

HOUSE BILL 98

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1998 Regular Session  
8lr0149

(PRE-FILED)

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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**

Requested: November 15, 1997

Introduced and read first time: January 14, 1998

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 1998

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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; requiring the  
6 Commissioner to adopt certain regulations; altering a certain provision of law  
7 related to the referral of patients to certain entities for the provision of health  
8 care services to include a provider-sponsored organization; defining certain  
9 terms; and generally relating to provider-sponsored organizations.

10 BY adding to

11 Article - Health - General

12 Section 19-7A-01 through 19-7A-03, inclusive, to be under the new subtitle

13 "Subtitle 7A. Provider-Sponsored Organizations"

14 Annotated Code of Maryland

15 (1996 Replacement Volume and 1997 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - Health Occupations

1 Section 1-302(d)(7) and (8)  
2 Annotated Code of Maryland  
3 (1994 Replacement Volume and 1997 Supplement)

4 BY adding to  
5 Article - Health Occupations  
6 Section 1-302(d)(9)  
7 Annotated Code of Maryland  
8 (1994 Replacement Volume and 1997 Supplement)

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

11 **Article - Health - General**

12 **SUBTITLE 7A. PROVIDER-SPONSORED ORGANIZATIONS.**

13 19-7A-01.

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

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

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

19 (C) "HEALTH CARE SERVICES" MEANS A HEALTH OR MEDICAL CARE  
20 PROCEDURE OR SERVICE RENDERED BY A HEALTH CARE PROVIDER THAT:

21 (1) PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN  
22 DISEASE OR DYSFUNCTION; OR

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

25 (D) "LICENSE" INCLUDES A CERTIFICATE OF AUTHORITY, AS DEFINED IN §  
26 1-101 OF THE INSURANCE ARTICLE.

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

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

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

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

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

10 19-7A-02.

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

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

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

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

21 ~~(2)~~ (1) MEET THE DEFINITION OF A PROVIDER-SPONSORED  
 22 ORGANIZATION UNDER § 19-7A-01 OF THIS SUBTITLE; AND

23 ~~(3)~~ (2) MEET THE REQUIREMENTS APPLICABLE TO A HEALTH  
 24 MAINTENANCE ORGANIZATION UNDER SUBTITLE 7 OF THIS TITLE TO THE EXTENT  
 25 THOSE REQUIREMENTS ARE NOT PREEMPTED BY FEDERAL LAW.

26 19-7A-03.

27 (A) THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THE  
 28 PROVISIONS OF THIS SUBTITLE.

29 (B) REGULATIONS RELATING TO THE SOLVENCY OF A PROVIDER-SPONSORED  
 30 ORGANIZATION ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL IMPOSE  
 31 SOLVENCY REQUIREMENTS THE SAME AS REQUIRED UNDER FEDERAL LAW.

32 **Article - Health Occupations**

33 1-302.

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

1           (7)     A health care practitioner or member of a single specialty group  
2 practice, including any person employed or affiliated with a hospital, who has a  
3 beneficial interest in a health care entity that is owned or controlled by a hospital or  
4 under common ownership or control with a hospital if:

5                   (i)     The health care practitioner or other member of that single  
6 specialty group practice provides the health care services to a patient pursuant to a  
7 referral or in accordance with a consultation requested by another health care  
8 practitioner who does not have a beneficial interest in the health care entity; or

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

12           (8)     A health care practitioner with a beneficial interest in, or  
13 compensation arrangement with, a hospital or related institution as defined in §  
14 19-301 of the Health - General Article or a facility, service, or other entity that is  
15 owned or controlled by a hospital or related institution or under common ownership or  
16 control with a hospital or related institution if:

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

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

21           (9)     A HEALTH CARE PRACTITIONER WHEN TREATING AN ENROLLEE OF  
22 A PROVIDER-SPONSORED ORGANIZATION AS DEFINED IN § 19-7A-01 OF THE HEALTH  
23 - GENERAL ARTICLE IF THE HEALTH CARE PRACTITIONER IS REFERRING  
24 ENROLLEES TO AN AFFILIATED HEALTH CARE PROVIDER OF THE  
25 PROVIDER-SPONSORED ORGANIZATION.

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