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**By: Delegates Barve, Goldwater, Bonsack, Kach, Kirk, Krysiak, and Donoghue**

Introduced and read first time: February 23, 1996

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Provider and Payor Act of 1996**

3 FOR the purpose of prohibiting certain insurers and health maintenance organizations  
4 from prohibiting health care practitioners from disclosing or communicating certain  
5 information to enrollees, subscribers, and certain other persons under certain  
6 circumstances; prohibiting insurers and health maintenance organizations from  
7 requiring health care providers to indemnify or hold harmless the insurer or health  
8 maintenance organization from any liability arising from a coverage decision or  
9 negligent act by the insurer or health maintenance organization under certain  
10 circumstances; requiring health maintenance organizations that use a certain  
11 practice profile to evaluate a provider under contract with the health maintenance  
12 organization to disclose to the provider certain information concerning the practice  
13 profile prior to taking a certain action against the provider; prohibiting certain  
14 insurers and health maintenance organizations from withholding certain  
15 reimbursements regardless of the method of reimbursement used by the insurer or  
16 health maintenance organization; altering a certain provision of law related to  
17 developing certain forms to require that a certain study be performed by certain  
18 persons related to the feasibility of a certain uniform voucher form; making a  
19 certain technical correction; establishing a certain study group to evaluate the use  
20 and effectiveness of certain patient and provider grievance appeal procedures;  
21 requiring the study group to make a certain report by a certain date; providing for  
22 the application of certain provisions of this Act to health maintenance  
23 organizations; defining certain terms; providing for the effective date of certain  
24 provisions of this Act; and generally relating to certain insurers and health  
25 maintenance organizations.

26 BY adding to

27 Article 48A - Insurance Code  
28 Section 354RR, 470HH, 477RR, and 490FF  
29 Annotated Code of Maryland  
30 (1994 Replacement Volume and 1995 Supplement)

31 BY repealing and reenacting, with amendments,

32 Article 48A - Insurance Code  
33 Section 490DD  
34 Annotated Code of Maryland

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1 (1994 Replacement Volume and 1995 Supplement)

2 BY adding to

3 Article - Health - General

4 Section 19-706(l) and 19-710(r) and (s)

5 Annotated Code of Maryland

6 (1990 Replacement Volume and 1995 Supplement)

7 BY repealing and reenacting, with amendments,

8 Chapter 577 of the Acts of the General Assembly of 1995

9 Section 2 and 3

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article 48A - Insurance Code**

13 354RR.

14 A NONPROFIT HEALTH SERVICE PLAN MAY NOT BY CONTRACT, OR IN ANY

15 OTHER MANNER, REQUIRE A HEALTH CARE PROVIDER TO INDEMNIFY THE PLAN

16 OR HOLD THE PLAN HARMLESS FROM A COVERAGE DECISION OR NEGLIGENT ACT

17 OF THE NONPROFIT HEALTH SERVICE PLAN.

18 470HH.

19 A HOSPITAL OR MAJOR MEDICAL INSURER MAY NOT BY CONTRACT, OR IN ANY

20 OTHER MANNER, REQUIRE A HEALTH CARE PROVIDER TO INDEMNIFY THE

21 INSURER OR HOLD THE INSURER HARMLESS FROM A COVERAGE DECISION OR

22 NEGLIGENT ACT OF THE INSURER.

23 477RR.

24 A GROUP OR BLANKET HEALTH INSURER MAY NOT BY CONTRACT, OR IN ANY

25 OTHER MANNER, REQUIRE A HEALTH CARE PROVIDER TO INDEMNIFY THE

26 INSURER OR HOLD THE INSURER HARMLESS FROM A COVERAGE DECISION OR

27 NEGLIGENT ACT OF THE INSURER.

28 490DD.

29 (a) (1) In this section the following words have the meanings indicated.

30 (2) "Carrier" means:

31 (i) An insurer;

32 (ii) A nonprofit health service plan;

33 (iii) A health maintenance organization;

34 (iv) A dental plan organization; or

35 (v) Any other person or organization that provides health benefit

36 plans subject to State regulation.

1 (3) "Health care practitioner" means any individual who is licensed,  
2 certified, or otherwise authorized under the Health Occupations Article to provide health  
3 care services.

4 (b) A carrier [that reimburses a health care practitioner on an aggregate fixed  
5 sum basis or on a per capita basis] may not reimburse [the] A health care practitioner in  
6 an amount less than the sum or rate negotiated in the carrier's provider contract with the  
7 health care practitioner.

8 (c) This section does not prohibit a carrier from providing bonuses or other  
9 incentive-based compensation to a health care practitioner if the bonus or other  
10 incentive-based compensation does not:

11 (1) Violate the provisions of § 19-705.1 of the Health - General Article; or

12 (2) Deter the delivery of medically appropriate care to an enrollee.

13 490FF.

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
15 INDICATED.

16 (2) "CARRIER" MEANS:

17 (I) AN INSURER;

18 (II) A NONPROFIT HEALTH SERVICE PLAN;

19 (III) A HEALTH MAINTENANCE ORGANIZATION;

20 (IV) A DENTAL PLAN ORGANIZATION; OR

21 (V) ANY OTHER PERSON OR ORGANIZATION THAT PROVIDES  
22 HEALTH BENEFIT PLANS SUBJECT TO STATE REGULATION.

23 (3) "HEALTH CARE PROVIDER" MEANS ANY INDIVIDUAL WHO IS  
24 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH  
25 OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.

26 (B) A CARRIER, AS A CONDITION OF A CONTRACT WITH A HEALTH CARE  
27 PROVIDER, OR IN ANY OTHER MANNER, MAY NOT PROHIBIT A HEALTH CARE  
28 PROVIDER FROM DISCUSSING OR COMMUNICATING TO AN ENROLLEE, PUBLIC  
29 OFFICIAL, SUBSCRIBER, OR OTHER PERSON INFORMATION THAT IS NECESSARY OR  
30 APPROPRIATE FOR THE DELIVERY OF HEALTH CARE SERVICES, INCLUDING:

31 (1) COMMUNICATIONS RELATING TO TREATMENT ALTERNATIVES;

32 (2) COMMUNICATIONS NECESSARY OR APPROPRIATE TO MAINTAIN  
33 THE PROVIDER-PATIENT RELATIONSHIP WHILE THE PATIENT IS UNDER THE  
34 PROVIDER'S CARE;

35 (3) COMMUNICATIONS REGARDING AN ENROLLEE'S OR SUBSCRIBER'S  
36 RIGHT TO APPEAL COVERAGE DETERMINATIONS OF A CARRIER WITH WHICH THE  
37 PROVIDER OR THE ENROLLEE OR SUBSCRIBER DO NOT AGREE; AND

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1 (4) OPINIONS AND THE BASIS OF AN OPINION REGARDING PUBLIC  
2 POLICY ISSUES.

3 (C) THIS SECTION DOES NOT PROHIBIT A CARRIER, AS A CONDITION OF A  
4 CONTRACT BETWEEN THE HEALTH CARE PROVIDER AND THE CARRIER, FROM  
5 PROHIBITING A HEALTH CARE PROVIDER FROM COMMITTING A COMMERCIAL  
6 TORT RECOGNIZED UNDER MARYLAND LAW.

7 **Article - Health - General**

8 19-706.

9 (L) THE PROVISIONS OF ARTICLE 48A, § 490FF OF THE CODE APPLY TO  
10 HEALTH MAINTENANCE ORGANIZATIONS.

11 19-710.

12 (R) (1) IN THIS SUBSECTION, "PRACTICE PROFILE" MEANS A PROFILE,  
13 SUMMARY, ECONOMIC ANALYSIS, OR OTHER ANALYSIS OF DATA CONCERNING  
14 SERVICES RENDERED OR UTILIZED BY A PROVIDER UNDER CONTRACT WITH OR  
15 EMPLOYED BY A HEALTH MAINTENANCE ORGANIZATION FOR THE PROVISION OF  
16 HEALTH CARE SERVICES BY THE PROVIDER TO ENROLLEES OR SUBSCRIBERS OF  
17 THE HEALTH MAINTENANCE ORGANIZATION.

18 (2) IF A HEALTH MAINTENANCE ORGANIZATION USES A PRACTICE  
19 PROFILE AS A FACTOR IN ITS CONTRACT REVIEW TO EVALUATE THE PROVIDER'S  
20 STATUS ON THE PROVIDER PANEL, THE HEALTH MAINTENANCE ORGANIZATION  
21 SHALL DISCLOSE AND PROVIDE TO A PROVIDER ON REASONABLE REQUEST:

22 (I) THE ANALYSIS OF DATA AND A DESCRIPTION OF THE  
23 CRITERIA USED TO COMPILE THE PRACTICE PROFILE CONCERNING THE PROVIDER;  
24 AND

25 (II) THE MANNER IN WHICH THE PRACTICE PROFILE IS USED TO  
26 EVALUATE THE PROVIDER.

27 (3) UPON FURTHER WRITTEN REQUEST BY THE PROVIDER, THE  
28 HEALTH MAINTENANCE ORGANIZATION SHALL PROVIDE THE PROVIDER WITH THE  
29 PROVIDER'S INDIVIDUAL INFORMATION THAT WAS UTILIZED IN COMPILING THE  
30 PRACTICE PROFILE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

31 (4) THE INFORMATION PROVIDED UNDER THIS SUBSECTION MAY NOT  
32 BE USED TO CREATE A NEW CAUSE OF ACTION.

33 (5) A HEALTH MAINTENANCE ORGANIZATION MAY NOT TERMINATE A  
34 PROVIDER CONTRACT OR THE PROVIDER'S EMPLOYMENT WITH THE HEALTH  
35 MAINTENANCE ORGANIZATION SOLELY ON THE BASIS OF A PRACTICE PROFILE  
36 WITHOUT INFORMING THE PROVIDER OF THE FINDINGS OF THE PRACTICE PROFILE  
37 PRIOR TO THE TERMINATION.

38 (S) A HEALTH MAINTENANCE ORGANIZATION MAY NOT BY CONTRACT, OR  
39 IN ANY OTHER MANNER, REQUIRE A PROVIDER TO INDEMNIFY THE HEALTH  
40 MAINTENANCE ORGANIZATION OR HOLD THE HEALTH MAINTENANCE

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1 ORGANIZATION HARMLESS FROM A COVERAGE DECISION OR NEGLIGENT ACT OF  
2 THE HEALTH MAINTENANCE ORGANIZATION.

3 **Chapter 577 of the Acts of 1995**

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Insurance  
5 Commissioner, when developing [the uniform provider voucher form] the uniform  
6 laboratory referral form[,] and the uniform consultation referral form under Article  
7 48A, § 490BB of the Code, shall consult with the Department of Health and Mental  
8 Hygiene, the Health Care Access and Cost Commission, the Office on Aging, Blue Cross  
9 and Blue Shield of Maryland, Blue Cross and Blue Shield of the NationalCapital Area,  
10 the Health Insurance Association of America, the League of Life and Health Insurers,  
11 the Maryland Hospital Association, the Medical and Chirurgical Faculty of Maryland, the  
12 Medical Group Management Association, a representative of the medical laboratory  
13 industry in the State, the Maryland Association of Health Maintenance Organizations,  
14 and a nonphysician health care provider association. The forms developed under this  
15 section shall be capable of electronic transfer.

16 SECTION 3. AND BE IT FURTHER ENACTED, That the Insurance  
17 Commissioner, when developing the forms in accordance with the requirements of  
18 Section 2 of this Act, shall assess any existing uniformity of forms currently being used  
19 within the health care delivery and finance industries, and shall examine any uniformity of  
20 forms that may be required in other states. IN ADDITION TO THE REQUIREMENTS OF  
21 SECTION 2 OF THIS ACT, THE INSURANCE COMMISSIONER, IN CONSULTATION WITH  
22 THE REPRESENTATIVES OF THE AGENCIES, ASSOCIATIONS, AND ORGANIZATIONS  
23 DESCRIBED UNDER SECTION 2 OF THIS ACT, SHALL STUDY THE FEASIBILITY OF A  
24 UNIFORM VOUCHER FORM FOR HEALTH CARE PROVIDERS.

25 SECTION 2. AND BE IT FURTHER ENACTED, That:

26 (a) There is a Task Force to Study Patient and Provider Appeal and  
27 Grievance Mechanisms;

28 (b) The Task Force shall consist of the following members:

29 (1) Three representatives of the Medical and Chirurgical Faculty of  
30 Maryland, of whom one shall be a nonphysician licensed health care provider, appointed  
31 by the Governor;

32 (2) Three representatives of Maryland health maintenance  
33 organizations, appointed by the Governor;

34 (3) Three members of the House Economic Matters Committee,  
35 appointed by the Speaker of the Maryland House of Delegates; and

36 (4) Three members of the Senate Finance Committee, appointed by  
37 the President of the Senate of Maryland;

38 (c) From among the members of the Task Force, the Governor shall  
39 designate a Chairman of the Task Force;

40 (d) The members of the Task Force shall serve without compensation;

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1 (e) The Task Force shall:

2 (1) Evaluate the use and effectiveness of patient and provider  
3 grievance and appeal mechanisms currently in law that are used to appeal decisions of  
4 health maintenance organizations; and

5 (2) Based on the evaluation conducted, make recommendations  
6 concerning:

7 (i) The use and effectiveness of these appeal mechanisms; and

8 (ii) The need for legislative action; and

9 (f) On or before October 15, 1996, the House Chairman of the Task Force  
10 shall report the recommendations of the Task Force to the House Economic Matters  
11 Committee and the Senate Chairman of the Task Force shall report the recommendations  
12 of the Task Force to the Senate Finance Committee.

13 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
14 take effect June 1, 1996.

15 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
16 take effect October 1, 1996.