

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

As Engrossed: H3/14/17

A Bill

HOUSE BILL 2212

5 By: Representative Magie
6

For An Act To Be Entitled

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

Subtitle

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14 *TO PROHIBIT THE USE OF AN ALL-PRODUCTS*
15 *CLAUSE IN A HEALTHCARE PROVIDER CONTRACT;*
16 *AND TO DECLARE AN EMERGENCY.*

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 *SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an*
22 *additional subchapter to read as follows:*

23 *Subchapter 12 – Prohibition of All-Products Clauses*

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25 *23-99-1201. Legislative findings.*

26 *The General Assembly finds that:*

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

29 *(2) A healthcare insurer may use an all-products clause to*
30 *require a healthcare provider with which the healthcare insurer has a*
31 *contract to provide healthcare services to agree to participate in other*
32 *plans or products that are offered by the healthcare insurer;*

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

36 *(4) An all-products clause unfairly requires a healthcare*



1 provider to participate in a health benefit plan in which the healthcare
2 provider:

3 (A) Has no interest;

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

6 (C) Is bound to health benefit plans not yet in existence;
7 and

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

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14 23-99-1202. Definitions.

15 As used in this subchapter:

16 (1) "All-products clause" means a provision in a contract
17 between a healthcare insurer and a healthcare provider that requires a
18 healthcare provider, as a condition of participation or continuation in a
19 provider network or a health benefit plan, to:

20 (A) Serve in another provider network utilized by the
21 healthcare insurer for a health benefit plan or product; or

22 (B) Participate in another health benefit plan offered by
23 the healthcare insurer;

24 (2)(A) "Health benefit plan" means an individual, blanket, or
25 any group plan, policy, or contract for healthcare services issued or
26 delivered 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) "Products" means the health benefit plan options that are
19 offered 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 – Prohibition.

27 (a) This subchapter applies to a provider contract that is delivered,
28 issued for delivery, reissued, extended, or has a change in any term of the
29 provider contract or a related health benefit plan that affects the provider
30 contract in this state beginning on the effective date of this act.

31 (b) If an all-products clause is in a provider contract, the all-
32 products clause is void.

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34 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
35 General Assembly of the State of Arkansas that the healthcare insurance
36 marketplace is in flux, and changes are occurring rapidly at the state and

1 federal level; that this state seeks to enlarge and promote an attractive
2 commercial environment or marketplace and to encourage competition that
3 enhances healthcare options for consumers in this state; and that this act is
4 immediately necessary to prevent anticompetitive practices by healthcare
5 insurers using all-products clauses that may deter many healthcare insurers
6 from entering the state healthcare insurance marketplace. Therefore, an
7 emergency is declared to exist, and this act being immediately necessary for
8 the preservation of the public peace, health, and safety shall become
9 effective on:

10 (1) The date of its approval by the Governor;

11 (2) If the bill is neither approved nor vetoed by the Governor,
12 the expiration of the period of time during which the Governor may veto the
13 bill; or

14 (3) If the bill is vetoed by the Governor and the veto is
15 overridden, the date the last house overrides the veto.

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18 /s/Magie
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