

## Public Policy Position: Any Willing Provider Statutes

The National Association of Vision Care Plans (NAVCP) is the unified voice for the managed vision care industry. The association provides a forum for cooperative industry collaboration on initiatives that work to preserve and strengthen consumer access to affordable vision insurance and benefits. NAVCP member companies cover approximately 170 Million (53 percent) Americans by partnering with eye care professionals in all 50 states and Puerto Rico.

### Background

“Any Willing Provider” (AWP) statutes, sometimes referred to as “Any Authorized Provider,” are laws that require health insurance and specialty health carriers to allow health care providers to become members of the carriers’ networks of providers if certain conditions are met.

Such statutes prohibit insurance carriers from limiting membership within their provider networks based upon geography or other characteristics, so long as a provider is willing and able to meet the conditions of network membership set by the carrier.

Laws can be broad in scope, applying to all or most licensed providers in the state. Broad laws typically either spell out a list of providers covered by the provisions (e.g., physicians, pharmacists, chiropractors, speech therapists, podiatrists, optometrists, facilities, etc.) or assert that the provisions apply to all providers licensed in the state without specifically listing any.

Laws can also be limited in scope. Frequently, the limited provisions apply to only pharmacies or pharmacists. In some cases, they apply to a limited number of allied professionals such as chiropractors, optometrists, psychologists and social workers.

Nearly 30 states currently have AWP statutes, including Alabama, Arkansas, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, North Dakota, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin and Wyoming. Many of these laws have been in force for decades; however, the most recent enacted law changes were passed in 2013. On Nov. 7, 2014 South Dakota voters [approved](#) a broad any willing provider binding ballot question.

### ***The Employee Retirement Income Security Act (ERISA) and Federal Preemption***

As with most state regulation of insurance, AWP laws generally apply to only state-regulated policies, especially "fully funded" insurance, and do not apply to "self-funded" insurance plans, such as those offered by the largest employers.

ERISA creates rules and standards for employers who choose to offer pensions and health benefits to employees. ERISA prevents states from imposing conditions on such "ERISA-protected" health insurance plans. This is known as federal preemption of state laws. Examples of AWP statutes that have been preempted by ERISA include:

**Louisiana:** LSA-R.S. 40:2202 and

**Texas:** V.T.C.A., Insurance Code Art. 21.52B.

Additional information is available at: <http://www.ncsl.org/research/health/any-willing-or-authorized-providers.aspx><sup>1</sup>

**Position: Oppose**

NAVCP opposes AWP statutes because they diminish the exclusivity value of preferred provider networks for optometrists, which eliminates a competitive tool for vision care plans. AWP statutes:

- Create less incentive for optometrists to negotiate discounted rates and participate in a provider network in return for increased patient flow.
- Without the ability to guarantee exclusivity, make it difficult for NAVCP members to recruit optometrists and manage a network for their members, particularly when a carrier enters a new market. AWP laws can inadvertently create less competition and reduced ability for existing competitors to respond to market needs and demands.
- Increase premium costs for employers and covered consumers because plans experience higher administrative costs for credentialing, re-credentialing and network maintenance .
- Limit competition and covered consumer access to appropriate care.
- Contribute to poorer, not better, disease outcomes because existing AWP rules are vague about what optometrists must contractually agree to provide as a participant in the network.

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<sup>1</sup> National Conference of State Legislatures, <http://www.ncsl.org/research/health/any-willing-or-authorized-providers.aspx>