

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

As Engrossed: H3/14/17

# A Bill

HOUSE BILL 2209

5 By: Representative M. Gray  
6

## For An Act To Be Entitled

8 AN ACT TO CLARIFY THE USE OF AN ALL-PRODUCTS CLAUSE  
9 IN A HEALTHCARE PROVIDER CONTRACT; AND FOR OTHER  
10 PURPOSES.  
11

## Subtitle

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14 TO CLARIFY THE USE OF AN ALL-PRODUCTS  
15 CLAUSE IN A HEALTHCARE PROVIDER CONTRACT.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 *SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an*  
21 *additional subchapter to read as follows:*

### Subchapter 12 – All-Products Clauses

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24 23-99-1201. Legislative findings.

25 The General Assembly finds that:

26 (1) An all-products clause is an anticompetitive tactic used in  
27 certain healthcare provider contracts by a healthcare insurer;

28 (2) A healthcare insurer may use an all-products clause to  
29 require a healthcare provider with which the healthcare insurer has a  
30 contract to provide healthcare services to agree to participate in another  
31 provider network, health benefit plan, or product that is offered by the  
32 healthcare insurer;

33 (3) An all-products clause does not permit the healthcare  
34 provider to select or negotiate the terms of the other provider network,  
35 health benefit plan, or product in which the healthcare provider will  
36 participate;



1 (4) An all-products clause may unfairly require a healthcare  
2 provider to participate in another provider network, health benefit plan, or  
3 product in which the healthcare provider:

4 (A) May have no interest;

5 (B) Has not been provided the necessary information to  
6 make an informed decision; or

7 (C) Is bound to a provider network, health benefit plan,  
8 or product not yet in existence; and

9 (5) An all-products clause is a form of tying arrangement that  
10 suppresses competition by allowing a healthcare insurer with dominant market  
11 power to artificially influence prices and that impairs competition in the  
12 health insurance marketplace by discouraging potential competitors who might  
13 otherwise enter the health insurance marketplace.

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15 23-99-1202. Definitions.

16 As used in this subchapter:

17 (1) "All-products clause" means a provision in a contract  
18 between a healthcare insurer and a healthcare provider that requires the  
19 healthcare provider, as a condition of participation or continuation in a  
20 provider network, health benefit plan, or product, to serve in another  
21 provider network utilized by the healthcare insurer for a health benefit plan  
22 or product, or to participate in another health benefit plan offered by the  
23 healthcare insurer;

24 (2)(A) "Health benefit plan" means an individual, blanket, or  
25 group plan, policy, or contract for healthcare services issued or delivered  
26 in this state by a healthcare insurer.

27 (B) "Health benefit plan" does not include:

28 (i) A disability income plan;

29 (ii) A credit insurance plan;

30 (iii) Insurance coverage issued as a supplement to  
31 liability insurance;

32 (iv) Medical payments under an automobile or  
33 homeowners insurance plan;

34 (v) A health benefit plan provided under Arkansas  
35 Constitution, Article 5, § 32; the Workers' Compensation Law, § 11-9-101 et  
36 seq.; and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

1 (vi) A plan that provides only indemnity for  
2 hospital confinement;

3 (vii) An accident-only plan;

4 (viii) A specified disease plan;

5 (ix) Traditional Medicaid; or

6 (x) A long-term care insurance plan;

7 (3) "Healthcare insurer" means:

8 (A) An insurance company, hospital and medical service  
9 corporation, or health maintenance organization, that issues or delivers a  
10 health benefit plan in this state; and

11 (B) Any sponsor of a nonfederal self-funded governmental  
12 or church plan;

13 (4) "Healthcare provider" means a person or entity that is  
14 licensed, certified, or otherwise authorized by the laws of this state to  
15 provide services and goods used for the purpose of or incidental to the  
16 purpose of preventing, alleviating, curing, or healing human illness or  
17 injury;

18 (5) "Product" means a health benefit plan option that is offered  
19 by a healthcare insurer;

20 (6) "Provider contract" means a contract between a healthcare  
21 insurer and a healthcare provider; and

22 (7) "Provider network" means a group of healthcare providers who  
23 are contracted to provide healthcare services to plan members at contracted  
24 rates.

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26 23-99-1203. All-products clause – Option to participate.

27 (a) A healthcare provider may opt out of a provider contract that  
28 contains an all-products clause.

29 (b) On the effective date of this act, this subchapter applies to a  
30 provider contract that is delivered, issued for delivery, reissued, extended,  
31 or has a change in any term of the provider contract in this state or a  
32 change in any term of a related health benefit plan that affects the provider  
33 contract in this state.

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35 /s/M. Gray  
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