SENATE BILL 608

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SB 654/97 - FIN

By: **Senator Pinsky**
Introduced and read first time: February 6, 1998
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance Carriers - Quality of Care Standards**

3 FOR the purpose of requiring certain health insurance carriers to maintain a certain
4 provider panel that satisfies certain requirements related to the accessibility
5 and provision of health care benefits to enrollees; requiring carriers to submit
6 certain information to the Insurance Commissioner; requiring the
7 Commissioner, in consultation with the Department of Health and Mental
8 Hygiene or its designee, to make a certain determination related to the
9 information provided by a carrier; requiring the Commissioner to adopt certain
10 regulations; prohibiting certain health insurance carriers from offering or
11 paying bonuses or other incentive-based compensation to health care
12 practitioners under certain circumstances; prohibiting certain health insurance
13 carriers from penalizing a health care provider who makes certain reports to
14 certain persons under certain circumstances; prohibiting a carrier and certain
15 other persons from terminating or taking certain other adverse action against
16 certain persons for certain actions taken for certain purposes; and generally
17 relating to prohibiting health insurance carriers from taking certain actions and
18 requiring health insurance carriers to satisfy certain requirements in order to
19 maintain standards for quality of care.

20 BY repealing and reenacting, with amendments,
21 Article - Insurance
22 Section 15-112, 15-113, and 15-116
23 Annotated Code of Maryland
24 (1997 Volume)

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

27 **Article - Insurance**

28 15-112.

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

1 (2) (i) "Carrier" means:

2 1. an insurer;

3 2. a nonprofit health service plan;

4 3. a health maintenance organization;

5 4. a dental plan organization; or

6 5. any other person that provides health benefit plans
7 subject to regulation by the State.

8 (ii) "Carrier" includes an entity that arranges a provider panel for a
9 carrier.

10 (3) "Enrollee" means a person entitled to health care benefits from a
11 carrier.

12 (4) "Provider" means a health care practitioner or group of health care
13 practitioners licensed, certified, or otherwise authorized by law to provide health care
14 services.

15 (5) (i) "Provider panel" means the providers that contract with a
16 carrier to provide health care services to the carrier's enrollees under the carrier's
17 health benefit plan.

18 (ii) "Provider panel" does not include an arrangement in which any
19 provider may participate solely by contracting with the carrier to provide health care
20 services at a discounted fee-for-service rate.

21 (b) A carrier that uses a provider panel shall establish procedures to:

22 (1) review applications for participation on the carrier's provider panel in
23 accordance with this section;

24 (2) notify an enrollee of:

25 (i) the termination from the carrier's provider panel of the primary
26 care provider that was furnishing health care services to the enrollee; and

27 (ii) the right of the enrollee, on request, to continue to receive
28 health care services from the enrollee's primary care provider for up to 90 days after
29 the date of the notice of termination of the enrollee's primary care provider from the
30 carrier's provider panel, if the termination was for reasons unrelated to fraud, patient
31 abuse, incompetency, or loss of licensure status;

32 (3) notify primary care providers on the carrier's provider panel of the
33 termination of a specialty referral services provider; and

1 (4) notify a provider at least 90 days before the date of the termination of
2 the provider from the carrier's provider panel, if the termination is for reasons
3 unrelated to fraud, patient abuse, incompetency, or loss of licensure status.

4 (c) A carrier that uses a provider panel:

5 (1) on request, shall provide an application and information that relates
6 to consideration for participation on the carrier's provider panel to any provider
7 seeking to apply for participation;

8 (2) shall make publicly available its application; and

9 (3) shall make efforts to increase the opportunity for a broad range of
10 minority providers to participate on the carrier's provider panel.

11 (d) (1) A provider that seeks to participate on a provider panel of a carrier
12 shall submit an application to the carrier.

13 (2) (i) Subject to paragraph (3) of this subsection, the carrier, after
14 reviewing the application, shall accept or reject the provider for participation on the
15 carrier's provider panel.

16 (ii) If the carrier rejects the provider for participation on the
17 carrier's provider panel, the carrier shall send to the provider at the address listed in
18 the application written notice of the rejection.

19 (3) (i) Except as provided in paragraph (4) of this subsection, within
20 30 days after the date a carrier receives a completed application, the carrier shall
21 send to the provider at the address listed in the application written notice of:

22 1. the carrier's intent to continue to process the provider's
23 application to obtain necessary credentialing information; or

24 2. the carrier's rejection of the provider for participation on
25 the carrier's provider panel.

26 (ii) The failure of a carrier to provide the notice required under
27 subparagraph (i) of this paragraph is a violation of this article and the carrier is
28 subject to the penalties provided by § 4-113(d) of this article.

29 (iii) If, under subparagraph (i)1 of this paragraph, a carrier provides
30 notice to the provider of its intent to continue to process the provider's application to
31 obtain necessary credentialing information, the carrier, within 150 days after the date
32 the notice is provided, shall:

33 1. accept or reject the provider for participation on the
34 carrier's provider panel; and

35 2. send written notice of the acceptance or rejection to the
36 provider at the address listed in the application.

1 (iv) The failure of a carrier to provide the notice required under
2 subparagraph (iii)2 of this paragraph is a violation of this article and the carrier is
3 subject to the provisions of and penalties provided by §§ 4-113 and 4-114 of this
4 article.

5 (4) (i) A carrier that receives an incomplete application shall return
6 the application to the provider at the address listed in the application within 10 days
7 after the date the application is received.

8 (ii) The carrier shall indicate to the provider what information is
9 needed to make the application complete.

10 (iii) The provider may return the completed application to the
11 carrier.

12 (iv) After the carrier receives the completed application, the carrier
13 is subject to the time periods established in paragraph (3) of this subsection.

14 (5) A carrier may charge a reasonable fee for an application submitted to
15 the carrier under this section.

16 (E) (1) A CARRIER SHALL MAINTAIN A PROVIDER PANEL THAT IS
17 SUFFICIENT IN NUMBERS AND TYPES OF PROVIDERS TO ENSURE THAT ALL
18 COVERED HEALTH CARE BENEFITS THAT AN ENROLLEE IS ENTITLED TO RECEIVE
19 UNDER THE ENROLLEE'S CONTRACT OR POLICY WITH THE CARRIER ARE ACCESSIBLE
20 AND PROVIDED IN A TIMELY MANNER WITHOUT DELAYS.

21 (2) IN ORDER TO DETERMINE WHETHER A CARRIER HAS A SUFFICIENT
22 PROVIDER PANEL TO MEET THE REQUIREMENTS OF PARAGRAPH (1) OF THIS
23 SUBSECTION, EACH CARRIER ANNUALLY SHALL PROVIDE INFORMATION TO THE
24 COMMISSIONER ON:

25 (I) THE NUMBER OF ENROLLEES OF THE CARRIER;

26 (II) THE NUMBER OF PRIMARY CARE PROVIDERS EMPLOYED BY OR
27 UNDER CONTRACT WITH THE CARRIER;

28 (III) IF APPLICABLE, THE LOCATION FOR EACH PRIMARY CARE
29 PROVIDER PRACTICE;

30 (IV) IF APPLICABLE, THE STAFFING AT EACH PRIMARY CARE
31 PROVIDER LOCATION EXPRESSED IN FULL-TIME EQUIVALENCIES AND GROUPED BY
32 MEDICAL SPECIALTY, INCLUDING:

33 1. GENERAL PRACTICE;

34 2. FAMILY PRACTICE;

35 3. INTERNAL MEDICINE;

36 4. PEDIATRICS;

1 5. OBSTETRICS AND GYNECOLOGY; AND

2 6. ADVANCED PRACTICE NURSING; AND

3 (V) ANY OTHER INFORMATION OR DOCUMENTATION THAT THE
4 COMMISSIONER OR THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR ITS
5 DESIGNEE CONSIDERS APPROPRIATE IN DETERMINING WHETHER A CARRIER'S
6 PROVIDER PANEL IS SUFFICIENT TO PROVIDE ENROLLEES WITH TIMELY ACCESS TO
7 HEALTH CARE SERVICES, INCLUDING:

8 1. THE WAITING TIME FOR TELEPHONE CALLS TO BE
9 ANSWERED;

10 2. THE AVERAGE INTERVAL BETWEEN THE DATE AN
11 ENROLLEE REQUESTS AN APPOINTMENT AND THE ACTUAL APPOINTMENT DATE;
12 AND

13 3. OFFICE WAITING TIMES.

14 (3) (I) FROM THE INFORMATION PROVIDED BY A CARRIER UNDER
15 PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER, IN CONSULTATION WITH
16 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR ITS DESIGNEE, SHALL
17 DETERMINE WHETHER THE CARRIER'S PROVIDER PANEL IS SUFFICIENT TO SATISFY
18 THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION.

19 (II) IN REVIEWING WHETHER A CARRIER'S PROVIDER PANEL
20 SATISFIES THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE
21 COMMISSIONER SHALL ADOPT BY REGULATION:

22 1. SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION,
23 MAXIMUM PRIMARY CARE PROVIDER-TO-ENROLLEE RATIOS BROKEN DOWN BY THE
24 MEDICAL SPECIALITIES LISTED IN PARAGRAPH (2)(IV) OF THIS SUBSECTION AND ANY
25 OTHER MEDICAL SPECIALTY THE COMMISSIONER OR THE DEPARTMENT CONSIDERS
26 APPROPRIATE; AND

27 2. APPOINTMENT GUIDELINES CONSISTENT WITH
28 PARAGRAPH (5) OF THIS SUBSECTION.

29 (III) UNLESS THE CARRIER CAN DEMONSTRATE TO THE
30 COMMISSIONER OR THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR ITS
31 DESIGNEE THE CARRIER'S ABILITY TO SATISFY THE REQUIREMENTS OF PARAGRAPH
32 (1) OF THIS SUBSECTION, A CARRIER MAY NOT HAVE A HIGHER PRIMARY CARE
33 PROVIDER-TO-ENROLLEE RATIO THAN THAT ESTABLISHED BY THE COMMISSIONER
34 BY REGULATION IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH.

35 (4) REGARDLESS OF MEDICAL SPECIALTY, THE COMMISSIONER MAY
36 NOT ADOPT BY REGULATION A HIGHER PRIMARY CARE PROVIDER-TO-ENROLLEE
37 RATIO OF:

1 (I) FOR PHYSICIANS, WITH RESPECT TO ADULT ENROLLEES, 2,000
2 TO 1;

3 (II) FOR PHYSICIANS, WITH RESPECT TO ENROLLEES UNDER THE
4 AGE OF 21 YEARS, 1,500 TO 1; AND

5 (III) FOR ADVANCED PRACTICE NURSES, 1,000 TO 1.

6 (5) IN DEVELOPING THE APPOINTMENT GUIDELINES REQUIRED UNDER
7 PARAGRAPH (3)(II)2 OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSIDER
8 THE FOLLOWING:

9 (I) APPOINTMENTS FOR ROUTINE AND PREVENTIVE PRIMARY
10 CARE SHALL BE SCHEDULED TO BE PERFORMED WITHIN 30 DAYS AFTER AN
11 ENROLLEE'S REQUEST FOR AN APPOINTMENT;

12 (II) APPOINTMENTS FOR ROUTINE SPECIALIST FOLLOW-UP SHALL
13 BE SCHEDULED TO BE PERFORMED WITHIN 30 DAYS AFTER THE INITIAL
14 AUTHORIZATION, IF REQUIRED, FROM THE ENROLLEE'S PRIMARY CARE PROVIDER,
15 OR SOONER AS DEEMED NECESSARY BY THE ENROLLEE'S PRIMARY CARE PROVIDER,
16 WHOSE STAFF SHALL MAKE THE APPOINTMENT DIRECTLY WITH THE SPECIALIST'S
17 OFFICE; AND

18 (III) AT THE DISCRETION OF THE NEWBORN'S PRIMARY CARE
19 PROVIDER, APPOINTMENTS FOR NEWBORNS SHALL BE SCHEDULED TO BE
20 PERFORMED:

21 1. WITHIN 14 DAYS AFTER DISCHARGE FROM A HOSPITAL IF
22 NO HOME VISIT HAS OCCURRED; OR

23 2. WITHIN 30 DAYS AFTER DISCHARGE FROM A HOSPITAL IF
24 A HOME VISIT HAS BEEN PROVIDED.

25 [(e)] (F) A carrier may not deny an application for participation or terminate
26 participation on its provider panel on the basis of:

27 (1) gender, race, age, religion, national origin, or a protected category
28 under the federal Americans with Disabilities Act;

29 (2) the type or number of appeals that the provider files under Title 19,
30 Subtitle 13 of the Health - General Article; or

31 (3) the type or number of complaints or grievances that the provider files
32 or requests for review under the carrier's internal review system established under
33 subsection [(h)] (I) of this section.

34 [(f)] (G) (1) A carrier may not deny an application for participation or
35 terminate participation on its provider panel solely on the basis of the license,
36 certification, or other authorization of the provider to provide health care services if
37 the carrier provides health care services within the provider's lawful scope of practice.

1 (2) Notwithstanding paragraph (1) of this subsection, a carrier may
2 reject an application for participation or terminate participation on its provider panel
3 based on the participation on the provider panel of a sufficient number of similarly
4 qualified providers.

5 (3) A violation of this subsection does not create a new cause of action.

6 [(g)] (H) A carrier may not terminate participation on its provider panel or
7 otherwise penalize a provider for:

8 (1) advocating the interests of a patient through the carrier's internal
9 review system established under subsection [(h)] (I) of this section; or

10 (2) filing an appeal under Title 19, Subtitle 13 of the Health - General
11 Article.

12 [(h)] (I) Each carrier shall establish an internal review system to resolve
13 grievances initiated by providers that participate on the carrier's provider panel,
14 including grievances involving the termination of a provider from participation on the
15 carrier's provider panel.

16 [(i)] (J) (1) For at least 90 days after the date of the notice of termination of
17 a primary care provider from a carrier's provider panel for reasons unrelated to fraud,
18 patient abuse, incompetency, or loss of licensure status, the primary care provider
19 shall furnish health care services to each enrollee:

20 (i) who was receiving health care services from the primary care
21 provider before the notice of termination; and

22 (ii) who, after receiving notice under subsection (b) of this section of
23 the termination of the primary care provider, requests to continue receiving health
24 care services from the primary care provider.

25 (2) A carrier shall reimburse a primary care provider that furnishes
26 health care services under this subsection in accordance with the primary care
27 provider's agreement with the carrier.

28 [(j)] (K) (1) A carrier shall provide to prospective enrollees before
29 enrollment and to existing enrollees at least once a year:

30 (i) a list of providers on the carrier's provider panel; and

31 (ii) information on providers that are no longer accepting new
32 patients.

33 (2) The information provided under paragraph (1) of this subsection
34 shall be updated at least once a year.

35 (3) A policy, certificate, or other evidence of coverage shall:

1 (i) indicate clearly the office in the Administration that is
2 responsible for receiving and responding to complaints from enrollees about carriers;
3 and

4 (ii) include the telephone number of the office and the procedure for
5 filing a complaint.

6 [(k)] (L) The Commissioner:

7 (1) shall adopt regulations that relate to the procedures that carriers
8 must use to process applications for participation on a provider panel; and

9 (2) in consultation with the Secretary of Health and Mental Hygiene,
10 shall adopt strategies to assist carriers in maximizing the opportunity for a broad
11 range of minority providers to participate in the delivery of health care services.

12 15-113.

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

14 (2) "Carrier" means:

15 (i) an insurer;

16 (ii) a nonprofit health service plan;

17 (iii) a health maintenance organization;

18 (iv) a dental plan organization; or

19 (v) any other person that provides health benefit plans subject to
20 regulation by the State.

21 (3) "Health care practitioner" means an individual who is licensed,
22 certified, or otherwise authorized under the Health Occupations Article to provide
23 health care services.

24 (b) A carrier may not reimburse a health care practitioner in an amount less
25 than the sum or rate negotiated in the carrier's provider contract with the health care
26 practitioner.

27 [(c) This section does not prohibit a carrier from providing bonuses or other
28 incentive-based compensation to a health care practitioner if the bonus or other
29 incentive-based compensation does not:

30 (1) violate § 19-705.1 of the Health - General Article; or

31 (2) deter the delivery of medically appropriate care to an enrollee.]

32 (C) (1) A CARRIER MAY NOT OFFER OR PAY BONUSES, INCENTIVES, OR
33 OTHER FINANCIAL COMPENSATION, DIRECTLY OR INDIRECTLY, TO A HEALTH CARE

1 PRACTITIONER OR CREATE ANY FINANCIAL DISINCENTIVES FOR A HEALTH CARE
2 PRACTITIONER THAT WOULD, BY THEIR APPLICATION, INDUCE THE HEALTH CARE
3 PRACTITIONER TO DENY, WITHHOLD, OR DELAY THE PROVISION OF MEDICALLY
4 NECESSARY OR APPROPRIATE CARE TO AN ENROLLEE OR INSURED THAT THE
5 ENROLLEE OR INSURED IS OTHERWISE ENTITLED TO RECEIVE UNDER THE
6 ENROLLEE'S OR INSURED'S CONTRACT OR POLICY WITH THE CARRIER.

7 (2) THIS SUBSECTION DOES NOT PROHIBIT A CARRIER FROM USING
8 CAPITATED RATES TO REIMBURSE A HEALTH CARE PRACTITIONER FOR HEALTH
9 CARE SERVICES PROVIDED TO ITS ENROLLEES OR INSUREDS.

10 15-116.

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

12 (2) "Carrier" means:

13 (i) an insurer;

14 (ii) a nonprofit health service plan;

15 (iii) a health maintenance organization;

16 (iv) a dental plan organization; or

17 (v) any other person that provides health benefit plans subject to
18 regulation by the State.

19 (3) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN § 19-101(F)
20 OF THE HEALTH - GENERAL ARTICLE.

21 [(3)] (4) "Health care provider" means an individual who is licensed,
22 certified, or otherwise authorized under the Health Occupations Article to provide
23 health care services.

24 (b) A carrier, as a condition of a contract with a health care provider or in any
25 other manner, may not prohibit a health care provider from discussing with or
26 communicating to an enrollee, subscriber, public official, or other person information
27 that is necessary or appropriate for the delivery of health care services, including:

28 (1) communications that relate to treatment alternatives;

29 (2) communications that are necessary or appropriate to maintain the
30 provider-patient relationship while the patient is under the health care provider's
31 care;

32 (3) communications that relate to an enrollee's or subscriber's right to
33 appeal a coverage determination of a carrier with which the health care provider,
34 enrollee, or subscriber does not agree; and

35 (4) opinions and the basis of an opinion about public policy issues.

1 (C) IN ADDITION TO SUBSECTION (B) OF THIS SECTION, A CARRIER MAY NOT
2 PENALIZE A HEALTH CARE PROVIDER, WHO IN GOOD FAITH, REPORTS TO FEDERAL
3 OR STATE AUTHORITIES ANY ACT OR PRACTICE BY THE CARRIER THAT JEOPARDIZES
4 PATIENT HEALTH OR WELFARE.

5 (D) IN ADDITION TO SUBSECTION (C) OF THIS SECTION, A CARRIER OR
6 HEALTH CARE PROVIDER OR HEALTH CARE FACILITY, EMPLOYED BY OR UNDER
7 CONTRACT WITH THE CARRIER, MAY NOT TERMINATE OR TAKE OTHER ADVERSE
8 ACTION AGAINST A HEALTH CARE PROVIDER OR AN EMPLOYEE OR GROUP OF
9 EMPLOYEES OF A CARRIER FOR ACTIONS TAKEN BY THE HEALTH CARE PROVIDER,
10 EMPLOYEE, OR GROUP OF EMPLOYEES FOR THE PURPOSE OF:

11 (1) NOTIFYING A CARRIER, HEALTH CARE PROVIDER, HEALTH CARE
12 FACILITY, OR PATIENT OF CONDITIONS THAT THE HEALTH CARE PROVIDER,
13 EMPLOYEE, OR GROUP OF EMPLOYEES IDENTIFY IN THEIR COMMUNICATIONS WITH
14 THE CARRIER, HEALTH CARE PROVIDER, OR HEALTH CARE FACILITY AS DANGEROUS
15 OR POTENTIALLY DANGEROUS OR INJURIOUS TO:

16 (I) PATIENTS WHO ARE CURRENTLY RECEIVING HEALTH CARE
17 SERVICES FROM THE CARRIER, HEALTH CARE PROVIDER, OR HEALTH CARE
18 FACILITY;

19 (II) INDIVIDUALS WHO ARE LIKELY TO RECEIVE HEALTH CARE
20 SERVICES FROM THE CARRIER, HEALTH CARE PROVIDER, OR HEALTH CARE
21 FACILITY; OR

22 (III) EMPLOYEES OF THE CARRIER, HEALTH CARE PROVIDER, OR
23 HEALTH CARE FACILITY;

24 (2) NOTIFYING A FEDERAL OR STATE AGENCY OR AN ACCREDITATION
25 AGENCY OF THE CONDITIONS IDENTIFIED IN ITEM (1) OF THIS SUBSECTION;

26 (3) NOTIFYING OTHER INDIVIDUALS OF CONDITIONS THAT THE HEALTH
27 CARE PROVIDER, EMPLOYEE, OR GROUP OF EMPLOYEES REASONABLY BELIEVE TO
28 BE SUCH AS IDENTIFIED IN ITEM (1) OF THIS SUBSECTION; AND

29 (4) DISCUSSING THE CONDITIONS IDENTIFIED IN ITEM (1) OF THIS
30 SUBSECTION WITH OTHER HEALTH CARE PROVIDERS OR EMPLOYEES FOR THE
31 PURPOSE OF INITIATING THE ACTION DESCRIBED IN ITEMS (1) THROUGH (3) OF THIS
32 SUBSECTION.

33 [(c)] (E) This section does not prohibit a carrier, as a condition of a contract
34 between the carrier and a health care provider, from prohibiting tortious interference
35 with a contract as recognized under State law.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1998.