Unofficial Copy C3 1998 Regular Session (8lr0149)

ENROLLED BILL -- Economic Matters/Finance --

Introduced by Delegates Harrison, Taylor, Busch, Dewberry, Hurson, Rawlings, Curran, Guns, Vallario, Hixson, Menes, Kopp, Arnick, Owings, Benson, E. Burns, Cadden, Clagett, Conroy, C. Davis, Finifter, Frank, Goldwater, Hecht, Howard, Krysiak, Love, Marriott, Minnick, Patterson, Perry, Pitkin, Preis, Proctor, Shriver, Slade, Turner, Weir, and Workman Workman, DeCarlo, Donoghue, McHale, Miller, Valderrama, Gordon, Boston, Crumlin, Eckardt, Fulton, Kach, Kelly, Kirk, La Vay, McClenahan, V. Mitchell, Pendergrass, and Walkup

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.

Speaker.

CHAPTER____

1 AN ACT concerning

2

Provider-Sponsored Organizations - Medicare+Choice Program

3 FOR the purpose of requiring provider-sponsored organizations to obtain a license

4 from the Maryland Insurance Commissioner prior to contracting under the

5 federal Medicare+Choice Program to provide Medicare services; *clarifying the*

6 *authority of a licensee; permitting a provider-sponsored organization to*

7 participate in the Medicaid program as a managed care organization; imposing

8 <u>certain solvency requirements under certain circumstances;</u> requiring the

9 Commissioner to adopt certain regulations; altering a certain provision of law

10 related to the referral of patients to certain entities for the provision of health

- 1 care services to include a provider-sponsored organization; defining certain
- 2 terms; and generally relating to provider-sponsored organizations.

3 BY adding to

- 4 Article Health General
- Section 19-7A-01 through 19 7A 03 19-7A-04, inclusive, to be under the new
 subtitle "Subtitle 7A. Provider-Sponsored Organizations"
- 7 Annotated Code of Maryland
- 8 (1996 Replacement Volume and 1997 Supplement)

9 BY repealing and reenacting, with amendments,

- 10 Article Health Occupations
- 11 Section 1-302(d)(7) and (8)
- 12 Annotated Code of Maryland
- 13 (1994 Replacement Volume and 1997 Supplement)

14 BY adding to

- 15 Article Health Occupations
- 16 Section 1-302(d)(9)
- 17 Annotated Code of Maryland
- 18 (1994 Replacement Volume and 1997 Supplement)
- 19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 20 MARYLAND, That the Laws of Maryland read as follows:
- 21

Article - Health - General

22

SUBTITLE 7A. PROVIDER-SPONSORED ORGANIZATIONS.

23 19-7A-01.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS 25 INDICATED.

26 (B) "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.

27 (C) "HEALTH CARE SERVICES" MEANS SERVICES, MEDICAL EQUIPMENT, AND
 28 SUPPLIES THAT ARE PROVIDED BY A PROVIDER.

29 (C) <u>"HEALTH CARE SERVICES" MEANS A HEALTH OR MEDICAL CARE</u>
 30 PROCEDURE OR SERVICE RENDERED BY A HEALTH CARE PROVIDER THAT:

31 (1) <u>PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN</u>
 32 <u>DISEASE OR DYSFUNCTION; OR</u>

33(2)DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES, OR34MEDICAL GOODS FOR THE TREATMENT OF A HUMAN DISEASE OR DYSFUNCTION.

2

1 (D) <u>"LICENSE" INCLUDES A CERTIFICATE OF AUTHORITY, AS DEFINED IN §</u> 2 1-101 OF THE INSURANCE ARTICLE.

3 (D) (E) "PROVIDER" MEANS ANY PERSON, INCLUDING A PHYSICIAN OR
 4 HOSPITAL, THAT IS LICENSED OR OTHERWISE AUTHORIZED IN THIS STATE TO
 5 PROVIDE HEALTH CARE SERVICES.

6 (E) (F) "PROVIDER-SPONSORED ORGANIZATION" MEANS AN ENTITY THAT:

7 (1) IS A LEGAL AGGREGATION OF PROVIDERS OPERATING
8 COLLECTIVELY FOR THE PURPOSE OF PROVIDING HEALTH CARE SERVICES TO
9 MEDICARE BENEFICIARIES UNDER THE FEDERAL MEDICARE+CHOICE PROGRAM;

(2) ACTS THROUGH A LICENSED ENTITY, SUCH AS A PARTNERSHIP,
 CORPORATION, <u>LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP</u>, OR
 SOLE PROPRIETORSHIP, THAT HAS AUTHORITY OVER THE ENTITY'S ACTIVITIES AND
 RESPONSIBILITY FOR SATISFYING THE REQUIREMENTS OF § 19-7A-02 OF THIS
 SUBTITLE; AND

(3) PROVIDES A SUBSTANTIAL PORTION PROPORTION OF THE HEALTH
 CARE SERVICES REQUIRED TO BE PROVIDED UNDER THE FEDERAL
 MEDICARE+CHOICE PROGRAM DIRECTLY THROUGH PROVIDERS OR AFFILIATED
 GROUPS OF PROVIDERS.

19 19-7A-02.

(A) <u>A LICENSE ISSUED TO A PROVIDER-SPONSORED ORGANIZATION UNDER</u>
 <u>THIS SUBTITLE AUTHORIZES THE LICENSEE TO PROVIDE HEALTH CARE SERVICES</u>
 <u>ONLY TO MEDICARE BENEFICIARIES UNDER THE FEDERAL MEDICARE+CHOICE</u>
 <u>PROGRAM.</u>

24 (B) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO LIMIT A
 25 PROVIDER-SPONSORED ORGANIZATION FROM PARTICIPATING IN THE MEDICAID
 26 PROGRAM AS A MANAGED CARE ORGANIZATION.

27 <u>19-7A-03.</u>

28 (A) (1) BEFORE AN ENTITY MAY OPERATE AS A PROVIDER-SPONSORED
29 ORGANIZATION UNDER THE FEDERAL MEDICARE+CHOICE PROGRAM, THE ENTITY
30 MUST OBTAIN A LICENSE FROM THE COMMISSIONER.

(2) THE COMMISSIONER SHALL ISSUE A LICENSE UNDER PARAGRAPH (1)
 OF THIS SUBSECTION TO ANY ENTITY TO OPERATE AS A PROVIDER-SPONSORED
 ORGANIZATION THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS
 SECTION.

(B) TO OPERATE AS A PROVIDER-SPONSORED ORGANIZATION UNDER THE
 FEDERAL MEDICARE+CHOICE PROGRAM IN THIS STATE, AN ENTITY SHALL:

37 (1) BE FORMED UNDER THE LAWS OF THIS STATE;

3

1(2)(1)MEET THE DEFINITION OF A PROVIDER-SPONSORED2ORGANIZATION UNDER § 19-7A-01 OF THIS SUBTITLE; AND

3 (3) (2) MEET THE REQUIREMENTS APPLICABLE TO A HEALTH
4 MAINTENANCE ORGANIZATION UNDER SUBTITLE 7 OF THIS TITLE TO THE EXTENT
5 THOSE REQUIREMENTS ARE NOT PREEMPTED BY FEDERAL LAW.

6 19 7A 03. <u>19-7A-04.</u>

7 (A) THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THE 8 PROVISIONS OF THIS SUBTITLE.

9 (B) <u>EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,</u>
10 REGULATIONS RELATING TO THE SOLVENCY OF A PROVIDER-SPONSORED
11 ORGANIZATION ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL IMPOSE
12 SOLVENCY REQUIREMENTS THE SAME AS REQUIRED UNDER FEDERAL LAW.

(C) <u>UPON THE EXPIRATION, REPEAL, OR TERMINATION OF SOLVENCY</u>
 <u>REQUIREMENTS UNDER FEDERAL LAW FOR PROVIDER-SPONSORED</u>
 <u>ORGANIZATIONS, THE REQUIREMENTS OF SUBSECTION 19-710(D) OF THIS TITLE</u>
 SHALL APPLY.

17 Article - Health Occupations

18 1-302.

19 (d) The provisions of this section do not apply to:

20 (7) A health care practitioner or member of a single specialty group

21 practice, including any person employed or affiliated with a hospital, who has a

22 beneficial interest in a health care entity that is owned or controlled by a hospital or

23 under common ownership or control with a hospital if:

(i) The health care practitioner or other member of that single
specialty group practice provides the health care services to a patient pursuant to a
referral or in accordance with a consultation requested by another health care

27 practitioner who does not have a beneficial interest in the health care entity; or

(ii) The health care practitioner or other member of that single
specialty group practice referring a patient to the facility, service, or entity personally
performs or supervises the health care service or procedure; [or]

31 (8) A health care practitioner with a beneficial interest in, or
32 compensation arrangement with, a hospital or related institution as defined in §
33 19-301 of the Health - General Article or a facility, service, or other entity that is
34 owned or controlled by a hospital or related institution or under common ownership or
35 control with a hospital or related institution if:

36 (i) The beneficial interest was held or the compensation
37 arrangement was in existence on January 1, 1993; and

4

1 (ii) Thereafter the beneficial interest or compensation arrangement 2 of the health care practitioner does not increase; OR

3 (9) A HEALTH CARE PRACTITIONER WHEN TREATING AN ENROLLEE OF
4 A PROVIDER-SPONSORED ORGANIZATION AS DEFINED IN § 19-7A-01 OF THE HEALTH
5 - GENERAL ARTICLE IF THE HEALTH CARE PRACTITIONER IS REFERRING
6 ENROLLEES TO AN AFFILIATED HEALTH CARE PROVIDER OF THE
7 PROVIDER-SPONSORED ORGANIZATION.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 9 June 1, 1998.