

By: Representative Foster

To: Insurance

HOUSE BILL NO. 1513

1 AN ACT TO BE KNOWN AS THE PATIENT CHOICE ACT OF 2018; TO
2 CREATE NEW SECTION 83-41-221, MISSISSIPPI CODE OF 1972, TO PROVIDE
3 THAT AN INSURED IS ENTITLED TO BENEFITS UNDER A HEALTH BENEFIT
4 PLAN IF THE HEALTH BENEFIT PLAN PROVIDES FOR REIMBURSEMENT FOR THE
5 SERVICE IF PERFORMED BY A DULY LICENSED PHYSICIAN OR PODIATRIST
6 AND THE SERVICE IS PERFORMED BY A DULY LICENSED PHYSICIAN OR
7 PODIATRIST; TO CREATE NEW SECTION 83-41-223, MISSISSIPPI CODE OF
8 1972, TO PROVIDE THAT A HEALTH BENEFIT PLAN SHALL NOT DISCRIMINATE
9 AGAINST ANY PHYSICIAN WHO IS LOCATED WITHIN THE GEOGRAPHIC
10 COVERAGE AREA OF THE HEALTH BENEFIT PLAN AND WHO IS WILLING TO
11 MEET THE TERMS AND CONDITIONS FOR PARTICIPATION ESTABLISHED BY THE
12 HEALTH BENEFIT PLAN; TO CREATE NEW SECTION 83-41-225, MISSISSIPPI
13 CODE OF 1972, TO PROVIDE THAT NOTHING IN THIS ARTICLE SHALL BE
14 CONSTRUED TO REQUIRE OR PROHIBIT THE SAME REIMBURSEMENT TO
15 DIFFERENT TYPES OF PHYSICIANS WHOSE LICENSED SCOPE OF SPECIALTY
16 PRACTICE DIFFERS; TO PROVIDE THAT NOTHING IN THIS ARTICLE SHALL BE
17 CONSTRUED TO REQUIRE OR PROHIBIT COVERAGE OF THE SERVICES OF ANY
18 PARTICULAR TYPE OF PROVIDER; TO CREATE NEW SECTION 83-41-227,
19 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A HEALTH BENEFIT PLAN
20 SHALL NOT, DIRECTLY OR INDIRECTLY, PROHIBIT OR LIMIT A PHYSICIAN
21 THAT IS QUALIFIED UNDER THIS ARTICLE AND IS WILLING TO ACCEPT THE
22 HEALTH BENEFIT PLAN'S OPERATING TERMS AND CONDITIONS, SCHEDULE OF
23 FEES, COVERED EXPENSES AND UTILIZATION REGULATIONS AND QUALITY
24 STANDARDS, FROM THE OPPORTUNITY TO PARTICIPATE IN THAT PLAN; TO
25 PROVIDE THAT NOTHING IN THIS ARTICLE SHALL PREVENT A HEALTH
26 BENEFIT PLAN FROM INSTITUTING MEASURES DESIGNED TO MAINTAIN
27 QUALITY AND TO CONTROL COSTS, INCLUDING, BUT NOT LIMITED TO, THE
28 UTILIZATION OF A GATEKEEPER SYSTEM, AS LONG AS SUCH MEASURES ARE
29 IMPOSED EQUALLY ON ALL PROVIDERS IN THE SAME CLASS; TO CREATE NEW
30 SECTION 83-41-229, MISSISSIPPI CODE OF 1972, TO CLARIFY HOW THE
31 ARTICLE SHOULD BE CONSTRUED; TO CREATE NEW SECTION 83-41-231,
32 MISSISSIPPI CODE OF 1972, TO CLARIFY THE COMMISSIONER OF
33 INSURANCE'S POWERS AND DUTIES REGARDING ARTICLE 5, CHAPTER 41,
34 TITLE 83; TO AMEND SECTIONS 83-41-203, 83-41-211, 83-41-213 AND



35 83-41-215, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN EXISTING
36 LAWS PROVIDING FOR CHOICE OF PRACTITIONER; AND FOR RELATED
37 PURPOSES.

38 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

39 **SECTION 1.** This act shall be known and may be cited as the
40 Patient Choice Act of 2018.

41 **SECTION 2.** The following shall be codified as Section
42 83-41-221, Mississippi Code of 1972:

43 83-41-221. (1) From and after July 1, 2018, whenever any
44 health benefit plan provides for reimbursement for any service
45 which is within the lawful scope of practice of a duly licensed
46 physician or podiatrist who is licensed under the Mississippi
47 Board of Medical Licensure, the insured or other person entitled
48 to benefits under such health benefit plan shall be entitled to
49 reimbursement for such services if performed by a duly licensed
50 physician or podiatrist. Any duly licensed physician or
51 podiatrist shall be entitled to participate in such health benefit
52 plan providing for reimbursement for any service which is within
53 the lawful scope of practice of a duly licensed physician or
54 podiatrist.

55 It is the intent of the Legislature by this section to
56 provide for increased access of health delivery services to the
57 underserved.

58 (2) Any duly licensed physician or podiatrist shall not be
59 entitled to participate in a health benefit plan described in
60 subsection (1) of this section if he or she is committing an act
61 of fraud or other illegal activity.



62 **SECTION 3.** The following shall be codified as Section
63 83-41-223, Mississippi Code of 1972:

64 83-41-223. A health benefit plan shall not discriminate
65 against any physician who is located within the geographic
66 coverage area of the health benefit plan and who is willing to
67 meet the terms and conditions for participation established by the
68 health benefit plan. Therefore, notification of acceptance should
69 occur within sixty (60) days of completed application to such
70 health benefit plan.

71 **SECTION 4.** The following shall be codified as Section
72 83-41-225, Mississippi Code of 1972:

73 83-41-225. Nothing in this article shall be construed to
74 require or prohibit the same reimbursement to different types of
75 physicians whose licensed scope of specialty practice differs nor
76 shall anything in this article be construed to require or prohibit
77 coverage of the services of any particular type of provider.

78 **SECTION 5.** The following shall be codified as Section
79 83-41-227, Mississippi Code of 1972:

80 83-41-227. (1) A health benefit plan shall not, directly or
81 indirectly, prohibit or limit a physician that is qualified under
82 this article and is willing to accept the health benefit plan's
83 operating terms and conditions, schedule of fees, covered expenses
84 and utilization regulations and quality standards, from the
85 opportunity to participate in that plan.



86 (2) Nothing in this article shall prevent a health benefit
87 plan from instituting measures designed to maintain quality, to
88 provide merit, shared savings, or monetary rewards through
89 controlling costs and to control costs, including, but not limited
90 to, the utilization of a gatekeeper system, as long as such
91 measures are imposed equally on all providers in the same class.

92 **SECTION 6.** The following shall be codified as Section
93 83-41-229, Mississippi Code of 1972:

94 83-41-229. (1) This article shall not be construed:

95 (a) To require all physicians or a percentage of
96 physicians in the state or a locale to participate in the
97 provision of services for a health benefit plan; or

98 (b) To take away the authority of health benefit plans
99 that provide coverage of physician services to set the terms and
100 conditions for participation by physicians, though health benefit
101 plans shall apply such terms and conditions in a nondiscriminatory
102 manner.

103 (2) This article shall apply to:

104 (a) All health benefit plans, regardless of whether
105 they are providing insurance, including pre-paid coverage, or
106 administering or contracting to provide provider networks; and

107 (b) All multiple employer welfare arrangements and
108 multiple employer trusts.

109 **SECTION 7.** The following shall be codified as Section
110 83-41-231, Mississippi Code of 1972:



111 83-41-231. The Commissioner of Insurance acting through the
112 department, shall:

113 (a) Enforce this article using powers granted to the
114 commissioner in the Mississippi Insurance Code.

115 (b) Be entitled to seek an injunction against a health
116 insurer in a court of competent jurisdiction.

117 **SECTION 8.** Section 83-41-203, Mississippi Code of 1972, is
118 amended as follows:

119 83-41-203. (1) Whenever any policy of insurance or any
120 medical service plan or hospital service contract or hospital and
121 medical service contract issued, delivered, administered,
122 continued or renewed in this state (hereinafter referred to in
123 this article as "health benefit plan") provides for reimbursement
124 for any visual service which is within the lawful scope of
125 practice of a duly licensed optometrist as defined in Section
126 73-19-1, * * * the insured or other person entitled to benefits
127 under such * * * health benefit plan shall be entitled to
128 reimbursement for such services, whether such services are
129 performed by a duly licensed physician or by a duly licensed
130 optometrist, * * * plan or contract. Duly licensed optometrists
131 shall be entitled to participate in such policies, plans, or
132 contracts providing for visual services, as authorized by Sections
133 73-19-1 and 43-3-67, * * * to the same extent as duly licensed
134 physicians.



135 (2) Any duly licensed optometrist or duly licensed physician
136 shall not be entitled to participate in a health benefit plan
137 described in subsection (1) of this section if he or she is
138 committing an act of fraud or other illegal activity.

139 **SECTION 9.** Section 83-41-211, Mississippi Code of 1972, is
140 amended as follows:

141 83-41-211. (1) Whenever any * * * health benefit plan
142 provides for reimbursement for any diagnosis and treatment of
143 mental, nervous or emotional disorders only which are within the
144 lawful scope of practice of a duly licensed psychologist as
145 defined in Section 73-31-3, within the lawful scope of practice of
146 a duly licensed professional counselor as defined in Section
147 73-30-3, within the lawful scope of practice of a duly licensed
148 clinical social worker as defined in Section 73-53-3, or within
149 the lawful scope of practice of a duly licensed marriage and
150 family therapist as defined in Section 73-54-5, the insured or
151 other person entitled to benefits under such * * * health benefit
152 plan shall be entitled to reimbursement for such services, whether
153 such services are performed by a duly licensed physician or by a
154 duly licensed psychologist, by a duly licensed professional
155 counselor, by a duly licensed clinical social worker or by a duly
156 licensed marriage and family therapist * * *. Duly licensed
157 psychologists shall be entitled to participate in such * * *
158 health benefit plans providing for the diagnosis and treatment of
159 mental, nervous or emotional disorders only as authorized by



160 Section 73-31-3. A duly licensed professional counselor shall be
161 entitled to participate in such * * * health benefit plans
162 providing for the diagnosis and treatment of mental, nervous or
163 emotional disorders only as authorized by Section 73-30-3. A duly
164 licensed clinical social worker shall be entitled to participate
165 in such * * * health benefit plans providing for the diagnosis and
166 treatment of mental, nervous or emotional disorders only as
167 authorized by Section 73-53-3. A duly licensed marriage and
168 family therapist shall be entitled to participate in such * * *
169 health benefit plans providing for the diagnosis and treatment of
170 mental, nervous or emotional disorders only as authorized by
171 Section 73-54-5 et seq. The addition of marriage and family
172 therapists as providers herein is intended to only allow them to
173 treat mental, nervous or emotional disorders as treated by other
174 providers, to the extent that marriage and family therapists are
175 qualified to treat such disorders. Notwithstanding anything in
176 this section to the contrary, the scope or definition of mental,
177 nervous or emotional disorders shall remain the same and shall not
178 be expanded by the addition of marriage and family therapists as
179 allowable providers.

180 (2) Any duly licensed psychologist, duly licensed
181 professional counselor, duly licensed clinical social worker, duly
182 licensed marriage and family therapist or duly licensed physician
183 shall not be entitled to participate in a health benefit plan



184 described in subsection (1) of this section if he or she is
185 committing an act of fraud or other illegal activity.

186 **SECTION 10.** Section 83-41-213, Mississippi Code of 1972, is
187 amended as follows:

188 83-41-213. (1) From and after January 1, 1999, whenever
189 any * * * health benefit plan provides for reimbursement for any
190 service which is within the lawful scope of practice of a
191 duly * * * licensed nurse practitioner as provided for by rules
192 and regulations implemented by the Mississippi Board of Nursing
193 under Section 73-15-5(2), the insured or other person entitled to
194 benefits under such * * * health benefit plan shall be entitled to
195 reimbursement for such services, whether such services are
196 performed by a duly licensed physician or by a duly * * * licensed
197 nurse practitioner * * *. Duly * * * licensed nurse practitioners
198 shall be entitled to participate in such * * * health benefit
199 plans providing for the services of nurse practitioners, as
200 authorized by the rules and regulations implemented by the
201 Mississippi Board of Nursing under Section 73-15-5(2).
202 Reimbursement shall be based on services rendered by a duly * * *
203 licensed nurse practitioner.

204 It is the intent of the Legislature by this section to
205 provide for increased access of health delivery services to the
206 underserved.

207 (2) Any duly licensed nurse practitioner or duly licensed
208 physician shall not be entitled to participate in a health benefit



209 plan described in subsection (1) of this section if he or she is
210 committing an act of fraud or other illegal activity.

211 **SECTION 11.** Section 83-41-215, Mississippi Code of 1972, is
212 amended as follows:

213 83-41-215. (1) Whenever any * * * health benefit plan
214 provides for reimbursement for any service which is within the
215 lawful scope of practice of a duly licensed chiropractor as
216 defined in Section 73-6-1, Mississippi Code of 1972, then such
217 service may be performed by a duly licensed chiropractor, and the
218 insured or other person entitled to benefits under such * * *
219 health benefit plan shall be entitled to reimbursement for such
220 services. The insured shall have the right to choose the place
221 where the service is to be performed as well as the chiropractor
222 to perform such service, provided that such service shall be
223 performed in the chiropractor's office, clinic or regular place of
224 business. Any duly licensed chiropractor shall be entitled to
225 participate in such health benefit plan providing for
226 reimbursement for any service which is within the lawful scope of
227 practice of a duly licensed chiropractor.

228 (2) Any duly licensed chiropractor shall not be entitled to
229 participate in a health benefit plan described in subsection (1)
230 of this section if he or she is committing an act of fraud or
231 other illegal activity.

232 **SECTION 12.** This act shall take effect and be in force from
233 and after July 1, 2018.

