

SENATE BILL 556

C4, C3

0lr2723

By: **Senator Beidle**

Introduced and read first time: January 30, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2020

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Product and Service Offerings**

3 FOR the purpose of providing that certain provisions of law do not prohibit certain insurers
4 from offering or providing certain products or services to certain policyholders at no
5 charge or at a discounted price for certain purposes; authorizing a certain insurer,
6 nonprofit health service plan, and health maintenance organization to include a
7 certain offer or provision in a certain contract or rate filing; prohibiting a certain
8 insurer, nonprofit health service plan, or health maintenance organization from
9 discontinuing a certain service or product except under certain circumstances;
10 prohibiting a certain insurer, nonprofit health service plan, or health maintenance
11 organization from increasing a premium or denying a claim based on a certain action
12 by a policyholder; authorizing the Maryland Insurance Commissioner to make
13 certain determinations by regulation; providing for the application of this Act; and
14 generally relating to programs and services offered by insurers, nonprofit health
15 service plans, and health maintenance organizations.

16 BY repealing and reenacting, with amendments,
17 Article – Insurance
18 Section 27–209 and 27–212
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2019 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Insurance
23 Section 27–210 and 27–211

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2017 Replacement Volume and 2019 Supplement)

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

5 **Article – Insurance**

6 27–209.

7 (a) Except as otherwise expressly provided by law, a person, including a health
8 maintenance organization, may not knowingly:

9 (1) allow, make, or offer to make a contract of life insurance or health
10 insurance or an annuity contract or an agreement as to the contract other than as plainly
11 expressed in the contract;

12 (2) pay, allow, give, or offer to pay, allow, or give directly or indirectly as
13 an inducement to the insurance or annuity:

14 (i) a rebate of premiums payable on the contract;

15 (ii) a special favor or advantage in the dividends or other benefits
16 under the contract;

17 (iii) paid employment or a contract for services of any kind; or

18 (iv) any valuable consideration or other inducement not specified in
19 the contract;

20 (3) directly or indirectly give, sell, purchase, offer or agree to give, sell, or
21 purchase, or allow as inducement to the insurance or annuity or in connection with the
22 insurance or annuity, regardless of whether specified in the policy or contract, an
23 agreement that promises returns and profits, or stocks, bonds, or other securities, or a
24 present or contingent interest in or measured by stocks, bonds, or other securities, of an
25 insurer or other corporation, association, or partnership, or dividends or profits accrued or
26 to accrue on stocks, bonds, or other securities; or

27 (4) offer, promise, or give any valuable consideration not specified in the
28 contract, except for educational materials, promotional materials, or articles of
29 merchandise that cost no more than \$50.

30 (b) A person may not make receipt of any educational materials, promotional
31 materials, or articles of merchandise under subsection (a)(4) of this section contingent on
32 the sale or purchase of insurance.

1 (C) (1) THIS SECTION DOES NOT PROHIBIT AN INSURER, A NONPROFIT
 2 HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION FROM
 3 OFFERING OR PROVIDING PRODUCTS OR SERVICES IN CONJUNCTION WITH A POLICY
 4 AT NO CHARGE OR AT A DISCOUNTED PRICE IF:

5 ~~(I) TO EDUCATE A PERSON REGARDING, OR TO ASSESS,~~
 6 ~~MONITOR, CONTROL, OR PREVENT, RISK OF LOSS TO PERSONS; OR~~

7 ~~(II) THAT HAVE A NEXUS TO OR ENHANCE THE VALUE OF~~
 8 ~~INSURED BENEFITS, IF:~~

9 ~~1. THE RISK OF LOSS TO PERSONS IS ASSOCIATED WITH~~
 10 ~~OR HAS A NEXUS TO RISKS INSURED AGAINST BY THE POLICY OF INSURANCE OR~~
 11 ~~ANNUITY CONTRACT; AND~~

12 (I) 1. A. THE PRODUCTS OR SERVICES ARE OFFERED OR
 13 PROVIDED TO EDUCATE PERSONS REGARDING, OR TO ASSESS, MONITOR, CONTROL,
 14 OR PREVENT, RISK OF LOSS TO PERSONS; AND

15 B. THE RISK OF LOSS TO PERSONS IS ASSOCIATED WITH
 16 RISKS INSURED AGAINST BY THE POLICY OR INSURANCE OR ANNUITY CONTRACT; OR

17 2. THE PRODUCTS OR SERVICES ARE:

18 A. SUBSTANTIALLY RELATED TO THE INSURANCE
 19 PROVIDED UNDER THE POLICY OR CONTRACT; OR

20 B. OFFERED OR PROVIDED TO ENHANCE THE HEALTH OF
 21 THE INSURED OR BENEFICIARY; AND

22 ~~2. (II) THE OFFER OR PROVISION OF PRODUCTS OR~~
 23 ~~SERVICES OR POLICY ENHANCEMENTS IS AVAILABLE TO ALL POLICYHOLDERS THAT~~
 24 ~~HAVE PURCHASED THE POLICY OR CONTRACT ASSOCIATED WITH THE OFFER OR~~
 25 ~~PROVISION.~~

26 (2) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH
 27 MAINTENANCE ORGANIZATION MAY INCLUDE AN OFFER OR PROVISION OF
 28 PRODUCTS OR SERVICES UNDER THIS SUBSECTION IN AN APPLICABLE CONTRACT
 29 OR FORM OR RATE FILING.

30 (3) (I) ~~IF AN INSURER INCLUDES AN OFFER OR PROVISION OF A~~
 31 ~~PRODUCT OR SERVICE UNDER THIS SUBSECTION IN A POLICY OF INSURANCE OR AN~~
 32 ~~ANNUITY CONTRACT, THE INSURER MAY NOT DISCONTINUE THE PRODUCT OR~~
 33 ~~SERVICE UNLESS REQUESTED BY THE POLICYHOLDER~~ IF THE OFFER OR PROVISION

OF SPECIFIC PRODUCTS OR SERVICES UNDER THIS SUBSECTION IS INCLUDED IN ANY POLICY OF INSURANCE, HEALTH MAINTENANCE ORGANIZATION CONTRACT, NONPROFIT HEALTH SERVICE PLAN, OR ANNUITY CONTRACT, THE PRODUCTS OR SERVICES MAY NOT BE DISCONTINUED DURING THE TERM OF THE POLICY OR CONTRACT UNLESS DISCONTINUATION OF THE PRODUCT OR SERVICE IS:

1. CONSENTED TO IN WRITING BY THE POLICYHOLDER;

OR

2. THE RESULT OF A UNIFORM MODIFICATION UNDER § 15-1212, § 15-1309, OR § 15-1409 OF THIS ARTICLE.

(II) THIS PARAGRAPH DOES NOT PROHIBIT A CARRIER FROM TERMINATING A CONTRACT AS OTHERWISE AUTHORIZED UNDER THIS ARTICLE.

(4) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION MAY NOT INCREASE THE PREMIUM OR DENY A CLAIM OF A POLICYHOLDER IF THE POLICYHOLDER ACCEPTS, REJECTS, ~~OR~~ USES, OR FAILS TO USE A PRODUCT OR SERVICE UNDER THIS SUBSECTION.

(5) THE COMMISSIONER MAY DETERMINE BY REGULATION THE TYPES OF PRODUCTS OR SERVICES THAT MEET THE CRITERIA IN PARAGRAPH (1) OF THIS SUBSECTION.

27-210.

(a) Sections 27-208 and 27-209 of this subtitle may not be construed to include within the definition of discrimination or rebates any of the practices set forth in this section.

(b) For a contract of life insurance or an annuity contract, it is not discrimination or a rebate to pay bonuses to policyholders or otherwise abate their premiums wholly or partly out of the surplus accumulated from nonparticipating insurance, if the bonuses or abatement of premiums is fair, equitable to, and in the best interest of policyholders.

(c) For policies of life insurance or health insurance issued on the industrial debit, preauthorized check, bank draft, or similar plans, it is not discrimination or a rebate to make an allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer or by preauthorized check, bank draft, or similar plans in an amount that fairly represents the savings in collection expense.

(d) It is not discrimination or a rebate to readjust the rate of premium for a group policy based on the loss or expense experience under the policy, at the end of any policy year, retroactive only for that policy year.

1 (e) It is not discrimination or a rebate to reduce the premium rate for policies of
2 large amount, if the reduction does not exceed savings in issuance and administrative
3 expenses reasonably attributable to policies of large amount as compared with policies of
4 similar plan issued in smaller amounts.

5 (f) It is not discrimination or a rebate to issue policies of life insurance or health
6 insurance or annuity contracts on a salary savings or payroll deduction plan or other
7 distribution plan at a reduced rate reasonably commensurate with the savings made by use
8 of the plan.

9 (g) It is not discrimination or a rebate to issue policies of health insurance that
10 provide for increases in benefits to policyholders who maintain their policies continuously
11 in force without lapse for specified periods.

12 (h) (1) In this subsection, “wellness program” means a program that:

13 (i) meets the requirements of a participatory wellness program or a
14 health-contingent wellness program under § 15-509 of this article; and

15 (ii) is provided as a benefit outside of the health insurance or health
16 maintenance organization contract.

17 (2) It is not discrimination or a rebate for a carrier to provide reasonable
18 incentives to an individual who is an insured, a subscriber, or a member for participation
19 in a wellness program offered by the carrier.

20 (3) Any incentive offered for participation in a wellness program:

21 (i) shall be reasonably related to the wellness program; and

22 (ii) may not have a value that exceeds any limit established in
23 regulations adopted by the Commissioner.

24 (4) The Commissioner shall adopt regulations to implement the provisions
25 of this subsection.

26 27-211.

27 (a) This section does not apply to:

28 (1) insurance on the life of a debtor in connection with a specific loan or
29 other credit transaction;

30 (2) insurance on a debtor that provides indemnity for payments that are
31 due on a specific loan or other credit transaction while the debtor is disabled as defined in
32 the policy; or

1 (3) life insurance or an annuity used to fund a pre-need contract as defined
2 in § 7-101 of the Health Occupations Article or a preneed burial contract as defined in §
3 5-701 of the Business Regulation Article.

4 (b) An insurer may not directly or indirectly, or by an insurance producer or
5 representative of the insurer, participate in a plan to offer or effect a kind or kinds of life
6 insurance, health insurance, or annuities in the State as an inducement to, or in
7 combination with, the purchase by the public of goods, securities, commodities, services or
8 subscriptions to periodicals.

9 27-212.

10 (a) This section does not apply to life insurance, health insurance, and annuities.

11 (b) Except to the extent provided for in an applicable filing with the
12 Commissioner as provided by law, an insurer, employee or representative of an insurer or
13 insurance producer may not pay, allow, give, or offer to pay, allow, or give directly or
14 indirectly as an inducement to insurance or after insurance has become effective:

15 (1) a rebate, discount, abatement, credit, or reduction of the premium
16 stated in the policy;

17 (2) a special favor or advantage in the dividends or other benefits to accrue
18 on the policy; or

19 (3) any valuable consideration or other inducement not specified in the
20 policy.

21 (c) An insured named in a policy or an employee of the insured may not knowingly
22 receive or accept directly or indirectly a rebate, discount, abatement, credit, reduction of
23 premium, special favor, advantage, valuable consideration, or inducement described in
24 subsection (b) of this section.

25 (d) (1) Except as otherwise provided by law, a person may not knowingly offer,
26 promise, or give any valuable consideration not specified in the policy, except for
27 educational materials, promotional materials, or articles of merchandise that cost no more
28 than \$50.

29 (2) A person may not make receipt of any educational materials,
30 promotional materials, or articles of merchandise under this subsection contingent on the
31 sale or purchase of insurance.

32 (e) (1) An insurer may not make or allow unfair discrimination between
33 insureds or properties having like insuring or risk characteristics in:

34 (i) the premium or rates charged for insurance;

1 (ii) the dividends or other benefits payable on the insurance; or

2 (iii) any of the other terms or conditions of the insurance.

3 (2) Notwithstanding any other provision of this section, an insurer may not
4 make or allow a differential in ratings, premium payments, or dividends for a reason based
5 on the sex, physical handicap, or disability of an applicant or policyholder unless there is
6 actuarial justification for the differential.

7 (f) (1) This section does not prohibit an insurer from:

8 [(1)] (I) paying commissions or other compensation to licensed insurance
9 producers;

10 [(2)] (II) paying commissions to licensed insurance producers on a
11 variable basis on policies issued to qualified exempt commercial policyholders, as defined
12 in § 11–206 of this article, if:

13 [(i)] 1. the payment of the commission to the insurance producer
14 on a variable basis results in a lower total cost of the policy to the qualified exempt
15 commercial policyholder; and

16 [(ii)] 2. the insurance producer receiving the commission has
17 agreed to the specific level of commission to be paid on the policy; [or]

18 [(3)] (III) allowing or returning to its participating policyholders,
19 members, or subscribers lawful dividends, savings, or unabsorbed premium deposits; **OR**

20 **(IV) OFFERING OR PROVIDING PRODUCTS OR SERVICES IN**
21 **CONJUNCTION WITH A POLICY AT NO CHARGE OR AT A DISCOUNTED PRICE TO**
22 **EDUCATE A PERSON REGARDING, OR TO ASSESS, MONITOR, CONTROL, OR PREVENT,**
23 **RISK OF LOSS TO PERSONS OR PROPERTY IF:**

24 **1. THE RISK OF LOSS TO PERSONS OR PROPERTY IS**
25 **ASSOCIATED WITH THE RISKS INSURED AGAINST BY THE POLICY; AND**

26 **2. THE OFFER OR PROVISION OF PRODUCTS OR**
27 **SERVICES IS AVAILABLE TO ALL POLICYHOLDERS THAT HAVE PURCHASED THE**
28 **POLICY ASSOCIATED WITH THE OFFER OR PROVISION.**

29 **(2) AN INSURER MAY INCLUDE IN AN APPLICABLE CONTRACT OR**
30 **FORM OR RATE FILING AN OFFER OR PROVISION OF PRODUCTS OR SERVICES UNDER**
31 **THIS SUBSECTION.**

1 **(3) AN INSURER MAY NOT INCREASE THE PREMIUM OR DENY A CLAIM**
2 **OF A POLICYHOLDER IF THE POLICYHOLDER ACCEPTS, REJECTS, ~~OR~~ USES, OR FAILS**
3 **TO USE A PRODUCT OR SERVICE UNDER THIS SUBSECTION.**

4 **(4) THE COMMISSIONER MAY DETERMINE BY REGULATION THE**
5 **TYPES OF PRODUCTS OR SERVICES THAT MEET THE CRITERIA IN PARAGRAPH (1)(IV)**
6 **OF THIS SUBSECTION.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
8 apply only prospectively and may not be applied or interpreted to have any effect on or
9 application to any policies, contracts, and health benefit plans issued, delivered, or renewed
10 in the State before the effective date of this Act.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
12 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.