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**By: Delegates Barve, Goldwater, Bonsack, Kach, Kirk, Krysiak, and Donoghue**  
Donoghue, Morhaim, Busch, Love, V. Mitchell, Kelly, Eckardt, Boston, Gordon,  
Walkup, Frank, Exum, and Bonsack

Introduced and read first time: February 23, 1996

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 1996

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CHAPTER \_\_\_\_\_

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

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1 Article 48A - Insurance Code  
2 Section 354RR, 470HH, 477RR, and 490FF  
3 Annotated Code of Maryland  
4 (1994 Replacement Volume and 1995 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article 48A - Insurance Code  
7 Section 490DD  
8 Annotated Code of Maryland  
9 (1994 Replacement Volume and 1995 Supplement)

10 BY adding to  
11 Article - Health - General  
12 Section 19-706(l) and 19-710(r) and (s)  
13 Annotated Code of Maryland  
14 (1990 Replacement Volume and 1995 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Chapter 577 of the Acts of the General Assembly of 1995  
17 Section 2 and 3

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

20 **Article 48A - Insurance Code**

21 354RR.

22 A NONPROFIT HEALTH SERVICE PLAN MAY NOT BY CONTRACT, OR IN ANY  
23 OTHER MANNER, REQUIRE A HEALTH CARE PROVIDER TO INDEMNIFY THE PLAN  
24 OR HOLD THE PLAN HARMLESS FROM A COVERAGE DECISION OR NEGLIGENT ACT  
25 OF THE NONPROFIT HEALTH SERVICE PLAN.

26 470HH.

27 A HOSPITAL OR MAJOR MEDICAL INSURER MAY NOT BY CONTRACT, OR IN ANY  
28 OTHER MANNER, REQUIRE A HEALTH CARE PROVIDER TO INDEMNIFY THE  
29 INSURER OR HOLD THE INSURER HARMLESS FROM A COVERAGE DECISION OR  
30 NEGLIGENT ACT OF THE INSURER.

31 477RR.

32 A GROUP OR BLANKET HEALTH INSURER MAY NOT BY CONTRACT, OR IN ANY  
33 OTHER MANNER, REQUIRE A HEALTH CARE PROVIDER TO INDEMNIFY THE  
34 INSURER OR HOLD THE INSURER HARMLESS FROM A COVERAGE DECISION OR  
35 NEGLIGENT ACT OF THE INSURER.

36 490DD.

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

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1 (2) "Carrier" means:

2 (i) An insurer;

3 (ii) A nonprofit health service plan;

4 (iii) A health maintenance organization;

5 (iv) A dental plan organization; or

6 (v) Any other person or organization that provides health benefit  
7 plans subject to State regulation.

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

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

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

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

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

20 490FF.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (2) "CARRIER" MEANS:

24 (I) AN INSURER;

25 (II) A NONPROFIT HEALTH SERVICE PLAN;

26 (III) A HEALTH MAINTENANCE ORGANIZATION;

27 (IV) A DENTAL PLAN ORGANIZATION; OR

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

30 (3) "HEALTH CARE PROVIDER" MEANS:

31 (I) ANY INDIVIDUAL WHO IS LICENSED, CERTIFIED, OR  
32 OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO  
33 PROVIDE HEALTH CARE SERVICES; OR

34 (II) A HOSPITAL LICENSED UNDER TITLE 19 OF THE HEALTH -  
35 GENERAL ARTICLE.

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

6 (1) COMMUNICATIONS RELATING TO TREATMENT ALTERNATIVES;

7 (2) COMMUNICATIONS NECESSARY OR APPROPRIATE TO MAINTAIN  
8 THE PROVIDER-PATIENT RELATIONSHIP WHILE THE PATIENT IS UNDER THE  
9 PROVIDER'S CARE;

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

13 (4) OPINIONS AND THE BASIS OF AN OPINION REGARDING PUBLIC  
14 POLICY ISSUES.

15 (C) THIS SECTION DOES NOT PROHIBIT A CARRIER, AS A CONDITION OF A  
16 CONTRACT BETWEEN THE HEALTH CARE PROVIDER AND THE CARRIER, FROM  
17 PROHIBITING A HEALTH CARE PROVIDER FROM ~~COMMITTING A COMMERCIAL~~  
18 ~~TORT~~ TORTIOUS INTERFERENCE WITH A CONTRACT AS RECOGNIZED UNDER  
19 MARYLAND LAW.

20 **Article - Health - General**

21 19-706.

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

24 19-710.

25 (R) (1) IN THIS SUBSECTION, "PRACTICE PROFILE" MEANS A PROFILE,  
26 SUMMARY, ECONOMIC ANALYSIS, OR OTHER ANALYSIS OF DATA CONCERNING  
27 SERVICES RENDERED OR UTILIZED BY A PROVIDER UNDER CONTRACT WITH OR  
28 EMPLOYED BY A HEALTH MAINTENANCE ORGANIZATION FOR THE PROVISION OF  
29 HEALTH CARE SERVICES BY THE PROVIDER TO ENROLLEES OR SUBSCRIBERS OF  
30 THE HEALTH MAINTENANCE ORGANIZATION.

31 ~~(2) IF A HEALTH MAINTENANCE ORGANIZATION USES A PRACTICE~~  
32 ~~PROFILE AS A FACTOR IN ITS CONTRACT REVIEW TO EVALUATE THE PROVIDER'S~~  
33 ~~STATUS ON THE PROVIDER PANEL, THE HEALTH MAINTENANCE ORGANIZATION~~  
34 ~~SHALL DISCLOSE AND PROVIDE TO A PROVIDER ON REASONABLE REQUEST:~~

35 ~~(i) THE ANALYSIS OF DATA AND A DESCRIPTION OF THE~~  
36 ~~CRITERIA USED TO COMPILE THE PRACTICE PROFILE CONCERNING THE PROVIDER;~~  
37 ~~AND~~

38 ~~(ii) THE MANNER IN WHICH THE PRACTICE PROFILE IS USED TO~~  
39 ~~EVALUATE THE PROVIDER.~~

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

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

7                   ~~(5) A HEALTH MAINTENANCE ORGANIZATION MAY NOT TERMINATE A~~  
8 ~~PROVIDER CONTRACT OR THE PROVIDER'S EMPLOYMENT WITH THE HEALTH~~  
9 ~~MAINTENANCE ORGANIZATION SOLELY ON THE BASIS OF A PRACTICE PROFILE~~  
10 ~~WITHOUT INFORMING THE PROVIDER OF THE FINDINGS OF THE PRACTICE PROFILE~~  
11 ~~PRIOR TO THE TERMINATION.~~

12                   (2) IF A HEALTH MAINTENANCE ORGANIZATION USES A PRACTICE  
13 PROFILE AS A FACTOR IN ITS CONTRACT REVIEW TO EVALUATE A PROVIDER'S  
14 STATUS ON A PROVIDER PANEL, THE HEALTH MAINTENANCE ORGANIZATION  
15 SHALL DISCLOSE AT THE COMMENCEMENT AND RENEWAL OF THE CONTRACT AND,  
16 NOT MORE OFTEN THAN ANNUALLY, UPON THE REQUEST OF THE PROVIDER:

17                   (I) A DESCRIPTION OF THE CRITERIA USED TO COMPILE THE  
18 PRACTICE PROFILE CONCERNING THE PROVIDER; AND

19                   (II) THE MANNER IN WHICH THE PRACTICE PROFILE IS USED TO  
20 EVALUATE THE PROVIDER.

21                   (3) THE INFORMATION PROVIDED UNDER THIS SUBSECTION MAY NOT  
22 BE USED TO CREATE A CAUSE OF ACTION.

23                   (4) A HEALTH MAINTENANCE ORGANIZATION MAY NOT TERMINATE A  
24 PROVIDER CONTRACT OR PROVIDER'S EMPLOYMENT WITH THE HEALTH  
25 MAINTENANCE ORGANIZATION ON THE BASIS OF A PRACTICE PROFILE WITHOUT  
26 FIRST INFORMING THE PROVIDER OF THE FINDINGS OF THE PRACTICE PROFILE  
27 AND THE PROVIDER SPECIFIC DATA UNDERLYING THOSE FINDINGS.

28                   (S) A HEALTH MAINTENANCE ORGANIZATION MAY NOT BY CONTRACT, OR  
29 IN ANY OTHER MANNER, REQUIRE A PROVIDER TO INDEMNIFY THE HEALTH  
30 MAINTENANCE ORGANIZATION OR HOLD THE HEALTH MAINTENANCE  
31 ORGANIZATION HARMLESS FROM A COVERAGE DECISION OR NEGLIGENT ACT OF  
32 THE HEALTH MAINTENANCE ORGANIZATION.

33                   **Chapter 577 of the Acts of 1995**

34                   SECTION 2. AND BE IT FURTHER ENACTED, That the Insurance  
35 Commissioner, when developing [the uniform provider voucher form] the uniform  
36 laboratory referral form[,] and the uniform consultation referral form under Article  
37 48A, § 490BB of the Code, shall consult with the Department of Health and Mental  
38 Hygiene, the Health Care Access and Cost Commission, the Office on Aging, Blue Cross  
39 and Blue Shield of Maryland, Blue Cross and Blue Shield of the NationalCapital Area,  
40 the Health Insurance Association of America, the League of Life and Health Insurers,  
41 the Maryland Hospital Association, the Medical and Chirurgical Faculty of Maryland, the  
42 Medical Group Management Association, a representative of the medical laboratory

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1 industry in the State, the Maryland Association of Health Maintenance Organizations,  
2 and a nonphysician health care provider association. The forms developed under this  
3 section shall be capable of electronic transfer.

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

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

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

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

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

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

22 (3) Two representatives of Maryland hospitals, appointed by the  
23 Governor;

24 ~~(3)~~ (4) Three members of the House Economic Matters Committee,  
25 appointed by the Speaker of the Maryland House of Delegates; and

26 ~~(4)~~ (5) Three members of the Senate Finance Committee, appointed  
27 by the President of the Senate of Maryland;

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

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

31 (e) The Task Force shall:

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

35 (2) Based on the evaluation conducted, make recommendations  
36 concerning:

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

38 (ii) The need for legislative action; and

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1                   (f) On or before October 15, 1996, the House Chairman of the Task Force  
2 shall report the recommendations of the Task Force to the House Economic Matters  
3 Committee and the Senate Chairman of the Task Force shall report the recommendations  
4 of the Task Force to the Senate Finance Committee.

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

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