

SENATE BILL 789

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1999 Regular Session  
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By: **Senators Hollinger and Bromwell**  
Introduced and read first time: March 8, 1999  
Assigned to: Rules  
Re-referred to: Finance, March 11, 1999

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 26, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Health Maintenance**  
3 **Organization (HMO) Quality Assurance Unit - Quality Assurance Medical**  
4 **Director**

5 FOR the purpose of establishing a Health Maintenance Organization (HMO) Quality  
6 Assurance Unit in the Department of Health and Mental Hygiene; requiring  
7 that the Secretary appoint a Quality Assurance Medical Director for the Unit;  
8 requiring that the Quality Assurance Medical Director be a physician who is  
9 licensed in the State and establishing certain other qualifications for the  
10 Quality Assurance Medical Director; ~~establishing a term of office for the Quality~~  
11 ~~Assurance Medical Director~~; requiring the HMO Quality Assurance Unit to  
12 investigate quality of care complaints referred from the Insurance  
13 Commissioner and enforce certain other statutory and regulatory requirements  
14 relating to the quality of health care provided by health maintenance  
15 organizations; requiring the Quality Assurance Medical Director to determine  
16 whether a health maintenance organization meets certain statutory and  
17 regulatory requirements relating to the quality of health care provided by a  
18 health maintenance organization and make recommendations for corrective  
19 ~~changes or new arrangements~~ action necessary to meet these requirements;  
20 authorizing the Secretary to take certain action under certain circumstances;  
21 authorizing the Insurance Commissioner to suspend, revoke, or refuse to renew  
22 the certificate of the medical director of a health maintenance organization  
23 under certain circumstances; repealing the authority of the Secretary to send a  
24 written directive to the Insurance Commissioner directing the Insurance  
25 Commissioner to take certain actions; authorizing the Insurance Commissioner  
26 to impose certain penalties on a health maintenance organization under certain  
27 circumstances; requiring the Insurance Commissioner to give certain notice to

1 the Secretary under certain circumstances; repealing provisions that require the  
 2 Insurance Commissioner to give certain notice to a health maintenance  
 3 organization and hold a hearing before taking certain actions; authorizing the  
 4 Secretary to issue certain orders and impose certain penalties under certain  
 5 circumstances; providing that an aggrieved party is entitled to certain rights of  
 6 appeal if the Secretary takes certain action; ~~making certain appeal provisions~~  
 7 ~~inapplicable to a certain order issued by the Insurance Commissioner at the~~  
 8 ~~request of the Secretary~~; defining certain terms; making certain conforming  
 9 changes; and generally relating to the Department of Health and Mental  
 10 Hygiene and health maintenance organizations.

11 BY repealing and reenacting, without amendments,  
 12 Article - Health - General  
 13 Section 19-702(b)(3), 19-705.2, and 19-729  
 14 Annotated Code of Maryland  
 15 (1996 Replacement Volume and 1998 Supplement)

16 BY adding to  
 17 Article - Health - General  
 18 Section 19-705.8 and 19-731  
 19 Annotated Code of Maryland  
 20 (1996 Replacement Volume and 1998 Supplement)

21 BY repealing and reenacting, with amendments,  
 22 Article - Health - General  
 23 Section 19-728, 19-730, ~~19-732~~, and 19-733  
 24 Annotated Code of Maryland  
 25 (1996 Replacement Volume and 1998 Supplement)

26 BY repealing  
 27 Article - Health - General  
 28 Section 19-731 and 19-732  
 29 Annotated Code of Maryland  
 30 (1996 Replacement Volume and 1998 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 32 MARYLAND, That the Laws of Maryland read as follows:

33 **Article - Health - General**

34 19-702.

35 (b) To carry out the intent of subsection (a) of this section, the policy of this  
 36 State is to:

37 (3) Provide for regulation of:

1 (i) The quality of health care, by the Department and by  
2 professional standards review organizations where appropriate; and

3 (ii) All other matters covered under this subtitle, by the  
4 Commissioner; and

5 19-705.2.

6 (a) With the advice of the Secretary, the Commissioner shall adopt regulations  
7 to establish a system for the receipt and timely investigation of complaints of  
8 members and subscribers of health maintenance organizations concerning the  
9 operation of any health maintenance organization in this State.

10 (b) The complaint system shall include:

11 (1) A procedure for the timely acknowledgment of receipt of a complaint;

12 (2) Criteria that the Secretary shall adopt by regulation for determining  
13 the appropriate level of investigation for a complaint concerning quality of care,  
14 including:

15 (i) A determination as to whether the member or subscriber with  
16 the complaint previously attempted to have the complaint resolved; and

17 (ii) A determination as to whether a complaint should be sent to the  
18 member's or subscriber's health maintenance organization for resolution prior to  
19 investigation under the provisions of this section; and

20 (3) A procedure for the referral of quality of care complaints to the  
21 Secretary for an appropriate investigation.

22 (c) If a determination is made to investigate a complaint under the provisions  
23 of this section prior to the member or subscriber attempting to otherwise resolve the  
24 complaint, the reasons for that determination shall be documented.

25 (d) Notice of the complaint system established under the provisions of this  
26 section shall be included in all contracts between a health maintenance organization  
27 and a member or subscriber of a health maintenance organization.

28 (e) For quality of care complaints referred to the Secretary for investigation  
29 under subsection (b)(3) of this section, the Secretary shall report to the Commissioner  
30 in a timely manner on the results and findings of each investigation.

31 19-705.8.

32 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
33 INDICATED.

34 (2) "HMO QUALITY ASSURANCE UNIT" MEANS THE HEALTH  
35 MAINTENANCE ORGANIZATION (HMO) QUALITY ASSURANCE UNIT IN THE  
36 DEPARTMENT.

1 (3) "QUALITY ASSURANCE MEDICAL DIRECTOR" MEANS THE MEDICAL  
2 DIRECTOR OF THE HMO QUALITY ASSURANCE UNIT.

3 (B) THERE IS A HEALTH MAINTENANCE ORGANIZATION (HMO) QUALITY  
4 ASSURANCE UNIT IN THE DEPARTMENT.

5 (C) (1) THE SECRETARY SHALL APPOINT THE QUALITY ASSURANCE  
6 MEDICAL DIRECTOR.

7 (2) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL:

8 (I) BE A PHYSICIAN WHO IS LICENSED IN THE STATE;

9 (II) BE BOARD CERTIFIED IN AT LEAST ONE SPECIALTY;

10 (III) HAVE EXPERIENCE IN PRIMARY CARE AND ADMINISTRATIVE  
11 MEDICINE; AND

12 (IV) HAVE BROAD KNOWLEDGE OF HEALTH MAINTENANCE  
13 ORGANIZATIONS AND MANAGED CARE ORGANIZATIONS.

14 ~~(3) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL SERVE FOR A  
15 TERM OF 4 YEARS THAT COINCIDES WITH THE TERM OF THE COMMISSIONER.~~

16 ~~(4)~~ (3) THE QUALITY ASSURANCE MEDICAL DIRECTOR IS ENTITLED TO  
17 THE COMPENSATION PROVIDED IN THE STATE BUDGET.

18 ~~(5)~~ (4) SUBJECT TO THE AUTHORITY VESTED IN THE SECRETARY BY  
19 LAW, THE QUALITY ASSURANCE MEDICAL DIRECTOR IS IN CHARGE OF AND  
20 RESPONSIBLE FOR THE CLINICAL OPERATIONS OF THE HMO QUALITY ASSURANCE  
21 UNIT.

22 ~~(6)~~ (5) IN ACCORDANCE WITH THE STATE BUDGET ~~AND SUBJECT TO~~  
23 ~~THE AUTHORITY VESTED IN THE SECRETARY BY LAW, THE QUALITY ASSURANCE~~  
24 ~~MEDICAL DIRECTOR~~ THE SECRETARY MAY EMPLOY STAFF FOR THE HMO QUALITY  
25 ASSURANCE UNIT.

26 (D) THE HMO QUALITY ASSURANCE UNIT SHALL:

27 (1) ENFORCE ALL REQUIREMENTS ESTABLISHED UNDER §§ 19-705 AND  
28 19-705.1 OF THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THESE  
29 PROVISIONS REGARDING THE QUALITY OF HEALTH CARE PROVIDED BY A HEALTH  
30 MAINTENANCE ORGANIZATION; AND

31 (2) INVESTIGATE QUALITY OF CARE COMPLAINTS REFERRED TO THE  
32 SECRETARY UNDER § 19-705.2(B)(3) OF THIS SUBTITLE.

33 (E) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL:

34 (1) DETERMINE WHETHER A HEALTH MAINTENANCE ORGANIZATION  
35 MEETS THE REQUIREMENTS ESTABLISHED UNDER §§ 19-705 AND 19-705.1 OF THIS

1 SUBTITLE AND THE REGULATIONS ADOPTED UNDER THESE PROVISIONS REGARDING  
 2 THE QUALITY OF HEALTH CARE PROVIDED BY A HEALTH MAINTENANCE  
 3 ORGANIZATION; AND

4 ~~(2) MAKE RECOMMENDATIONS FOR CORRECTIVE CHANGES OR NEW~~  
 5 ~~ARRANGEMENTS TO MEET THESE REQUIREMENTS.~~

6 (2) MAKE RECOMMENDATIONS TO THE SECRETARY FOR CORRECTIVE  
 7 ACTION NECESSARY TO MEET THESE REQUIREMENTS.

8 (F) IF THE SECRETARY AGREES WITH A DETERMINATION MADE BY THE  
 9 QUALITY ASSURANCE MEDICAL DIRECTOR THAT A HEALTH MAINTENANCE  
 10 ORGANIZATION DOES NOT MEET THE REQUIREMENTS ESTABLISHED UNDER §§  
 11 19-705 AND 19-705.1 OF THIS SUBTITLE OR THE REGULATIONS ADOPTED UNDER  
 12 THESE PROVISIONS REGARDING THE QUALITY OF HEALTH CARE PROVIDED BY A  
 13 HEALTH MAINTENANCE ORGANIZATION, THE SECRETARY MAY:

14 ~~(1) ISSUE AN ORDER UNDER § 19-731 OF THIS SUBTITLE; OR.~~

15 ~~(2) SEND A WRITTEN DIRECTIVE TO THE COMMISSIONER UNDER §~~  
 16 ~~19-728(A) OF THIS SUBTITLE THAT:~~

17 ~~(1) SETS OUT THE QUALITY ASSURANCE MEDICAL DIRECTOR'S~~  
 18 ~~FINDINGS AND THE REASONS FOR THE FINDINGS; AND~~

19 ~~(H) DIRECTS THE COMMISSIONER TO SUSPEND, REVOKE, OR~~  
 20 ~~REFUSE TO RENEW THE CERTIFICATE OF AUTHORITY OF THE HEALTH~~  
 21 ~~MAINTENANCE ORGANIZATION OR TAKE ANY OTHER APPROPRIATE ACTION,~~  
 22 ~~INCLUDING, IF APPLICABLE, IMPOSITION OF ANY OF THE SANCTIONS SPECIFIED IN §~~  
 23 ~~19-730 OF THIS SUBTITLE FOR A VIOLATION OF § 19-729 OF THIS SUBTITLE.~~

24 19-728.

25 (a) ~~(1) If, as to a matter that is within the jurisdiction of the Department~~  
 26 ~~under this subtitle, the Secretary finds that a health maintenance organization does~~  
 27 ~~not meet the requirements of this subtitle or the rules and regulations adopted under~~  
 28 ~~it [and cannot or will not make corrective changes or new arrangements to meet~~  
 29 ~~these requirements], the Secretary may send to the Commissioner a written directive~~  
 30 ~~that sets out the findings of the Secretary and reasons for them and directs the~~  
 31 ~~Commissioner to suspend [or revoke], REVOKE, OR REFUSE TO RENEW the certificate~~  
 32 ~~of authority of the health maintenance organization or to take any other appropriate~~  
 33 ~~action that the Secretary specifies, INCLUDING, IF APPLICABLE, IMPOSITION OF ANY~~  
 34 ~~OF THE SANCTIONS SPECIFIED IN § 19-730 OF THIS SUBTITLE FOR A VIOLATION OF §~~  
 35 ~~19-729 OF THIS SUBTITLE.~~

36 ~~(2) The Commissioner shall comply with [the] A directive ISSUED BY~~  
 37 ~~THE SECRETARY UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

38 ~~(b) The Commissioner is responsible for:~~

1 (1) Determining whether each health maintenance organization is or  
2 will be able to provide a fiscally sound operation and adequate provision against risk  
3 of insolvency and may adopt reasonable rules and regulations designed to achieve this  
4 goal; and

5 (2) Actuarial and financial evaluations and determinations of each  
6 health maintenance organization.

7 ~~(A)~~ (B) (1) If the Commissioner determines that a health maintenance  
8 organization is not operating in a fiscally sound manner, the Commissioner shall  
9 notify the Department of the determination.

10 (2) After notifying the Department in accordance with the provisions of  
11 paragraph (1) of this subsection, the Commissioner shall monitor the health  
12 maintenance organization on a continuous basis until the Commissioner determines  
13 that the health maintenance organization is operating in a fiscally sound manner.

14 19-729.

15 (a) A health maintenance organization may not:

16 (1) Violate any provision of this subtitle or any rule or regulation  
17 adopted under it;

18 (2) Fail to fulfill its obligations to provide the health care services  
19 specified in its contracts with subscribers;

20 (3) Make any false statement with respect to any report or statement  
21 required by this subtitle or by the Commissioner under this subtitle;

22 (4) Advertise, merchandise, or attempt to merchandise its services in a  
23 way that misrepresents its services or capacity for service;

24 (5) Engage in a deceptive, misleading, unfair, or unauthorized practice  
25 as to advertising or merchandising;

26 (6) Prevent or attempt to prevent the Commissioner or the Department  
27 from performing any duty imposed by this subtitle;

28 (7) Fraudulently obtain or fraudulently attempt to obtain any benefit  
29 under this subtitle;

30 (8) Fail to fulfill the basic requirements to operate as a health  
31 maintenance organization as provided in § 19-710 of this subtitle;

32 (9) Violate any applicable provision of Title 15, Subtitle 12 of the  
33 Insurance Article;

34 (10) Fail to provide services to a member in a timely manner as provided  
35 in § 19-705.1(b)(1) of this subtitle;

1 (11) Fail to comply with the provisions of Title 15, Subtitle 10A, 10B, or  
2 10C or § 2-112.2 of the Insurance Article; or

3 (12) Violate any provision of § 19-712.5 of this subtitle.

4 (b) If any health maintenance organization violates this section, the  
5 Commissioner may pursue any one or more of the courses of action described in §  
6 19-730 of this subtitle.

7 19-730.

8 (A) If any person violates any provision of § 19-729 of this subtitle, the  
9 Commissioner may:

10 (1) Issue an administrative order that requires the health maintenance  
11 organization to:

12 (i) Cease inappropriate conduct or practices by it or any of the  
13 personnel employed or associated with it;

14 (ii) Fulfill its contractual obligations;

15 (iii) Provide a service that has been denied improperly;

16 (iv) Take appropriate steps to restore its ability to provide a service  
17 that is provided under a contract;

18 (v) Cease the enrollment of any additional enrollees except  
19 newborn children or other newly acquired dependents or existing enrollees; or

20 (vi) Cease any advertising or solicitation;

21 (2) Impose a penalty of not more than \$5,000 for each unlawful act  
22 committed;

23 (3) Suspend [or revoke], REVOKE, OR REFUSE TO RENEW the certificate  
24 of authority to do business as a health maintenance organization;

25 (4) SUSPEND, REVOKE, OR REFUSE TO RENEW THE CERTIFICATE OF A  
26 MEDICAL DIRECTOR OF A HEALTH MAINTENANCE ORGANIZATION;

27 (5) IMPOSE ANY PENALTY THAT COULD BE IMPOSED ON AN INSURER  
28 UNDER § 4-113(D) OF THE INSURANCE ARTICLE; or

29 [(4)] (6) Apply to any court for legal or equitable relief considered  
30 appropriate by the Commissioner or the Department, in accordance with the joint  
31 internal procedures.

32 (B) IF THE COMMISSIONER ISSUES AN ORDER OR IMPOSES ANY PENALTY  
33 UNDER THIS SECTION, THE COMMISSIONER IMMEDIATELY SHALL PROVIDE WRITTEN  
34 NOTICE OF THE ORDER OR PENALTY TO THE SECRETARY.

1 [19-731.

2 (a) Before the Commissioner or the Department takes any action under §  
3 19-728(a), § 19-729, or § 19-730 of this subtitle, the Commissioner shall give a  
4 written notice to the health maintenance organization or its agent or to the officer of  
5 the organization who is accused of violating the law, that states specifically the  
6 nature of the alleged violation and sets a time, place, and date that a hearing of the  
7 matter will be held. The hearing date may not be less than 10 days after the notice.

8 (b) After the hearing or on failure of the accused to appear at the hearing, and  
9 in accordance with rules and regulations adopted under this subtitle, the  
10 Commissioner may impose any of the penalties described in § 19-730 of this subtitle  
11 that the Commissioner considers advisable.]

12 19-731.

13 IF A PERSON VIOLATES ANY PROVISION OF ~~§ 19-729 §§ 19-705 AND 19-705.1 OF~~  
14 THIS SUBTITLE, THE SECRETARY, ~~IN ADDITION TO ANY ACTION TAKEN UNDER §~~  
15 ~~19-728(A) OF THIS SUBTITLE,~~ MAY:

16 (1) ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE HEALTH  
17 MAINTENANCE ORGANIZATION TO:

18 (I) CEASE INAPPROPRIATE CONDUCT OR PRACTICES BY IT OR ANY  
19 OF THE PERSONNEL EMPLOYED BY OR ASSOCIATED WITH IT AND COMPLY WITH THE  
20 STANDARDS ESTABLISHED BY THE DEPARTMENT; OR

21 (II) PROVIDE ANY SERVICE REQUIRED BY §§ 19-705 AND 19-705.1 OF  
22 THIS SUBTITLE THAT HAS BEEN DENIED IMPROPERLY;

23 (2) IMPOSE A PENALTY OF NOT LESS THAN \$100 AND NOT MORE THAN  
24 \$125,000 FOR EACH VIOLATION; OR

25 ~~(3) REQUIRE THE HEALTH MAINTENANCE ORGANIZATION TO MAKE~~  
26 ~~RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF~~  
27 ~~THE VIOLATION; OR~~

28 ~~(4)~~ (3) APPLY TO ANY COURT FOR LEGAL OR EQUITABLE RELIEF  
29 CONSIDERED APPROPRIATE BY THE SECRETARY.

30 ~~19-732.~~

31 ~~If the [Department] SECRETARY takes action under § 19-728(a) of this subtitle~~  
32 ~~that obligates the Commissioner to take action in any of the ways provided [by]~~  
33 ~~UNDER §§ 19-729 [through 19-731] AND 19-730 of this subtitle OR TAKES ACTION~~  
34 ~~UNDER § 19-731 OF THIS SUBTITLE, the aggrieved party, insofar as the appeal relates~~  
35 ~~to the action of the [Department] SECRETARY, may:~~

36 ~~(1)~~ (1) Appeal that decision to the Board of Review of the Department; and

1                   (2)       Then take any further appeal allowed by the Administrative  
2 Procedure Act.

3 ~~19-733. 19-732.~~

4       (A)       [Any] ~~EXCEPT FOR AN ORDER THAT IS ISSUED BY THE COMMISSIONER AS~~  
5 ~~DIRECTED BY THE SECRETARY UNDER § 19-728(A) OF THIS SUBTITLE~~; A party  
6 aggrieved by a final action of the Commissioner under this subtitle has the right to a  
7 hearing and the right to appeal from the action of the Commissioner under §§ 2-210  
8 through 2-215 of the Insurance Article.

9       (B)       A PARTY AGGRIEVED BY AN ORDER OF THE SECRETARY UNDER THIS  
10 SUBTITLE MAY APPEAL THAT ORDER TO THE BOARD OF REVIEW OF THE  
11 DEPARTMENT AND TAKE ANY FURTHER APPEAL ALLOWED UNDER THE STATE  
12 GOVERNMENT ARTICLE.

13       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 1999.