SPONSOR: Sen. Pinkney & Rep. Harris
Sen. Seigfried

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 334

AN ACT TO AMEND TITLES 18 AND 29 OF THE DELAWARE CODE RELATING TO HEALTH CARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underlining as follows:

Chapter 33B. Health Care Professional Access Act.

§ 3301B. Short title.

This Act is known and may be cited as the "Health Care Professional Access Act."

§ 3302B. Purpose and intent.

(a) This chapter requires carriers regulated by, or contracted with, the State to participate in a comprehensive uniform health care professional credentialing program to ensure that health care professionals meet specific minimum standards of qualification for reimbursement and to ensure that the credentialing process is clearly defined and not limiting access to health care services.

(b) Credentialing standards in this chapter are designed to promote uniformity and efficiencies among processes, set certain response standards to improve health care professional speed-to-market, and reduce the administrative burden of completing multiple, complex, and different processes.

(c) Notwithstanding any other provision of law, this chapter establishes state standards for credentialing of health care professionals and applies to all carriers that contract with health care professionals to provide health care services under state-regulated plans or contracts delivered or issued under any of the following:

(1) Title 18.

(2) Title 19.

(3) Title 29.

(4) Title 31.

§ 3303B. Definitions.

As used in this chapter:

(1) “Carrier” means any entity that provides or contracts for insurance or health benefits in this State. “Carrier” includes an insurance company, health service corporation, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to state regulation. “Carrier” also includes any dental plan organizations, pharmacy benefits managers, workers compensation carrier, personal injury protection carriers, third-party administrators, credentialing intermediaries, or any other entities that adjust, administer, or settle claims in connection with such plans or benefits. For purposes of this chapter, “carrier” includes the State’s employee health benefit plans and, to the extent permitted by federal law, the State’s Medicaid managed care organizations.

(2) “Clean application” means an application for health care professional credentialing submitted by a health care professional to a carrier that is complete and includes all information and substantiation required.

(3) "Council for Affordable Quality Healthcare” or “CAQH" is a non-profit organization which offers a single, uniform application for credentialing used in all 50 states which simplifies data collection, primary source verification, and sanctions monitoring, to support carriers’ credentialing needs.

(4) “Credentialing” means the process of assessing and verifying the qualifications of a health care professional, including an evaluation of licensure status, education, training, and experience, to determine carrier eligibility to provide health care services to a covered person and to receive reimbursement for health care services.

(5) "Credentialing intermediary" means a person to whom a carrier has delegated credentialing or recredentialing authority and responsibility.

(6) “Health care professional” means a person, corporation, facility, or institution licensed, certified, or otherwise authorized or permitted by law to provide health care services in the ordinary course of business or practice of a profession and includes a health-care provider as that term is defined in § 2301 of Title 19.

(7) “Health care services” means health care-related services or products rendered or sold by a health care professional within the scope of the professional’s license or legal authorization, including hospital, medical, behavioral, surgical, dental, vision, and pharmaceutical services, products, or dispensing.

(8) “Participating provider” means a health care professional who, under a contract with the carrier, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

(9) “Pharmacy Profiles” is a National Committee for Quality Assurance (NCQA)-certified credentials verification organization that provides verified credentialing data for health care professionals dispensing pharmaceuticals.

(10) “Provisional credentials” means the temporary credentials provided to certain health care professionals under parameters required by this chapter and effective until a point at which credentialing determinations are rendered.

(11) "Recredentialing" means the process by which a carrier ensures that a health care professional who is currently credentialed continues to meet credentialing criteria.

(12) “Uniform credentialing application” means the application created by CAQH, or the application created by Pharmacy Profiles, as applicable, for use by a carrier or its credentialing intermediary for credentialing and recredentialing a health care professional.

§ 3304B. General responsibilities of carriers.

(a) A carrier that requires provider credentialling prior to the reimbursement or settlement of claims shall do all of the following:

(1) Establish written policies and procedures for credentialing of health care professionals and apply these standards consistently.

(2) Verify the credentials of a health care professional before entering into a contract with that health care professional to be a participating provider.

(3) Establish a credentialing committee consisting of health care professionals to review credentialing information and supporting documents and make decisions regarding credentialing denials or terminations.

(4) Make available for review by health care professional applicants upon request all credentialing policies and procedures.

(5) Retain all records and documents relating to a health care professional’s provisional credentialing, initial credentialing, and recredentialing for at least 3 years from date of the record’s creation.

(6) Keep confidential all information obtained in the credentialing verification process, except as otherwise provided by law.

(b) Nothing in this chapter may be construed to require a carrier to select a health care professional as a participating provider solely because the health care professional meets the carrier’s credentialing standards, or to prevent a carrier from utilizing separate or additional criteria in selecting the health care professionals with whom it contracts.

§ 3305B. Application for credentialing, recredentialing.

(a) Beginning January 1, 2028, a carrier or its credentialing intermediary may not use any credentialing application other than the uniform credentialing application.

(b) A carrier shall do all of the following:

(1) Accept the uniform credentialing application as the sole application for a health care professional to become credentialed or recredentialed.

(2) Make the uniform credentialing application available to any health care professional to be credentialed or recredentialed by that carrier or credentialing intermediary.

(3) Accept the credentialing application of other states when a health care professional practices outside the State and prefers to use the credentialing application required by their primary or home state.

(4) Accept applications through an online credentialing system.

(c)(1) A carrier may not require a health care professional to complete recredentialing within 3 years of the health care professional's most recent successful credentialing application.

(2) A carrier shall notify health care professionals in writing not less than 90 days before recredentialing is required. The notices required therein must be delivered to the health care professional electronically and by certified mail or by USPS Intelligent Mail barcode. Proof of mailing such notices are subject to the records retention requirements of this chapter.

(d) A carrier may not charge a fee to health care professionals for processing a credentialing application.

(e) If a credentialed health care professional changes employment or location, opens an additional location, or joins a new health care facility, a carrier may only require submission of the new information as it is necessary to continue the health care professional's credentials and may not require a new credentialing application.

§ 3306B. Health care professional's right to review credentialing information.

(a) Each health care professional subject to credentialing has the right to review all information, including the source of that information, obtained by the carrier to satisfy the requirements of this chapter during the carrier's credentialing process.

(b) A carrier shall notify a health care professional of any information obtained during the credentialing process that does not meet the carrier's credentialing standards or that varies substantially from the information provided to the carrier by the health care professional, except that the carrier is required to reveal the source of the information if the information is not obtained to meet the requirements of this chapter, or if disclosure is prohibited by law.

(c) A health care professional has the right to correct any erroneous information obtained by a carrier during the credentialing process. A carrier must have a formal process by which a health care professional may submit supplemental

or corrected information to the carrier's credentialing committee and request a reconsideration of the health care professional's credentialing application if the health care professional believes that the carrier's credentialing committee has received information that is incorrect or misleading. Supplemental information is subject to confirmation by the carrier.

§ 3307B. Credentialing and recredentialing.

(a) Within 15 days of receipt of a uniform credentialing application, a carrier shall send to the health care professional notice of either of the following:

(1) The carrier's confirmation that the submission was a clean application.

(2) Notice that the credentialing application is incomplete. Failure to provide notice within the required timeframe deems the application complete.

a. A carrier that receives an incomplete application shall return it to the health care professional with a comprehensive list of all corrections needed.

b. If the requested information is not received within 30 days, the carrier may treat the application as withdrawn, and no further carrier action is required.

(b) If under subsection (a) of this section, a carrier provides confirmation of a clean application, the carrier will, within 30 days after the confirmation is provided, do one of the following:

(1) Accept the health care professional's credentialing application and issue notice to the health care professional.

(2) Provide notice that the carrier needs additional time to render the credentialing decision, with an explanation of the reasons for the delay, an estimate of the time necessary to complete the review, and notice of provisional credentialing information as required by this chapter.

(3) Deny the health care professional's credentialing application.

(c) A carrier must provide each applicant notice of the outcome of the applicant's credentialing within 10 calendar days after the conclusion of the process.

§ 3308B. Provisional credentialing.

(a) Carriers must provide provisional credentials to health care professionals who have submitted the uniform credentialing application from the date of notice of a clean application, effective until the credentialing application is approved or denied, under any of the following circumstances:

(1) When the carrier fails to make a credentialing decision on a clean credentialing application within the period required by § 6207(b) of this title.

(2) When the health care professional's primary employment is serving in a relevant Health Professional Shortage Area as designated by the U.S. Health Resources and Services Administration.

(3) When the health care professional's primary employment is within a Federally-Qualified Health Center.

(4) When the health care professional is actively credentialed by the carrier at a different facility or location within Delaware.

(5) When the health care professional is actively credentialed by the carrier in a different state with reciprocity of licensure to Delaware and relocating to Delaware or providing multistate care including care in Delaware.

(b) The carrier may not issue provisional credentialing if the health care professional disclosed a history of malpractice claims within 10 calendar years of the application or licensing board disciplinary actions in its uniform credentialing application.

(c) If, on completion of the credentialing process, the carrier denies an application for a health care professional that has received provisional credentialing, the carrier may recover an amount equal to the reimbursements collected by the health care professional within 120 days of the denial.

§ 3309B. Payments to health care professionals for services rendered during pendency of credentialing.

(a) A carrier must pay claims for services rendered by a health care professional prior to credentialing from the date a complete application for credentialing is submitted to the carrier as long as credentials are granted to that health care professional by the carrier in accordance with the requirements of this chapter.

(b) A health care professional intending to submit a claim pursuant to this subsection may not submit the claim until notified by the carrier of the effective date of any credentials.

(c) If a claim is submitted prior to the date credentials are granted, the carrier may process that claim in the same manner as a claim submitted by a non-network health care professional.

§ 3310B. Denial, suspension, nonrenewal, and termination of credentialing.

(a)(1) A carrier may not deny, suspend, nonrenew, or terminate a health care professional's credentials unless the carrier provides a written explanation prior to the termination or nonrenewal that include all of the following:

a. The reason or reasons for the proposed action in sufficient detail to permit the health care professional to respond.

b. Reference to the evidence or documentation underlying the carrier's decision to pursue the proposed action.

c. Notice that the health care professional has the right to request, within 30 days of receipt of the written explanation, a hearing before a panel appointed by the carrier.

(2) If the health care professional requests a hearing pursuant to paragraph (a)(1)c. of this section, all of the following apply:

a. A hearing date must be within 30 days of the date of receipt of a request for a hearing.

b. A hearing panel must be composed of at least 3 health care professionals appointed by the carrier, and one person on the hearing panel must be a clinical peer in the same discipline and the same or similar specialty as the health care professional under review. A hearing panel may be composed of more than 3 health care professionals if the number of clinical peers on the hearing panel constitutes 1/3 or more of the total membership of the panel. Any compensation paid to the panel may not be contingent upon the outcome of the review.

c. A hearing panel must render a decision on the proposed action in a timely manner. This decision must be either the reinstatement of the health care professional by the carrier, the provisional reinstatement of the health care professional subject to conditions established by the carrier, or uphold the termination or nonrenewal of the health care professional's credentials.

d. A decision by a hearing panel to terminate or nonrenew a health care professional's credentials may not become effective less than 60 days after the receipt by the health care professional of the hearing panel's decision.

(b) Termination or nonrenewal of credentials may not be effective earlier than 60 days from the receipt of the notice of termination or nonrenewal.

(c) This section does not apply to termination cases involving imminent harm to patient care, a final determination of fraud by a governmental agency, or a final disciplinary action by a state licensing board or other governmental agency that impairs the ability of a health care professional to practice.

(d) A carrier may deny, suspend, nonrenew, or terminate a health care professional's credentials for 1 or more of the following causes:

(1) Not having verification of current insurance required by the State to practice and provide health care services.

(2) Not being in good standing with state, federal, or accrediting bodies.

(3) Not having an active license.

(4) Having patterns of licensure compliance issues or having other issues as reported by accrediting bodies.

(5) Having substantiated complaint and grievance trends regarding patient care, care quality, incidents, and utilization management.

(6) Having program monitoring or certification compliance issues or trends.

(7) Committing fraud, abuse, or other intentional misconduct as indicated by physical review of claims data or statements.

(8) Failing to submit recredentialing application when required.

(e) A carrier may not deny, suspend, nonrenew, or terminate a health care professional's credentialing based solely on the health care professional's provision of legally protected health care activity, or aiding and assisting with legally protected health care activity, provided that the care provided by the health care professional was consistent with the applicable professional standard of care and did not violate Delaware law.

§3311B. Complaints and penalties

(a) Complaints and allegations of violations of this chapter may be filed with the state agency regulating relevant carrier activities. If the agency to whom the complaint is addressed determines it to be more appropriate for another agency to process it, it may be referred to them.

(b) An entity in violation of the provisions of this chapter may be subject to an award of damages to the health care professional complainant that may not exceed $500 per day carrier action was delayed, or $5,000 in total per incident of noncompliance.

§ 3312B. Certification of Workers Compensation Health Care Providers.

(a) Nothing in this chapter may be construed to supersede, limit, or otherwise interfere with the provisions set forth in §§ 2322A-F of Title 19 relating to the certification of workers compensation health care providers.

(b) A health care provider that has been certified under Chapter 23 of Title 19 may not be required by a carrier to also be credentialed pursuant to this chapter in order to be reimbursed for services provided pursuant to the workers compensation laws.

Section 2. Amend § 5204, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(c) The health-care insurance coverage shall be provided by a carrier operating in accordance with Chapter 33B of Title 18.

Section 3. Effective date. This Act takes effect January 1, 2028.

SYNOPSIS

The Health Care Professional Access Act requires carriers to participate in uniform processes with specific timetables to create speed-to-market for health care professionals. Currently, health care professionals may be employed for 6 months or more with no ability to collect insurer reimbursement due to lengthy carrier credentialing process. Ensuring uniformity across carriers, as well as relevant procedural standards, will help attract and retain health care professionals in our state, enable movement between practices and the creation of new ones, and ensure nondiscrimination in credentialing decisions.

Under this Act, credentialing processes are limited to 45 days. This Act additionally provides for provisional credentialing, whereby reimbursement ability is provided even more quickly for certain health care professionals, including FQHCs, and in designated shortage areas which currently include mental health professionals statewide and primary and dental care in Kent and Sussex Counties, or is offered if timelines are not met. Oversight of compliance with this Act falls to the applicable regulatory agency. The Act also ensures specific processes and health care professional rights during a carrier's intent to terminate a credential.

More than 30 states have credentialing standards in law, with additional jurisdictions considering relevant legislation. Components of this legislation are derived from the National Association of Insurance Commissioners' Health Care Professional Credentialing Verification Model Act.

Author: Senator Pinkney