



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
www.state.sd.us/atg

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

HAND-DELIVERED

August 12, 2013

The Honorable Jason Gant
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Health Care Provider Initiated Measure

Dear Secretary Gant,

This Office received an initiated measure from attorney Michael Shaw on behalf of the measure's sponsors, Dr. Peter Looby, Dr. Stephen Eckrich, and Dr. Paul Cink, pursuant to SDCL 12-13-25.1. In accordance with that statute, enclosed is the Attorney General's Statement prepared with respect to this measure. I also enclose a copy of the initiated measure, in final form, that was submitted to this Office.

By copy of this letter, I am providing Mr. Shaw with the same.

Sincerely,

A handwritten signature in black ink, appearing to read "Marty J. Jackley".

Marty J. Jackley
ATTORNEY GENERAL

MJJ/lde
Enclosures

cc w/ enc. Mr. Michael Shaw

RECEIVED
AUG 12 2013
S.D. SEC. OF STATE

INITIATED MEASURE
ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure to require health insurers to include all willing and qualified health care providers on their provider lists.

Explanation:

Some health insurers offer health benefit plans in which the insurer maintains a list of health care providers. Plan members must use listed providers in order to obtain the maximum plan coverage, or to have coverage at all. "Health care providers" include doctors and other licensed health care professionals, clinics and hospitals.

The initiated measure establishes who is entitled to be on the insurer's list of providers. The measure requires that these insurers list all health care providers who are willing, qualified and meet the conditions for participation established by the insurer.

The measure does not apply to all health insurers, nor to certain kinds of insurance and plans including those involving specified disease, indemnity, accident only, dental, vision, Medicare supplement, long-term care or disability income, and workers' compensation.

INITIATED MEASURE _____

FOR AN ACT ENTITLED, An Act to ensure patient choice in the selection of health care providers.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF SOUTH DAKOTA:

Section 1. No health insurer, including the South Dakota Medicaid program, may obstruct patient choice by excluding a health care provider licensed under the laws of this state from participating on the health insurer's panel of providers if the provider is located within the geographic coverage area of the health benefit plan and is willing and fully qualified to meet the terms and conditions of participation as established by the health insurer.

Section 2. Terms used in this Initiated Measure mean:

- (1) "Health benefit plan," any hospital or medical expense policy or certificate, hospital or medical service plan, nonprofit hospital, medical-surgical health service corporation contract or certificate, provider sponsored integrated health delivery network, self-insured plan or plan provided by multiple employer welfare arrangements, health maintenance organization subscriber contract of more than six-month duration, or any health benefit plan that affects the rights of a South Dakota insured and bears a reasonable relation to South Dakota, whether delivered or issued for delivery in South Dakota. The term does not include specified disease, hospital

indemnity, fixed indemnity, accident only, credit, dental, vision, Medicare supplement, long-term care or disability income insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, or any plan or coverage exempted from state regulation by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 18;

- (2) "Health insurer," any entity within the definitions set forth in subdivisions 58-17F-1(11), (12), and (15), any entity offering a health benefit plan as defined by § 58-17F-2, all self-insurers or multiple employer welfare arrangements, and self-insured employer-organized associations. The term does not include any entity exempted from state regulation by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 18;
- (3) "Health care provider," any individual or entity within the scope of the definition of health care provider as defined by subdivision 58-17F-1(9).