

By: Representative Deweese

To: Insurance

## HOUSE BILL NO. 934

1 AN ACT TO CREATE NEW SECTIONS 83-9-401 THROUGH 83-9-417,  
2 MISSISSIPPI CODE OF 1972, TO ENACT THE HEALTHCARE CONTRACTING  
3 SIMPLIFICATION ACT; TO PROVIDE DEFINITIONS FOR THE ACT; TO  
4 PROHIBIT THE ALL-PRODUCTS CLAUSE; TO PROHIBIT THE MOST FAVORED  
5 NATION CLAUSE; TO PROVIDE FURTHER REQUIREMENTS OF HEALTHCARE  
6 CONTRACTS; TO PROVIDE THAT THE MISSISSIPPI INSURANCE DEPARTMENT  
7 SHALL ENFORCE THIS ACT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** The following shall be codified as Section  
10 83-9-401, Mississippi Code of 1972:

11 83-9-401. This article shall be known and may be cited as  
12 the "Healthcare Contracting Simplification Act."

13 **SECTION 2.** The following shall be codified as Section  
14 83-9-403, Mississippi Code of 1972:

15 83-9-403. (1) "All-products clause" means a provision in a  
16 healthcare contract that requires a healthcare provider, as a  
17 condition of participation or continuation in a provider network  
18 or a health benefit plan, to:



19 (a) Serve in another provider network utilized by the  
20 contracting entity or a healthcare insurer affiliated with the  
21 contracting entity; or

22 (b) Provide healthcare services under another health  
23 benefit plan or product offered by a contracting entity or a  
24 healthcare insurer affiliated with the contracting entity.

25 (2) "Contracting entity" means a healthcare insurer or a  
26 subcontractor, affiliate, or other entity that contracts directly  
27 or indirectly with a healthcare provider for the delivery of  
28 healthcare services pursuant to any individual or group policy or  
29 contract of insurance against loss resulting from bodily injury,  
30 including dental care expenses resulting from sickness or bodily  
31 injury as defined in Section 83-9-1.

32 (3) "Enrollee" means an individual who is entitled to  
33 receive healthcare services under the terms of a health benefit  
34 plan.

35 (4) (a) "Health benefit plan" means a plan, policy,  
36 contract, certificate, agreement, or other evidence of coverage  
37 for healthcare services offered or issued by a healthcare insurer  
38 in this state and such products as described in Section 83-9-1.

39 (b) "Health benefit plan" includes nonfederal  
40 governmental plans as defined in 29 USC Section 1002(32), as it  
41 existed on January 1, 2019.

42 (c) "Health benefit plan" does not include:

43 (i) A disability income plan;



44 (ii) A credit insurance plan;

45 (iii) Insurance coverage issued as a supplement to

46 liability insurance;

47 (iv) A medical payment under automobile or

48 homeowners insurance plans;

49 (v) A health benefit plan provided for State and

50 School Employees or Workers Compensation;

51 (vi) A plan that provides only indemnity for

52 hospital confinement;

53 (vii) An accident-only plan;

54 (viii) A specified disease plan; and

55 (ix) A long-term-care only plan.

56 (5) "Healthcare contract" means a contract entered into,

57 materially amended, or renewed between a contracting entity and a

58 healthcare provider for the delivery of healthcare services to

59 enrollees.

60 (6) (a) "Healthcare insurer" means an entity that is

61 subject to state insurance regulation and provides health

62 insurance in this state.

63 (b) "Healthcare insurer" includes:

64 (i) An insurance company;

65 (ii) A health maintenance organization or managed

66 care organization;

67 (iii) A hospital and medical service corporation;

68 (iv) A risk-based provider organization;



(v) A sponsor of a nonfederal self-funded governmental plan;

(vi) A care coordination organization; and

(vii) A provider sponsored health plan.

(7) "Healthcare provider" means a person or entity that is licensed, certified, or otherwise authorized by the laws of this state to provide healthcare services.

(8) "Healthcare services" means services or goods provided for the purpose of or incidental to the purpose of preventing, diagnosing, treating, alleviating, relieving, curing, or healing human illness, disease, condition, disability, or injury.

(9) "Material amendment" means a change in a healthcare contract that results in:

(a) A decrease in fees, payments, or reimbursement to a participating healthcare provider;

(b) A change in the payment methodology for determining fees, payments, or reimbursement to a participating healthcare provider;

(c) A new or revised coding guideline;

(d) A new or revised payment rule; or

(e) A change of procedures that may reasonably be expected to significantly increase a healthcare provider's administrative expenses.

(10) "Most favored nation clause" means a provision in a healthcare contract that:



94           (a) Prohibits or grants a contracting entity an option  
95 to prohibit a participating healthcare provider from contracting  
96 with another contracting entity to provide healthcare services at  
97 a lower price than the payment specified in the healthcare  
98 contract;

99           (b) Requires or grants a contracting entity an option  
100 to require a participating healthcare provider to accept a lower  
101 payment in the event the participating healthcare provider agrees  
102 to provide healthcare services to another contracting entity at a  
103 lower price;

104           (c) Requires or grants a contracting entity an option  
105 to require termination or renegotiation of an existing healthcare  
106 contract if a participating healthcare provider agrees to provide  
107 healthcare services to another contracting entity at a lower  
108 price; or

109           (d) Requires a participating healthcare provider to  
110 disclose the participating healthcare provider's contractual  
111 reimbursement rates with other contracting entities.

112           (11) "Participating healthcare provider" means a healthcare  
113 provider that has a healthcare contract with a contracting entity  
114 to provide healthcare services to enrollees with the expectation  
115 of receiving payment from the contracting entity or a healthcare  
116 insurer affiliated with the contracting entity.



(12) "Provider network" means a group of participating healthcare providers that are contracted to provide healthcare services to enrollees at contracted rates.

**SECTION 3.** The following shall be codified as Section 83-9-405, Mississippi Code of 1972:

83-9-405. (1) Except as provided in subsections (2) and (4) of this section, a contracting entity shall not:

(a) Offer to a healthcare provider a healthcare contract that includes an all-products clause;

(b) Enter into a healthcare contract with a healthcare provider that includes an all-products clause; or

(c) Amend or renew an existing healthcare contract previously entered into with a healthcare provider so that the healthcare contract as amended or renewed adds or continues to include an all-products clause.

(2) (a) This section does not prohibit a contracting entity from:

(i) Offering a healthcare provider a contract that covers multiple health benefit plans that have the same reimbursement rates and other financial terms for the healthcare provider; or

(ii) Adding a new health benefit plan to an existing healthcare contract with a healthcare provider under the same reimbursement rates and other financial terms applicable under the original healthcare contract; or



(iii) Requiring a healthcare provider to accept multiple health benefit plans that do not differ in reimbursement rates or other financial terms for the healthcare provider.

(b) A healthcare contract may include health benefit plans or coverage options for enrollees within a health benefit plan with different cost-sharing structures, including different deductibles or copayments, as long as the reimbursement rates and other financial terms between the contracting entity and the healthcare provider remain the same for each plan or coverage option included in the healthcare contract.

(c) This section does not authorize a healthcare provider to:

(i) Opt out of providing services to an enrollee of a particular health benefit plan after the healthcare provider has entered into a valid contract under this section to provide the services; or

(ii) Refuse to disclose the provider networks or health benefit plans in which the healthcare provider participates.

(3) If a healthcare contract contains a provision that violates this section, the healthcare contract is void.

**SECTION 4.** The following shall be codified as Section 83-9-407, Mississippi Code of 1972:

83-9-407. (1) A contracting entity shall not:



(a) Offer to a healthcare provider a healthcare contract that includes a most favored nation clause;

(b) Enter into a healthcare contract with a healthcare provider that includes a most favored nation clause; or

(c) Amend or renew an existing healthcare contract previously entered into with a healthcare provider so that the contract as amended or renewed adds or continues to include a most favored nation clause.

(2) If a healthcare contract contains a provision that violates this section, the healthcare contract is void.

**SECTION 5.** The following shall be codified as Section 83-9-409, Mississippi Code of 1972:

83-9-409. (1) (a) A material amendment to a healthcare contract is allowed if a contracting entity provides to a participating healthcare provider the material amendment at least ninety (90) days before the effective date of the material amendment and in writing.

(b) The notice required under paragraph (a) of this subsection shall specify the precise healthcare contract or healthcare contracts to which the material amendment applies and be conspicuously labeled as follows: "Notice of Material Amendment to Healthcare Contract."

(c) The notice shall contain sufficient information about the amendment to allow a healthcare provider to assess the financial impact, if any, of the amendment.





191           (2) A notice described under paragraph (a) of subsection (1)  
192 of this section is not required for a material amendment resulting  
193 solely from a change in a fee schedule or code set if:

194                 (a) The fee schedule or code set is published by the  
195 federal government or another third party; and

196                 (b) The terms of the healthcare contract expressly  
197 states that the healthcare provider's compensation or claims  
198 submission is based on the fee schedule or code set.

199           (3) (a) Within ten (10) business days of a healthcare  
200 provider's request, a contracting entity shall provide to the  
201 healthcare provider a full and complete copy of each healthcare  
202 contract between the contracting entity and the healthcare  
203 provider.

204                 (b) A full and complete copy of the healthcare contract  
205 shall include any amendments to the healthcare contract.

206           (4) (a) (i) A healthcare contract shall open for  
207 renegotiation and revision at least one (1) time every three (3)  
208 years.

209                         (ii) Under subparagraph (i) of this paragraph (a),  
210 a party to the healthcare contract is not required to terminate  
211 the healthcare contract in order to open the healthcare contract  
212 for renegotiation of the terms.

213                 (b) This section does not prohibit a renegotiation of a  
214 healthcare contract at any time during the term of the healthcare  
215 contract.



(5) If a healthcare contract contains a provision that violates this section, the healthcare contract is void.

**SECTION 6.** The following shall be codified as Section 83-9-411, Mississippi Code of 1972:

83-9-411. (1) A healthcare insurer shall contract with any healthcare provider that desires to contract with the healthcare insurer except that the healthcare insurer may refuse to contract with a healthcare provider if the healthcare provider has one or more of the following:

(a) A history of medical or other professional or occupational malpractice claims;

(b) A history of a criminal record; or

(c) A history of medical or other licensing board, state or federal disciplinary action, including any suspension from participation in a federal or state program or a previous suspension or termination from participation from the healthcare insurer.

(2) A contracting entity shall not, directly or indirectly, offer or enter into a healthcare contract that:

(a) Prohibits a participating healthcare provider from entering into a healthcare contract with another contracting entity; or

(b) Prohibits a contracting entity from entering into a healthcare contract with another healthcare provider.



(3) If a healthcare contract contains a provision that violates this section, the healthcare contract is void.

**SECTION 7.** The following shall be codified as Section 83-9-413, Mississippi Code of 1972:

83-9-413. (1) A contracting entity shall contract with any healthcare provider unless that healthcare provider has a significant history of malpractice claims, licensure or accreditation violations, license suspension or terminations, or has been barred from participation in a federal or state healthcare program and shall not, directly or indirectly, offer or enter into a healthcare contract that:

(a) Prohibits a participating healthcare provider from entering into a healthcare contract with another contracting entity; or

(b) Prohibits a contracting entity from entering into a healthcare contract with another healthcare provider.

(2) If a healthcare provider owns or operates multiple healthcare facilities or employs other healthcare providers, a contracting entity must offer a master healthcare contract to the healthcare provider that encompasses all such facilities or providers. Nothing in this section requires a contracting entity to, or prohibits a contracting entity from, offering the same terms to all facilities or healthcare providers encompassed in the master healthcare contract.



(3) If a healthcare contract contains a provision that violates this section, the violating provision of the healthcare contract is void.

**SECTION 8.** The following shall be codified as Section 83-9-415, Mississippi Code of 1972:

83-9-415. (1) Notwithstanding any provision of law to the contrary, a contracting entity is subject to the Trade Practices Act, Mississippi Code Annotated 75-24-1 et seq.

(2) The Mississippi Insurance Department shall enforce this act.

**SECTION 9.** The following shall be codified as Section 83-9-417, Mississippi Code of 1972:

83-9-417. (1) The Commissioner of Insurance shall promulgate rules necessary to ensure compliance with this article.

(2) When adopting the initial rules to ensure compliance with this article, the final rule shall be filed with the Secretary of State for adoption under the Administrative Procedures Law on or before December 31, 2022.

**SECTION 10.** This act shall take effect and be in force from and after January 1, 2023, except for Section 9 of this act which shall take effect and be in force from and after July 1, 2022.

