

SENATE BILL 52

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C3

2000 Regular Session  
(01r0094)

*ENROLLED BILL*  
-- Finance/Economic Matters --

Introduced by **Chairman, Finance Committee (Departmental - Insurance Administration, Maryland)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER 31

1 AN ACT concerning

2 **Health Insurance - Dental Plan Organizations**

3 FOR the purpose of requiring dental plan organizations to meet certain capital and  
4 surplus requirements; requiring dental plan organizations to deposit a certain  
5 amount of security with the Maryland Insurance Commissioner or a certain  
6 organization or trustee; specifying the purpose of the deposit requirement;  
7 authorizing the Commissioner to reduce or eliminate the deposit requirement  
8 under certain circumstances; authorizing the Commissioner to impose certain  
9 penalties against dental plan organizations under certain circumstances;  
10 authorizing the Commissioner to require dental plan organizations to make  
11 restitution to a person who suffered financial injury; providing a certain  
12 exception to certain requirements for certain dental plan organizations under  
13 certain circumstances; and generally relating to dental plan organizations,  
14 capital and surplus requirements, and penalties.

15 BY repealing and reenacting, without amendments,

1 Article - Insurance  
2 Section 14-401  
3 Annotated Code of Maryland  
4 (1997 Volume and 1999 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article - Insurance  
7 Section 14-404 and 14-409  
8 Annotated Code of Maryland  
9 (1997 Volume and 1999 Supplement)

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

12 **Article - Insurance**

13 14-401.

14 (a) In this subtitle the following words have the meanings indicated.

15 (b) "Dental plan" means a contractual arrangement for dental services.

16 (c) "Dental plan organization" means a person that provides directly, arranges  
17 for, or administers a dental plan on a prepaid or postpaid individual or group  
18 capitation basis.

19 (d) "Dental service" means a service included in practicing dentistry as  
20 defined in § 4-101 of the Health Occupations Article.

21 (e) "Enrollee" means an individual or dependent of the individual who is  
22 enrolled in a dental plan.

23 (f) "Evidence of coverage" means a contract or certificate that is issued to an  
24 enrollee and that specifies the dental services to which the enrollee is entitled.

25 14-404.

26 (a) In accordance with this section, a dental plan organization shall [obtain a  
27 bond or possess surplus for the protection of enrollees] HAVE AND MAINTAIN AT ALL  
28 TIMES A SURPLUS EQUAL TO THE GREATER OF:

29 (1) \$50,000; OR

30 (2) 2% OF THE ORGANIZATIONS' ANNUAL GROSS PREMIUM INCOME, UP  
31 TO A MAXIMUM OF THE REQUIRED CAPITAL AND SURPLUS OF A STOCK INSURER  
32 UNDER § 4-103 OF THIS ARTICLE.

33 [(b) (1) The amount of the surplus or bond shall equal the lesser of:

1 (i) 7% of the gross contract and certificate income of the dental  
2 plan organization for 1 year; or

3 (ii) \$150,000.

4 (2) The amount of the surplus or bond shall be adjusted:

5 (i) within 20 days after a change in the gross contract and  
6 certificate income; or

7 (ii) if necessary, annually on July 1.

8 (c) (1) Notwithstanding subsection (b) of this section, if the Commissioner  
9 determines after a hearing that the surplus or bond provided by the dental plan  
10 organization under subsections (a) and (b) of this section is excessive, the  
11 Commissioner may reduce the amount of the surplus or bond required.

12 (2) The Commissioner may not reduce the amount of the surplus or bond  
13 unless the Commissioner determines that the dental plan organization is solvent and  
14 has surplus assets of at least \$75,000 in excess of liabilities.

15 (3) A dental plan organization that is allowed to reduce the amount of its  
16 surplus or bond under this subsection thereafter shall maintain surplus assets of at  
17 least \$75,000 in excess of liabilities.

18 (d) The gross contract and certificate income for 1 year of a dental plan  
19 organization that is referred to in subsection (b) of this section may not include  
20 income earned from a dental plan if:

21 (1) participation is wholly voluntary on the part of the enrollee;

22 (2) the cost for the dental plan is borne by the enrollee; and

23 (3) the payment for the dental plan is by payroll deduction on the basis of  
24 every week, 2 weeks, or month.]

25 (B) (1) *EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A*  
26 *DENTAL PLAN ORGANIZATION SHALL DEPOSIT WITH THE COMMISSIONER OR WITH*  
27 *ANY ORGANIZATION OR TRUSTEE ACCEPTABLE TO THE COMMISSIONER THROUGH*  
28 *WHICH A CUSTODIAL OR CONTROLLED ACCOUNT IS ~~UTILIZED~~ USED, CASH,*  
29 *SECURITIES, OR ANY COMBINATION OF THESE OR OTHER MEASURES THAT IS*  
30 *ACCEPTABLE TO THE COMMISSIONER IN AN AMOUNT EQUAL TO \$25,000 PLUS 25% OF*  
31 *THE SURPLUS REQUIRED IN SUBSECTION (A) OF THIS SECTION, PROVIDED THAT THE*  
32 *DEPOSIT SHALL NOT BE REQUIRED TO EXCEED \$100,000.*

33 (2) THE DEPOSIT SHALL BE:

34 (I) AN ADMITTED ASSET OF THE DENTAL PLAN ORGANIZATION IN  
35 THE DETERMINATION OF SURPLUS;

1 (II) USED TO PROTECT THE INTERESTS OF THE DENTAL PLAN  
2 ORGANIZATION'S ENROLLEES;

3 (III) USED TO ASSURE CONTINUATION OF LIMITED HEALTH CARE  
4 SERVICES TO ENROLLEES OF A DENTAL PLAN ORGANIZATION THAT IS IN  
5 REHABILITATION OR CONSERVATION; AND

6 (IV) IF A DENTAL PLAN ORGANIZATION IS PLACED IN  
7 RECEIVERSHIP OR LIQUIDATION, AN ASSET SUBJECT TO PROVISIONS OF THE  
8 UNIFORM INSURERS LIQUIDATION ACT.

9 (3) ALL INCOME FROM DEPOSITS SHALL BE AN ASSET OF THE DENTAL  
10 PLAN ORGANIZATION.

11 (4) A DENTAL PLAN ORGANIZATION MAY WITHDRAW A DEPOSIT OR ANY  
12 PART THEREOF AFTER MAKING A SUBSTITUTE DEPOSIT OF EQUAL AMOUNT AND  
13 VALUE.

14 (5) A SUBSTITUTE DEPOSIT OF ANY SECURITIES ~~SHALL BE APPROVED~~  
15 ~~BY THE COMMISSIONER~~ IS SUBJECT TO THE APPROVAL OF THE COMMISSIONER.

16 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE  
17 COMMISSIONER MAY REDUCE OR ELIMINATE THE DEPOSIT REQUIREMENT IF THE  
18 DENTAL PLAN ORGANIZATION HAS MADE AN ACCEPTABLE DEPOSIT WITH THE STATE  
19 OR JURISDICTION OF DOMICILE FOR THE PROTECTION OF ALL ENROLLEES,  
20 WHEREVER LOCATED, AND DELIVERS TO THE COMMISSIONER A CERTIFICATE TO  
21 SUCH EFFECT, DULY AUTHENTICATED BY THE APPROPRIATE STATE OFFICIAL  
22 HOLDING THE DEPOSIT.

23 (D) SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY TO A DENTAL  
24 PLAN ORGANIZATION THAT DOES NOT HAVE ANY ENROLLEES, AS DETERMINED BY  
25 THE COMMISSIONER, SO LONG AS THE DENTAL PLAN ORGANIZATION:

26 (1) HELD A CERTIFICATE OF AUTHORITY AS OF JANUARY 1, 2000;

27 (2) MAINTAINS A CURRENT CERTIFICATE OF AUTHORITY; AND

28 (3) COMPLIES WITH ALL APPLICABLE LAWS AND REGULATIONS, AS  
29 DETERMINED BY THE COMMISSIONER.

30 14-409.

31 (a) The Commissioner may suspend or revoke a certificate of authority issued  
32 to a dental plan organization under this subtitle if the Commissioner finds that:

33 (1) the dental plan organization is operating in a manner significantly  
34 contrary to that described in §§ 14-403, 14-405, 14-407, and 14-408 of this subtitle;

35 (2) the dental plan organization issues evidence of coverage that does not  
36 comply with § 14-410 of this subtitle;

1 (3) the dental plan organization can no longer be expected to meet its  
2 obligations to enrollees;

3 (4) the agreements of the dental plan organization with dentists are not  
4 sufficient to provide the dental services covered by the dental plan;

5 (5) the dental plan organization, or authorized person acting on its  
6 behalf, has advertised or merchandised its services in an untrue or misleading  
7 manner;

8 (6) the conditions or methods of operation of the dental plan organization  
9 make continued operation hazardous to enrollees or the public; or

10 (7) the dental plan organization has failed to comply with this subtitle or  
11 any regulations adopted under this subtitle.

12 (b) If the Commissioner has cause to believe that grounds exist for the  
13 suspension or revocation of a certificate of authority, the Commissioner shall notify  
14 the dental plan organization of the suspension or revocation in writing and the  
15 grounds.

16 (c) If the Commissioner suspends the certificate of authority, the dental plan  
17 organization may not accept additional enrollees or engage in advertising or  
18 solicitation during the period of suspension.

19 (d) (1) If the Commissioner revokes the certificate of authority, the dental  
20 plan organization shall dissolve its structure immediately after the effective date of  
21 the order of revocation and may not conduct further business, except as essential to  
22 the orderly conclusion of the affairs of the dental plan organization.

23 (2) By written order, the Commissioner may allow further operation of  
24 the dental plan organization if the Commissioner finds that it is in the best interest of  
25 enrollees and that enrollees will be afforded the greatest practical opportunity to  
26 obtain continuing dental plan coverage.

27 (E) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A  
28 CERTIFICATE OF AUTHORITY, THE COMMISSIONER MAY:

29 (1) IMPOSE ON THE HOLDER A PENALTY OF NOT LESS THAN \$1,000 BUT  
30 NOT EXCEEDING \$50,000 FOR EACH VIOLATION OF THIS SUBTITLE; AND

31 (2) REQUIRE THE HOLDER TO MAKE RESTITUTION TO ANY PERSON WHO  
32 HAS SUFFERED FINANCIAL INJURY BECAUSE OF A VIOLATION OF THIS SUBTITLE.

33 [(e)] (F) (1) Notwithstanding subsections (c) [and], (d), AND (E) of this  
34 section, a dental plan organization that has had its certificate of authority suspended  
35 or revoked, HAS BEEN ORDERED TO PAY A PENALTY OR MAKE RESTITUTION, or has  
36 suffered an adverse decision by the Commissioner is entitled to a hearing under §  
37 2-210 of this article.

1                   (2)       Hearings and appeals from orders of the Commissioner are governed  
2 by §§ 2-203 and 2-210 through 2-215 of this article.

3       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2000.