

HOUSE BILL 1210

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J4

1999 Regular Session
(91r2624)

ENROLLED BILL
-- Environmental Matters/Finance --

Introduced by **Delegate Delegates Taylor, Boutin, Cane, Frush, Hammen,
Hubbard, Klausmeier, Nathan-Pulliam, Stern, and Weir**

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 **Department of Health and Mental Hygiene - Health Maintenance**
3 **Organization (HMO) Quality Assurance Unit - Quality Assurance Medical**
4 **Director**

5 FOR the purpose of establishing a Health Maintenance Organization (HMO) Quality
6 Assurance Unit in the Department of Health and Mental Hygiene; requiring
7 that the Secretary appoint a Quality Assurance Medical Director for the Unit;
8 requiring that the Quality Assurance Medical Director be a physician who is
9 licensed in the State and establishing certain other qualifications for the
10 Quality Assurance Medical Director; ~~establishing a term of office for the Quality~~
11 ~~Assurance Medical Director; authorizing the Secretary to remove the Quality~~
12 ~~Assurance Medical Director under certain circumstances;~~ requiring the HMO
13 Quality Assurance Unit to investigate quality of care complaints referred from
14 the Insurance Commissioner and enforce certain other statutory and regulatory
15 requirements relating to the quality of health care provided by health
16 maintenance organizations; requiring the Quality Assurance Medical Director to

1 determine whether a health maintenance organization meets certain statutory
 2 and regulatory requirements relating to the quality of health care provided by a
 3 health maintenance organization and make recommendations for corrective
 4 ~~changes or new arrangements~~ *action necessary* to meet these requirements;
 5 authorizing the Secretary to take certain action under certain circumstances;
 6 authorizing the Insurance Commissioner to suspend, revoke, or refuse to renew
 7 the certificate of the medical director of a health maintenance organization
 8 under certain circumstances; ~~repealing the authority of the Secretary to send a~~
 9 ~~written directive to the Insurance Commissioner directing the Insurance~~
 10 ~~Commissioner to take certain actions~~; authorizing the Insurance Commissioner
 11 to impose certain penalties on a health maintenance organization under certain
 12 circumstances; requiring the Insurance Commissioner to give certain notice to
 13 the Secretary under certain circumstances; repealing provisions that require the
 14 Insurance Commissioner to give certain notice to a health maintenance
 15 organization and hold a hearing before taking certain actions; authorizing the
 16 Secretary to issue certain orders and impose certain penalties under certain
 17 circumstances; *requiring the Secretary to give certain notice to the Insurance*
 18 *Commissioner under certain circumstances*; providing that an aggrieved party is
 19 entitled to certain rights of appeal if the Secretary takes certain action; ~~making~~
 20 ~~certain appeal provisions inapplicable to a certain order issued by the Insurance~~
 21 ~~Commissioner at the request of the Secretary~~; defining certain terms; making
 22 certain conforming changes; and generally relating to the Department of Health
 23 and Mental Hygiene and health maintenance organizations.

24 BY repealing and reenacting, without amendments,
 25 Article - Health - General
 26 Section 19-702(b)(3), 19-705.2, and 19-729
 27 Annotated Code of Maryland
 28 (1996 Replacement Volume and 1998 Supplement)

29 BY adding to
 30 Article - Health - General
 31 Section 19-705.8 and 19-731
 32 Annotated Code of Maryland
 33 (1996 Replacement Volume and 1998 Supplement)

34 BY repealing and reenacting, with amendments,
 35 Article - Health - General
 36 Section 19-728, 19-730, ~~19-732~~, and 19-733
 37 Annotated Code of Maryland
 38 (1996 Replacement Volume and 1998 Supplement)

39 BY repealing
 40 Article - Health - General
 41 Section 19-731 and 19-732
 42 Annotated Code of Maryland

1 (1996 Replacement Volume and 1998 Supplement)

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

4 **Article - Health - General**

5 19-702.

6 (b) To carry out the intent of subsection (a) of this section, the policy of this
7 State is to:

8 (3) Provide for regulation of:

9 (i) The quality of health care, by the Department and by
10 professional standards review organizations where appropriate; and

11 (ii) All other matters covered under this subtitle, by the
12 Commissioner; and

13 19-705.2.

14 (a) With the advice of the Secretary, the Commissioner shall adopt regulations
15 to establish a system for the receipt and timely investigation of complaints of
16 members and subscribers of health maintenance organizations concerning the
17 operation of any health maintenance organization in this State.

18 (b) The complaint system shall include:

19 (1) A procedure for the timely acknowledgment of receipt of a complaint;

20 (2) Criteria that the Secretary shall adopt by regulation for determining
21 the appropriate level of investigation for a complaint concerning quality of care,
22 including:

23 (i) A determination as to whether the member or subscriber with
24 the complaint previously attempted to have the complaint resolved; and

25 (ii) A determination as to whether a complaint should be sent to the
26 member's or subscriber's health maintenance organization for resolution prior to
27 investigation under the provisions of this section; and

28 (3) A procedure for the referral of quality of care complaints to the
29 Secretary for an appropriate investigation.

30 (c) If a determination is made to investigate a complaint under the provisions
31 of this section prior to the member or subscriber attempting to otherwise resolve the
32 complaint, the reasons for that determination shall be documented.

1 (d) Notice of the complaint system established under the provisions of this
 2 section shall be included in all contracts between a health maintenance organization
 3 and a member or subscriber of a health maintenance organization.

4 (e) For quality of care complaints referred to the Secretary for investigation
 5 under subsection (b)(3) of this section, the Secretary shall report to the Commissioner
 6 in a timely manner on the results and findings of each investigation.

7 19-705.8.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 9 INDICATED.

10 (2) "HMO QUALITY ASSURANCE UNIT" MEANS THE HEALTH
 11 MAINTENANCE ORGANIZATION (HMO) QUALITY ASSURANCE UNIT IN THE
 12 DEPARTMENT.

13 (3) "QUALITY ASSURANCE MEDICAL DIRECTOR" MEANS THE MEDICAL
 14 DIRECTOR OF THE HMO QUALITY ASSURANCE UNIT.

15 (B) THERE IS A HEALTH MAINTENANCE ORGANIZATION (HMO) QUALITY
 16 ASSURANCE UNIT IN THE DEPARTMENT.

17 (C) (1) THE SECRETARY SHALL APPOINT THE QUALITY ASSURANCE
 18 MEDICAL DIRECTOR.

19 (2) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL:

20 (I) BE A PHYSICIAN WHO IS LICENSED IN THE STATE;

21 (II) BE BOARD CERTIFIED IN AT LEAST ONE SPECIALTY;

22 (III) HAVE EXPERIENCE IN PRIMARY CARE AND ADMINISTRATIVE
 23 MEDICINE; AND

24 (IV) HAVE BROAD KNOWLEDGE OF HEALTH MAINTENANCE
 25 ORGANIZATIONS AND MANAGED CARE ORGANIZATIONS.

26 ~~(3) (I) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL SERVE~~
 27 ~~FOR A TERM OF 4 YEARS THAT COINCIDES WITH THE TERM OF THE COMMISSIONER.~~

28 ~~(II) THE SECRETARY MAY REMOVE THE QUALITY ASSURANCE~~
 29 ~~MEDICAL DIRECTOR FROM OFFICE FOR CAUSE.~~

30 ~~(4) (3)~~ THE QUALITY ASSURANCE MEDICAL DIRECTOR IS ENTITLED TO
 31 THE COMPENSATION PROVIDED IN THE STATE BUDGET.

32 ~~(5) (4)~~ SUBJECT TO THE AUTHORITY VESTED IN THE SECRETARY BY
 33 LAW, THE QUALITY ASSURANCE MEDICAL DIRECTOR IS IN CHARGE OF AND
 34 RESPONSIBLE FOR THE CLINICAL OPERATIONS OF THE HMO QUALITY ASSURANCE
 35 UNIT.

1 ~~(6)~~ (5) IN ACCORDANCE WITH THE STATE BUDGET AND SUBJECT TO
 2 ~~THE AUTHORITY VESTED IN THE SECRETARY BY LAW, THE QUALITY ASSURANCE~~
 3 ~~MEDICAL DIRECTOR~~ THE SECRETARY MAY EMPLOY STAFF FOR THE HMO QUALITY
 4 ASSURANCE UNIT.

5 (D) THE HMO QUALITY ASSURANCE UNIT SHALL:

6 (1) ENFORCE ALL REQUIREMENTS ESTABLISHED UNDER §§ 19-705 AND
 7 19-705.1 OF THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THESE
 8 PROVISIONS REGARDING THE QUALITY OF HEALTH CARE PROVIDED BY A HEALTH
 9 MAINTENANCE ORGANIZATION; AND

10 (2) INVESTIGATE QUALITY OF CARE COMPLAINTS REFERRED TO THE
 11 SECRETARY UNDER § 19-705.2(B)(3) OF THIS SUBTITLE.

12 (E) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL:

13 (1) DETERMINE WHETHER A HEALTH MAINTENANCE ORGANIZATION
 14 MEETS THE REQUIREMENTS ESTABLISHED UNDER §§ 19-705 AND 19-705.1 OF THIS
 15 SUBTITLE AND THE REGULATIONS ADOPTED UNDER THESE PROVISIONS REGARDING
 16 THE QUALITY OF HEALTH CARE PROVIDED BY A HEALTH MAINTENANCE
 17 ORGANIZATION; AND

18 ~~(2) MAKE RECOMMENDATIONS FOR CORRECTIVE CHANGES OR NEW~~
 19 ~~ARRANGEMENTS TO MEET THESE REQUIREMENTS.~~

20 (2) MAKE RECOMMENDATIONS TO THE SECRETARY FOR CORRECTIVE
 21 ACTION NECESSARY TO MEET THESE REQUIREMENTS.

22 (F) IF THE SECRETARY AGREES WITH A DETERMINATION MADE BY THE
 23 QUALITY ASSURANCE MEDICAL DIRECTOR THAT A HEALTH MAINTENANCE
 24 ORGANIZATION DOES NOT MEET THE REQUIREMENTS ESTABLISHED UNDER §§
 25 19-705 AND 19-705.1 OF THIS SUBTITLE OR THE REGULATIONS ADOPTED UNDER
 26 THESE PROVISIONS REGARDING THE QUALITY OF HEALTH CARE PROVIDED BY A
 27 HEALTH MAINTENANCE ORGANIZATION, THE SECRETARY MAY:

28 ~~(1) ISSUE AN ORDER UNDER § 19-731 OF THIS SUBTITLE; OR~~

29 ~~(2) SEND A WRITTEN DIRECTIVE TO THE COMMISSIONER UNDER §~~
 30 ~~19-728(A) OF THIS SUBTITLE THAT:~~

31 ~~(1) SETS OUT THE QUALITY ASSURANCE MEDICAL DIRECTOR'S~~
 32 ~~FINDINGS AND THE REASONS FOR THE FINDINGS; AND~~

33 ~~(2) DIRECTS THE COMMISSIONER TO SUSPEND, REVOKE, OR~~
 34 ~~REFUSE TO RENEW THE CERTIFICATE OF AUTHORITY OF THE HEALTH~~
 35 ~~MAINTENANCE ORGANIZATION OR TAKE ANY OTHER APPROPRIATE ACTION,~~
 36 ~~INCLUDING, IF APPLICABLE, IMPOSITION OF ANY OF THE SANCTIONS SPECIFIED IN §~~
 37 ~~19-730 OF THIS SUBTITLE FOR A VIOLATION OF § 19-729 OF THIS SUBTITLE.~~

1 19-728.

2 (a) (1) If, as to a matter that is within the jurisdiction of the Department
3 under this subtitle, the Secretary finds that a health maintenance organization does
4 not meet the requirements of this subtitle or the rules and regulations adopted under
5 it [and cannot or will not make corrective changes or new arrangements to meet
6 these requirements], the Secretary may send to the Commissioner a written directive
7 that sets out the findings of the Secretary and reasons for them and directs the
8 Commissioner to suspend [or revoke], ~~REVOKE, OR REFUSE TO RENEW~~ the certificate
9 of authority of the health maintenance organization or to take any other appropriate
10 action that the Secretary specifies, ~~INCLUDING, IF APPLICABLE, IMPOSITION OF ANY~~
11 ~~OF THE SANCTIONS SPECIFIED IN § 19-730 OF THIS SUBTITLE FOR A VIOLATION OF §~~
12 ~~19-729 OF THIS SUBTITLE.~~

13 (2) The Commissioner shall comply with [the] A directive ~~ISSUED BY~~
14 ~~THE SECRETARY UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

15 (b) (A) The Commissioner is responsible for:

16 (1) Determining whether each health maintenance organization is or
17 will be able to provide a fiscally sound operation and adequate provision against risk
18 of insolvency and may adopt reasonable rules and regulations designed to achieve this
19 goal; and

20 (2) Actuarial and financial evaluations and determinations of each
21 health maintenance organization.

22 (c) (B) (1) If the Commissioner determines that a health maintenance
23 organization is not operating in a fiscally sound manner, the Commissioner shall
24 notify the Department of the determination.

25 (2) After notifying the Department in accordance with the provisions of
26 paragraph (1) of this subsection, the Commissioner shall monitor the health
27 maintenance organization on a continuous basis until the Commissioner determines
28 that the health maintenance organization is operating in a fiscally sound manner.

29 19-729.

30 (a) A health maintenance organization may not:

31 (1) Violate any provision of this subtitle or any rule or regulation
32 adopted under it;

33 (2) Fail to fulfill its obligations to provide the health care services
34 specified in its contracts with subscribers;

35 (3) Make any false statement with respect to any report or statement
36 required by this subtitle or by the Commissioner under this subtitle;

1 (4) Advertise, merchandise, or attempt to merchandise its services in a
2 way that misrepresents its services or capacity for service;

3 (5) Engage in a deceptive, misleading, unfair, or unauthorized practice
4 as to advertising or merchandising;

5 (6) Prevent or attempt to prevent the Commissioner or the Department
6 from performing any duty imposed by this subtitle;

7 (7) Fraudulently obtain or fraudulently attempt to obtain any benefit
8 under this subtitle;

9 (8) Fail to fulfill the basic requirements to operate as a health
10 maintenance organization as provided in § 19-710 of this subtitle;

11 (9) Violate any applicable provision of Title 15, Subtitle 12 of the
12 Insurance Article;

13 (10) Fail to provide services to a member in a timely manner as provided
14 in § 19-705.1(b)(1) of this subtitle;

15 (11) Fail to comply with the provisions of Title 15, Subtitle 10A, 10B, or
16 10C or § 2-112.2 of the Insurance Article; or

17 (12) Violate any provision of § 19-712.5 of this subtitle.

18 (b) If any health maintenance organization violates this section, the
19 Commissioner may pursue any one or more of the courses of action described in §
20 19-730 of this subtitle.

21 19-730.

22 (A) If any person violates any provision of § 19-729 of this subtitle, the
23 Commissioner may:

24 (1) Issue an administrative order that requires the health maintenance
25 organization to:

26 (i) Cease inappropriate conduct or practices by it or any of the
27 personnel employed or associated with it;

28 (ii) Fulfill its contractual obligations;

29 (iii) Provide a service that has been denied improperly;

30 (iv) Take appropriate steps to restore its ability to provide a service
31 that is provided under a contract;

32 (v) Cease the enrollment of any additional enrollees except
33 newborn children or other newly acquired dependents or existing enrollees; or

- 1 (vi) Cease any advertising or solicitation;
- 2 (2) Impose a penalty of not more than \$5,000 for each unlawful act
3 committed;
- 4 (3) Suspend [or revoke], REVOKE, OR REFUSE TO RENEW the certificate
5 of authority to do business as a health maintenance organization;
- 6 (4) SUSPEND, REVOKE, OR REFUSE TO RENEW THE CERTIFICATE OF A
7 MEDICAL DIRECTOR OF A HEALTH MAINTENANCE ORGANIZATION;
- 8 (5) IMPOSE ANY PENALTY THAT COULD BE IMPOSED ON AN INSURER
9 UNDER § 4-113(D) OF THE INSURANCE ARTICLE; or
- 10 [(4)] (6) Apply to any court for legal or equitable relief considered
11 appropriate by the Commissioner or the Department, in accordance with the joint
12 internal procedures.

13 (B) IF THE COMMISSIONER ISSUES AN ORDER OR IMPOSES ANY PENALTY
14 UNDER THIS SECTION, THE COMMISSIONER IMMEDIATELY SHALL PROVIDE WRITTEN
15 NOTICE OF THE ORDER OR PENALTY TO THE SECRETARY.

16 [19-731.

17 (a) Before the Commissioner or the Department takes any action under §
18 19-728(a), § 19-729, or § 19-730 of this subtitle, the Commissioner shall give a
19 written notice to the health maintenance organization or its agent or to the officer of
20 the organization who is accused of violating the law, that states specifically the
21 nature of the alleged violation and sets a time, place, and date that a hearing of the
22 matter will be held. The hearing date may not be less than 10 days after the notice.

23 (b) After the hearing or on failure of the accused to appear at the hearing, and
24 in accordance with rules and regulations adopted under this subtitle, the
25 Commissioner may impose any of the penalties described in § 19-730 of this subtitle
26 that the Commissioner considers advisable.]

27 19-731.

28 (A) IF A PERSON VIOLATES ANY PROVISION OF ~~§ 19-729~~ §§ 19-705 AND 19-705.1
29 OF THIS SUBTITLE, THE SECRETARY, IN ADDITION TO ANY ACTION TAKEN UNDER §
30 19-728(A) OF THIS SUBTITLE, MAY:

31 (1) ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE HEALTH
32 MAINTENANCE ORGANIZATION TO:

33 (I) CEASE INAPPROPRIATE CONDUCT OR PRACTICES BY IT OR ANY
34 OF THE PERSONNEL EMPLOYED BY OR ASSOCIATED WITH IT AND COMPLY WITH THE
35 STANDARDS ESTABLISHED BY THE DEPARTMENT; OR

1 (II) PROVIDE ANY SERVICE REQUIRED BY §§ 19-705 AND 19-705.1 OF
 2 THIS SUBTITLE THAT HAS BEEN DENIED IMPROPERLY;

3 (2) IMPOSE A PENALTY OF NOT LESS THAN \$100 AND NOT MORE THAN
 4 \$125,000 FOR EACH VIOLATION; OR

5 ~~(3) REQUIRE THE HEALTH MAINTENANCE ORGANIZATION TO MAKE~~
 6 ~~RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF~~
 7 ~~THE VIOLATION; OR~~

8 ~~(3) SUSPEND, REVOKE, OR REFUSE TO RENEW THE CERTIFICATE OF~~
 9 ~~AUTHORITY OF THE HEALTH MAINTENANCE ORGANIZATION; OR~~

10 ~~(4)~~ (3) APPLY TO ANY COURT FOR LEGAL OR EQUITABLE RELIEF
 11 CONSIDERED APPROPRIATE BY THE SECRETARY.

12 (B) IF THE SECRETARY ISSUES AN ORDER OR IMPOSES ANY PENALTY UNDER
 13 THIS SECTION, THE SECRETARY IMMEDIATELY SHALL PROVIDE WRITTEN NOTICE OF
 14 THE ORDER OR PENALTY TO THE COMMISSIONER.

15 ~~19-732.~~

16 ~~If the [Department] SECRETARY takes action under § 19-728(a) of this subtitle~~
 17 ~~that obligates the Commissioner to take action in any of the ways provided [by]~~
 18 ~~UNDER §§ 19-729 [through 19-731] AND 19-730 of this subtitle OR TAKES ACTION~~
 19 ~~UNDER § 19-731 OF THIS SUBTITLE, the aggrieved party, insofar as the appeal relates~~
 20 ~~to the action of the [Department] SECRETARY, may:~~

21 (1) ~~Appeal that decision to the Board of Review of the Department; and~~

22 (2) ~~Then take any further appeal allowed by the Administrative~~
 23 ~~Procedure Act.~~

24 ~~19-733. 19-732.~~

25 (A) ~~[Any] EXCEPT FOR AN ORDER THAT IS ISSUED BY THE COMMISSIONER AS~~
 26 ~~DIRECTED BY THE SECRETARY UNDER § 19-728(A) OF THIS SUBTITLE, A party~~
 27 ~~aggrieved by a final action of the Commissioner under this subtitle has the right to a~~
 28 ~~hearing and the right to appeal from the action of the Commissioner under §§ 2-210~~
 29 ~~through 2-215 of the Insurance Article.~~

30 (B) A PARTY AGGRIEVED BY AN ORDER OF THE SECRETARY UNDER THIS
 31 SUBTITLE MAY APPEAL THAT ORDER TO THE BOARD OF REVIEW OF THE
 32 DEPARTMENT AND TAKE ANY FURTHER APPEAL PROVIDED BY THE STATE
 33 GOVERNMENT ARTICLE.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 35 October 1, 1999.

