
By: ~~Senator Bromwell~~ Senators Bromwell, Hafer, Roesser, and Teitelbaum

Introduced and read first time: January 13, 1997

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 1997

CHAPTER ____

1 AN ACT concerning

2 **Experimental Medical Care Disclosure Act**

3 FOR the purpose of requiring certain ~~insurers, nonprofit health service plans, and health~~
 4 ~~maintenance organizations~~ carriers to establish or subscribe to or contract for and
 5 follow a certain process when evaluating emerging medical and surgical treatments
 6 ~~for the purpose of making certain coverage decisions a certain purpose~~; requiring
 7 certain ~~insurers, nonprofit health service plans, and health maintenance~~
 8 ~~organizations~~ carriers to make certain disclosures to certain providers, enrollees,
 9 and prospective enrollees under certain circumstances; specifying the provisions of
 10 the process; requiring certain carriers to provide a description of the process to
 11 certain persons under certain circumstances; requiring certain ~~insurers, nonprofit~~
 12 ~~health service plans, and health maintenance organizations~~ carriers to file a certain
 13 report make a certain filing with the Insurance Commissioner; ~~specifying the~~
 14 ~~contents of the report~~; requiring the Commissioner to make the filing available or
 15 provide a copy of the filing to certain persons under certain circumstances;
 16 authorizing the Commissioner to grant certain waivers under certain circumstances;
 17 authorizing the Commissioner to issue certain orders; authorizing the
 18 Commissioner to adopt regulations; providing for the application of this Act;
 19 ~~providing a certain immunity from liability for certain individuals~~; defining certain
 20 terms; and generally relating to requiring certain ~~insurers, nonprofit health service~~
 21 ~~plans, and health maintenance organizations~~ carriers to establish and follow a
 22 certain process when evaluating emerging medical and surgical treatments for ~~the~~
 23 ~~purpose of making certain coverage decisions a certain purpose~~.

24 BY adding to

25 Article - Insurance

26 Section 15-121

27 Annotated Code of Maryland

2
1 (1995 Volume and 1996 Supplement)
2 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of 1997)

3 ~~BY adding to~~
4 ~~Article—Courts and Judicial Proceedings~~
5 ~~Section 5-399.8~~
6 ~~Annotated Code of Maryland~~
7 ~~(1995 Replacement Volume and 1996 Supplement)~~

8 BY adding to
9 Article - Health - General
10 Section 19-706(n)
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1996 Supplement)

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

15 **Article - Insurance**

16 15-121.

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) "CARRIER" MEANS:

20 (I) AN INSURER;

21 (II) A NONPROFIT HEALTH SERVICE PLAN;

22 (III) A HEALTH MAINTENANCE ORGANIZATION;

23 (IV) A DENTAL PLAN ORGANIZATION; ~~OR~~

24 (V) ANY PERSON OR ENTITY ACTING AS A THIRD PARTY
25 ADMINISTRATOR; OR

26 (VI) EXCEPT FOR A MANAGED CARE ORGANIZATION AS DEFINED
27 IN TITLE 15, SUBTITLE 1 OF THE HEALTH - GENERAL ARTICLE, AN ENTITY THAT HAS
28 ORGANIZED A PROVIDER NETWORK FOR THE PURPOSE OF CONTRACTING
29 DIRECTLY WITH A PURCHASER TO PROVIDE HEALTH CARE SERVICES TO
30 INDIVIDUALS OR GROUPS UNDER A CAPITATED OR OTHER RISK-SHARING
31 ARRANGEMENT.

32 (3) "CONTRACT" MEANS ANY WRITTEN AGREEMENT BETWEEN A
33 PROVIDER AND A CARRIER FOR THE PROVIDER TO RENDER HEALTH CARE
34 SERVICES TO ENROLLEES OF THE CARRIER.

35 (4) "DIAGNOSTIC SERVICES" MEANS ANY MEDICAL OR SURGICAL
36 SERVICE OR PROCEDURE THAT ALLOWS A PROVIDER TO IDENTIFY OR DIAGNOSE A
37 HUMAN DISEASE OR DISORDER.

3

1 (5) "ENROLLEE" MEANS ANY PERSON OR SUBSCRIBER ENTITLED TO
2 HEALTH CARE BENEFITS FROM A CARRIER.

3 (6) "HEALTH CARE SERVICES" MEANS A HEALTH OR MEDICAL CARE
4 PROCEDURE OR SERVICE RENDERED BY A PROVIDER THAT:

5 (I) PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN
6 DISEASE OR DYSFUNCTION; OR

7 (II) DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES,
8 OR MEDICAL GOODS FOR THE TREATMENT OF A HUMAN DISEASE OR
9 DYSFUNCTION.

10 (7) (I) "PROVIDER" MEANS A PERSON OR ENTITY LICENSED,
11 CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS
12 ARTICLE OR THE HEALTH - GENERAL ARTICLE TO PROVIDE HEALTH CARE
13 SERVICES.

14 (II) "PROVIDER" INCLUDES:

15 1. A HEALTH CARE FACILITY;

16 2. A PHARMACY;

17 3. A PROFESSIONAL SERVICES CORPORATION;

18 4. A PARTNERSHIP;

19 5. A LIMITED LIABILITY COMPANY;

20 6. A PROFESSIONAL OFFICE; OR

21 7. ANY OTHER ENTITY LICENSED OR AUTHORIZED BY LAW
22 TO PROVIDE OR DELIVER PROFESSIONAL HEALTH CARE SERVICES THROUGH OR
23 ON BEHALF OF A PROVIDER.

24 (8) "THERAPEUTIC SERVICES" MEANS ANY MEDICAL OR SURGICAL
25 SERVICE OR PROCEDURE THAT A PROVIDER CAN USE TO TREAT A HUMAN DISEASE
26 OR DISORDER.

27 (B) THIS SECTION APPLIES TO ANY CARRIER THAT PROVIDES HEALTH CARE
28 SERVICES TO ENROLLEES OR OTHERWISE MAKES HEALTH CARE SERVICES
29 AVAILABLE TO ENROLLEES THROUGH CONTRACTS WITH PROVIDERS.

30 (C) THE SECTION DOES NOT:

31 (1) APPLY TO ANY COSMETIC OR MEDICALLY UNNECESSARY SERVICE
32 OR PROCEDURE THAT TYPICALLY WOULD BE EXCLUDED FROM COVERAGE BY ANY
33 CARRIER THAT ISSUES OR DELIVERS CONTRACTS OR POLICIES OF HEALTH
34 INSURANCE IN THE STATE; ~~AND~~ OR

35 (2) AFFECT THE RIGHT OF AN ENROLLEE TO APPEAL ANY ADVERSE
36 DECISION BY A CARRIER THROUGH THE CARRIER'S APPEAL PROCESS.

4

1 (D) (1) EACH CARRIER SHALL DISCLOSE TO ~~PROVIDERS, ENROLLEES, AND~~
2 ~~PROSPECTIVE ENROLLEES~~ PROVIDERS AND ENROLLEES THE CARRIER'S
3 DEFINITION OF "EXPERIMENTAL MEDICAL CARE".

4 (2) THE CARRIER SHALL DISCLOSE THE DEFINITION IN:

5 (I) CONTRACTS OFFERED TO PROVIDERS THAT MAY RENDER
6 DIRECT HEALTH CARE SERVICES TO THE ENROLLEES OF THE CARRIER; AND

7 (II) MARKETING MATERIALS AND ENROLLMENT MATERIALS OF
8 THE CARRIER THAT ARE PROVIDED TO CURRENT ENROLLEES AND PROSPECTIVE
9 ENROLLEES, AS APPROPRIATE.

10 ~~(3) THE DEFINITION:~~

11 ~~(I) SHALL INCLUDE THE GENERAL CRITERIA AND PROCESS THAT~~
12 ~~THE CARRIER FOLLOWS FOR INDIVIDUAL ENROLLEES OR FOR THE ENTIRE~~
13 ~~ENROLLED POPULATION IN EVALUATING WHETHER AN EMERGING MEDICAL OR~~
14 ~~SURGICAL TREATMENT WILL BE COVERED BY THE CARRIER; AND~~

15 ~~(II) SHALL BE BINDING ON THE CARRIER, ENROLLEES, AND~~
16 ~~PROVIDERS FOR THE PURPOSE OF RESOLVING DISPUTES THAT ARISE OVER~~
17 ~~WHETHER A MEDICAL OR SURGICAL TREATMENT IS OR IS NOT EXPERIMENTAL,~~
18 ~~AND THEREFORE, COVERED BY THE CARRIER.~~

19 ~~(E) (1) EACH CARRIER SHALL ESTABLISH A SYSTEMATIC, SCIENTIFIC~~
20 ~~PROCESS TO FOLLOW FOR EVALUATING EMERGING MEDICAL AND SURGICAL~~
21 ~~TREATMENTS TO ENSURE THAT PROVIDERS AND ENROLLEES HAVE ACCESS TO THE~~
22 ~~LATEST APPROPRIATE TREATMENTS.~~

23 ~~(2) THE PROCESS SHALL INCLUDE:~~

24 ~~(I) ONGOING ANALYSES BY THE MEDICAL DIRECTOR OF THE~~
25 ~~CARRIER AND THE MEDICAL POLICY STAFF OF THE CARRIER OF PUBLISHED,~~
26 ~~PEER-REVIEWED MEDICAL LITERATURE, AND THE FINDINGS AND PUBLICATIONS~~
27 ~~OF STATE AND FEDERAL AGENCIES; AND~~

28 ~~(II) ONGOING DIALOGUE WITH OTHER CLINICAL EXPERTS IN THE~~
29 ~~MEDICAL COMMUNITY FOR THE PURPOSE OF EVALUATING WHETHER EMERGING~~
30 ~~MEDICAL OR SURGICAL TREATMENTS HAVE BECOME AN APPROPRIATE STANDARD~~
31 ~~OF CARE FOR SPECIFIED HUMAN DISEASES OR DISORDERS.~~

32 ~~(3) THE CARRIER SHALL IDENTIFY LEADING CLINICAL EXPERTS IN~~
33 ~~RECOGNIZED MEDICAL AND SURGICAL SPECIALITIES AND SUBSPECIALITIES FOR~~
34 ~~THE PURPOSE OF HAVING THE CLINICAL EXPERTS PROVIDE THE CARRIER WITH~~
35 ~~DIALOGUE ON AND ANALYSES OF THE STATUS OF EMERGING MEDICAL AND~~
36 ~~SURGICAL TREATMENTS.~~

37 ~~(4) THE CLINICAL EXPERTS IDENTIFIED BY THE CARRIER:~~

38 ~~(I) SHALL BE ACTIVELY INVOLVED IN THE PROVISION OF DIRECT~~
39 ~~HEALTH CARE SERVICES TO PATIENTS WITH THE HUMAN DISEASES OR DISORDERS~~

5

1 ~~BEING EVALUATED, WHETHER OR NOT THE PATIENTS ROUTINELY TREATED BY~~
2 ~~THE PROVIDER ARE ENROLLEES OF THE CARRIER;~~

3 ~~(II) MAY NOT BE AN EMPLOYEE OF THE CARRIER;~~

4 ~~(III) SHALL BE BOARD CERTIFIED IN THE PERTINENT OR~~
5 ~~APPROPRIATE SPECIALTY OR SUBSPECIALTY AREA; AND~~

6 ~~(IV) SHALL BE GENERALLY RECOGNIZED BY THEIR PEERS TO BE~~
7 ~~AUTHORITATIVE RESOURCES IN THE CLINICAL AREA BEING EVALUATED, AS~~
8 ~~EVIDENCED BY:~~

9 ~~1. FACULTY APPOINTMENTS;~~

10 ~~2. AUTHORSHIP OF A SIGNIFICANT BODY OF~~
11 ~~PEER REVIEWED CLINICAL LITERATURE IN THE RELEVANT SPECIALTY AREA; AND~~

12 ~~3. A DEMONSTRATED HISTORY OF LEADERSHIP IN LOCAL,~~
13 ~~STATE, AND NATIONAL PROFESSIONAL ASSOCIATIONS AND NONPROFIT PATIENT~~
14 ~~AND COMMUNITY ADVOCACY ORGANIZATIONS THAT ADDRESS THE DISEASES AND~~
15 ~~SPECIALTY AREAS IN QUESTION.~~

16 ~~(5) EACH CARRIER SHALL FILE ANNUALLY WITH THE COMMISSIONER~~
17 ~~THE CREDENTIALING CRITERIA THE CARRIER HAS UTILIZED IN SELECTING THE~~
18 ~~CLINICAL EXPERTS AND OTHER SOURCES UTILIZED BY THE CARRIER IN~~
19 ~~EVALUATING A DIAGNOSTIC OR THERAPEUTIC SERVICE THAT IS PART OF AN~~
20 ~~EMERGING MEDICAL OR SURGICAL TREATMENT.~~

21 ~~(F) A CARRIER'S DECISION TO PROVIDE COVERAGE FOR AN EMERGING~~
22 ~~MEDICAL OR SURGICAL TREATMENT SHALL RESULT FROM THE CONSENSUS OF~~
23 ~~OPINION FROM ITS OWN ANALYSIS AND THE KNOWLEDGE PROVIDED TO THE~~
24 ~~CARRIER FROM THE CLINICAL EXPERTS IDENTIFIED BY THE CARRIER UNDER~~
25 ~~SUBSECTION (E)(3) OF THIS SECTION.~~

26 ~~(G)(1) EACH CARRIER, IN CONSULTATION WITH THE CLINICAL EXPERTS~~
27 ~~IDENTIFIED BY THE CARRIER UNDER SUBSECTION (E)(3) OF THIS SECTION, SHALL~~
28 ~~DECIDE THE APPROPRIATE PATIENT SELECTION CRITERIA FOR AN EMERGING~~
29 ~~MEDICAL OR SURGICAL TREATMENT FOR THE CARRIER'S AND THE CLINICAL~~
30 ~~EXPERT'S REVIEW AND FOR WHICH COVERAGE BY THE CARRIER IS TO BE~~
31 ~~EXTENDED.~~

32 ~~(2) A CARRIER MAY USE THE PATIENT SELECTION CRITERIA AND~~
33 ~~OTHER GUIDELINES AGREED ON WITH THE CLINICAL EXPERTS TO APPROVE OR~~
34 ~~DENY COVERAGE FOR EMERGING MEDICAL AND SURGICAL TREATMENTS FOR ITS~~
35 ~~ENROLLEES.~~

36 ~~(H)(1) A CARRIER'S MEDICAL DIRECTOR AND MEDICAL POLICY STAFF~~
37 ~~MAY NOT MAKE COVERAGE DECISIONS ON LIFESAVING EMERGING MEDICAL OR~~
38 ~~SURGICAL TREATMENTS WITHOUT FIRST CONSULTING THE CLINICAL EXPERTS~~
39 ~~IDENTIFIED BY THE CARRIER UNDER SUBSECTION (E)(3) OF THIS SECTION.~~

40 ~~(2) A CARRIER SHALL HAVE THE RIGHT TO REEVALUATE AREAS OF~~
41 ~~DISPUTE BETWEEN THE CARRIER AND THE CLINICAL EXPERTS ANNUALLY TO~~

~~1 DETERMINE WHETHER SCIENTIFIC ADVANCES WARRANT A CHANGE IN THE
2 CARRIER'S COVERAGE AND PAYMENT POLICY FOR EMERGING MEDICAL AND
3 SURGICAL TREATMENTS.~~

~~4 (1) EACH CARRIER SHALL FILE ANNUALLY WITH THE COMMISSIONER A
5 DETAILED REPORT ON ALL THE CLINICAL AREAS AND DIAGNOSTIC AND
6 THERAPEUTIC SERVICES EVALUATED THAT WERE PART OF EMERGING MEDICAL
7 AND SURGICAL TREATMENTS, IN CONSULTATION WITH THE CLINICAL EXPERTS
8 IDENTIFIED BY THE CARRIER UNDER SUBSECTION (E)(3) OF THIS SECTION, DURING
9 THE PAST YEAR.~~

10 (2) THE REPORT SHALL INCLUDE:

11 (I) A SUMMARY DESCRIPTION OF EACH CLINICAL ISSUE OR
12 DIAGNOSTIC OR THERAPEUTIC SERVICE THAT WAS EVALUATED;

13 (II) FOR EACH DIAGNOSTIC OR THERAPEUTIC SERVICE, A
14 SUMMARY OF THE FINDINGS OF THE CARRIER AND THE CLINICAL EXPERTS FROM
15 THE REVIEW OF PUBLISHED, PEER-REVIEWED MEDICAL LITERATURE; AND

16 (III) FOR EACH DIAGNOSTIC OR THERAPEUTIC SERVICE, A
17 SUMMARY OF THE OPINIONS OF THE CLINICAL EXPERTS ON WHETHER THE
18 DIAGNOSTIC OR THERAPEUTIC SERVICE IS CONSIDERED A STANDARD OF CARE FOR
19 THE LOCAL COMMUNITY.

20 (E) EACH CARRIER SHALL ESTABLISH OR SUBSCRIBE OR CONTRACT TO
21 PROVIDE A SYSTEMATIC, SCIENTIFIC PROCESS TO FOLLOW FOR EVALUATING
22 EMERGING MEDICAL AND SURGICAL TREATMENTS TO ENSURE THAT SUBSCRIBERS
23 HAVE ACCESS TO THE LATEST APPROPRIATE TREATMENTS.

24 (F) THE PROCESS ESTABLISHED OR SUBSCRIBED TO OR CONTRACTED FOR
25 BY A CARRIER UNDER SUBSECTION (E) OF THIS SECTION SHALL INCLUDE:

26 (1) A COMPREHENSIVE REVIEW OF MEDICAL LITERATURE AND DATA
27 EVALUATION; AND

28 (2) INPUT FROM PHYSICIANS AND OTHER RECOGNIZED EXPERTS:

29 (I) WHO ARE NOT EMPLOYEES OF THE CARRIER; AND

30 (II) WHO:

31 1. ARE CURRENTLY TREATING PATIENTS FOR THE DISEASE
32 OR CONDITION BEING EVALUATED;

33 2. ARE BOARD CERTIFIED IN THE PERTINENT SPECIALTY
34 OR SUBSPECIALTY AREA OF THE DISEASE OR CONDITION BEING EVALUATED;

35 3. ARE GENERALLY RECOGNIZED BY THEIR PEERS TO BE
36 AUTHORITATIVE RESOURCES IN THE CLINICAL AREA BEING EVALUATED AS
37 EVIDENCED BY:

38 A. FACULTY APPOINTMENTS;

7

1 B. AUTHORSHIP OF A SIGNIFICANT BODY OF
2 PEER-REVIEWED CLINICAL LITERATURE IN THE PERTINENT SPECIALTY OR
3 SUBSPECIALTY AREA; OR

4 C. A DEMONSTRATED HISTORY OF LEADERSHIP IN LOCAL,
5 STATE, OR NATIONAL PROFESSIONAL ASSOCIATIONS AND NONPROFIT PATIENT AND
6 COMMUNITY ADVOCACY ORGANIZATIONS THAT ADDRESS THE DISEASE OR
7 CONDITION AND THE SPECIALTY OR SUBSPECIALTY AREA IN QUESTION; OR

8 4. HAVE A DEMONSTRATED HISTORY OF SUBSTANTIAL
9 EXPERIENCE AND PRACTICAL KNOWLEDGE IN THE SPECIALTY OR SUBSPECIALTY
10 AREA IN QUESTION.

11 (G) A CARRIER'S DECISION TO PROVIDE COVERAGE FOR AN EMERGING
12 MEDICAL OR SURGICAL TREATMENT SHALL RESULT FROM THE CONSENSUS OF
13 OPINION FROM ITS OWN ANALYSIS AND THE KNOWLEDGE PROVIDED TO THE
14 CARRIER FROM THE PROCESS IDENTIFIED BY THE CARRIER IN SUBSECTION (F) OF
15 THIS SECTION.

16 (H) EACH CARRIER, IN CONJUNCTION WITH THE CLINICAL EXPERTS
17 IDENTIFIED BY THE CARRIER UNDER SUBSECTION (F)(2) OF THIS SECTION, SHALL
18 DECIDE THE PATIENT SELECTION CRITERIA FOR AN EMERGING MEDICAL OR
19 SURGICAL TREATMENT FOR WHICH COVERAGE BY THE CARRIER IS TO BE
20 PROVIDED.

21 (I) EACH CARRIER SHALL PROVIDE A DESCRIPTION OF THE PROCESS
22 IDENTIFIED BY THE CARRIER UNDER SUBSECTION (F) OF THIS SECTION TO
23 ENROLLEES AND CONTRACTING PROVIDERS AND ALL OTHER PROVIDERS ON
24 REQUEST.

25 (J) (1) A CARRIER'S COVERAGE DECISION ON AN EMERGING MEDICAL OR
26 SURGICAL TREATMENT SHALL BE IN COMPLIANCE WITH § 19-1305.2 OF THE HEALTH
27 - GENERAL ARTICLE, WHEN BEING APPEALED BY AN ENROLLEE.

28 (2) A CARRIER MAY REEVALUATE ANNUALLY WHETHER SCIENTIFIC
29 ADVANCES WARRANT A CHANGE IN THE CARRIER'S COVERAGE AND PAYMENT
30 POLICY FOR AN EMERGING MEDICAL OR SURGICAL TREATMENT.

31 (K) (1) EACH CARRIER SHALL FILE ANNUALLY WITH THE COMMISSIONER A
32 SUMMARY DESCRIPTION OF THE CLINICAL ISSUES AND DIAGNOSTIC AND
33 THERAPEUTIC SERVICES THAT WERE EVALUATED AND THE CONCLUSION OF THE
34 EVALUATION, INCLUDING THE OPINIONS OF THE CLINICAL EXPERTS.

35 ~~(3)~~ (2) THE COMMISSIONER SHALL:

36 (I) MAKE EACH CARRIER'S ~~REPORT~~ FILING UNDER PARAGRAPH
37 (1) OF THIS SUBSECTION AVAILABLE TO THE PUBLIC FOR INSPECTION AND REVIEW;
38 AND

39 (II) PROVIDE A COPY OF A CARRIER'S ~~REPORT~~ FILING UNDER
40 PARAGRAPH (1) OF THIS SUBSECTION TO ANY PERSON UPON REQUEST IN A TIMELY
41 MANNER AND AT A REASONABLE COST TO THE PERSON.

1 ~~(J) AN INDIVIDUAL SERVING AS A CLINICAL EXPERT FOR THE PURPOSES OF~~
2 ~~THIS SECTION SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER §~~
3 ~~5-399.8 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.~~

4 ~~(K) EACH CARRIER SHALL INCLUDE IN SUMMARY FORM INFORMATION ON~~
5 ~~THE PROCESS THAT THE CARRIER IS REQUIRED UNDER THIS SECTION TO~~
6 ~~ESTABLISH AND FOLLOW IN EVALUATING EMERGING MEDICAL AND SURGICAL~~
7 ~~TREATMENTS FOR THE PURPOSE OF MAKING COVERAGE DECISIONS IN:~~

8 ~~(1) THE MARKETING AND ENROLLMENT MATERIALS OF THE CARRIER~~
9 ~~TO EACH CURRENT ENROLLEE AND PROSPECTIVE ENROLLEE AT THE TIME OF OPEN~~
10 ~~ENROLLMENT OR POLICY OR CONTRACT RENEWAL; AND~~

11 ~~(2) THE CONTRACT OR AN ATTACHMENT TO THE CONTRACT OF A~~
12 ~~PROVIDER BEING OFFERED A CONTRACT BY THE CARRIER TO RENDER HEALTH~~
13 ~~CARE SERVICES TO ENROLLEES OF THE CARRIER.~~

14 (L) AFTER NOTIFYING A CARRIER AND PROVIDING AN OPPORTUNITY FOR A
15 HEARING, THE COMMISSIONER MAY ISSUE AN ORDER UNDER § 4-113(D) OF THIS
16 ARTICLE FOR A VIOLATION OF THIS SECTION.

17 (M) (1) THE COMMISSIONER MAY WAIVE THE APPLICATION OF ~~THIS~~
18 ~~SECTION SUBSECTION (F) OF THIS SECTION~~ FOR A CARRIER THAT HAS IN PLACE A
19 PROCESS FOR EVALUATING EMERGING MEDICAL AND SURGICAL TREATMENTS
20 USED FOR THE PURPOSE OF MAKING COVERAGE DECISIONS, IF THE COMMISSIONER
21 DETERMINES THAT THE CARRIER'S PROCESS IS SUBSTANTIALLY EQUIVALENT TO,
22 OR EXCEEDS, THE REQUIREMENTS OF THIS SECTION.

23 (2) A CARRIER RECEIVING A WAIVER UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION SHALL REPORT ANY CHANGE IN ITS PROCESS FOR EVALUATING
25 EMERGING MEDICAL AND SURGICAL TREATMENTS TO THE COMMISSIONER.

26 (3) THE COMMISSIONER MAY WITHDRAW A WAIVER GRANTED UNDER
27 PARAGRAPH (1) OF THIS SUBSECTION WHENEVER THE COMMISSIONER DETERMINES
28 THAT THE CARRIER'S PROCESS FOR EVALUATING EMERGING MEDICAL AND
29 SURGICAL TREATMENTS IS NOT SUBSTANTIALLY EQUIVALENT TO THE
30 REQUIREMENTS OF THIS SECTION.

31 (N) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS
32 SECTION.

33 ~~Article — Courts and Judicial Proceedings~~

34 ~~5-399.8.~~

35 ~~AN INDIVIDUAL IDENTIFIED AND SERVING AS A CLINICAL EXPERT UNDER §~~
36 ~~45-121 OF THE INSURANCE ARTICLE FOR THE PURPOSE OF EVALUATING EMERGING~~
37 ~~MEDICAL AND SURGICAL TREATMENTS IS IMMUNE FROM CIVIL LIABILITY FOR ANY~~
38 ~~ACTION MADE IN GOOD FAITH IN CARRYING OUT THAT PURPOSE.~~

9

1 **Article - Health - General**

2 19-706.

3 (N) THE PROVISIONS OF § 15-121 OF THE INSURANCE ARTICLE SHALL APPLY
4 TO HEALTH MAINTENANCE ORGANIZATIONS.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 1997.