEN PARTICIPATING DENTAL PROVIDERS OR INTERMEDIARIES AND HEALTH CARRIERS**

The bill also prohibits contracts between a participating dental provider or an intermediary and a health carrier (or its contractors or subcontractors) from allowing the health carrier or its contractors or subcontractors from contracting with a third party that allows the third party to gain access to the participating dental provider contract. However, it allows this access if the participating dental provider contract:

1. allows the health carrier or its contractors or subcontractors to contract with a third party and grants it access, and allows the third party to obtain the health carrier's rights and responsibilities as if it were the health carrier or its contractors or subcontractors, as applicable;
2. clearly identifies the provisions allowing the health carrier, or its contractor or subcontractor, to grant third-party access; and
3. allows a participating dental provider to decline to participate in third-party access.

It also places the following requirements on these participating dental provider contracts that allow a health carrier to grant access to a third party:

1. the third party must comply with all terms of the contract;
2. the health carrier (or its contractor or subcontractor) must disclose electronically or in writing the third party's identity to each participating dental provider under the contract on the date it contracts with it for access;

3. the health carrier (or its contractor or subcontractor) must (a) make publicly available on its website a list containing the name of every third party with which it contracts that is granted access to the participating dental provider contract and (b) update it at least every 90 days;
4. the health carrier (or its contractor or subcontractor) must require a third party to identify the source of any discount provided under the contract on each remittance advice or explanation of payment under which the third party takes this discount, excluding electronic transactions required by the federal Health Insurance Portability and Accountability Act;
5. a health carrier (or its contractor or subcontractor) intending to end a participating provider contract must notify a third party in writing before the contract termination date, with the third party's right to a discounted rate under the contract ending when the contract does; and
6. the health carrier (or its contractor or subcontractor) must provide a copy of a participating provider contract to any participating dental provider within 30 days of request.

### **EXEMPTIONS**

The bill exempts from its provisions any contract that grants the following entities access to a participating dental provider contract:

1. a health carrier or other entity operating in accordance with the health carrier's (or contractor's or subcontractor's) brand licensee program when the health carrier or other entity is a party to the provider contract (the bill does not define "brand licensee program");
2. a health carrier's (or contractor's or subcontractor's) affiliate that is a party to the dental provider contract, if the health carrier, contractor, or subcontractor makes a list of affiliates publicly available on its website; or

3. dental services provided to Medicaid beneficiaries or through the Children's Health Insurance Program (CHIP).

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/22/2021)