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

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Carriers - Action Against Providers - Prohibition**

3 FOR the purpose of prohibiting certain health care carriers from taking certain action  
4 concerning the participation of a health care provider on the carrier's provider  
5 panel if the health care provider expresses any political or other views protected  
6 by the First Amendment to the United States Constitution; and generally  
7 relating to the authority of certain health care carriers to take certain action  
8 against certain health care providers.

9 BY repealing and reenacting, with amendments,  
10 Article - Insurance  
11 Section 15-112  
12 Annotated Code of Maryland  
13 (1997 Volume)

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

16 **Article - Insurance**

17 15-112.

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

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

- 20 1. an insurer;
- 21 2. a nonprofit health service plan;
- 22 3. a health maintenance organization;
- 23 4. a dental plan organization; or
- 24 5. any other person that provides health benefit plans
- 25 subject to regulation by the State.

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

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

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

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

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

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

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

17 (2) notify an enrollee of:

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

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

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

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

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

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

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

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

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

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

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

9 (3) (i) Except as provided in paragraph (4) of this subsection, within  
10 30 days after the date a carrier receives a completed application, the carrier shall  
11 send to the provider at the address listed in the application written notice of:

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

14 2. the carrier's rejection of the provider for participation on  
15 the carrier's provider panel.

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

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

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

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

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

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

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

36 (iii) The provider may return the completed application to the  
37 carrier.

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

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

5 (e) A carrier may not deny an application for participation or terminate  
6 participation on its provider panel, OR SUSPEND REFERRALS TO A PROVIDER, on the  
7 basis of:

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

10 (2) the type or number of appeals that the provider files under Title 19,  
11 Subtitle 13 of the Health - General Article; [or]

12 (3) the type or number of complaints or grievances that the provider files  
13 or requests for review under the carrier's internal review system established under  
14 subsection (h) of this section; OR

15 (4) THE EXPRESSION BY THE PROVIDER OF ANY POLITICAL OR OTHER  
16 VIEWS PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES  
17 CONSTITUTION.

18 (f) (1) A carrier may not deny an application for participation or terminate  
19 participation on its provider panel solely on the basis of the license, certification, or  
20 other authorization of the provider to provide health care services if the carrier  
21 provides health care services within the provider's lawful scope of practice.

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

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

27 (g) A carrier may not terminate participation on its provider panel, SUSPEND  
28 REFERRALS, or otherwise penalize a provider for:

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

31 (2) filing an appeal under Title 19, Subtitle 13 of the Health - General  
32 Article; OR

33 (3) THE EXPRESSION BY THE PROVIDER OF ANY POLITICAL OR OTHER  
34 VIEWS PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES  
35 CONSTITUTION.

1 (h) Each carrier shall establish an internal review system to resolve  
2 grievances initiated by providers that participate on the carrier's provider panel,  
3 including grievances involving the termination of a provider from participation on the  
4 carrier's provider panel.

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

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

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

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

17 (j) (1) A carrier shall provide to prospective enrollees before enrollment and  
18 to existing enrollees at least once a year:

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

20 (ii) information on providers that are no longer accepting new  
21 patients.

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

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

25 (i) indicate clearly the office in the administration that is  
26 responsible for receiving and responding to complaints from enrollees about carriers;  
27 and

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

30 (k) The Commissioner:

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

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

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