

HOUSE BILL 1210

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1999 Regular Session
9lr2624
CF 9lr2549

By: **Delegate Taylor**

Introduced and read first time: March 8, 1999

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

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; requiring the HMO Quality Assurance Unit to
12 investigate quality of care complaints referred from the Insurance
13 Commissioner and enforce certain other statutory and regulatory requirements
14 relating to the quality of health care provided by health maintenance
15 organizations; requiring the Quality Assurance Medical Director to determine
16 whether a health maintenance organization meets certain statutory and
17 regulatory requirements relating to the quality of health care provided by a
18 health maintenance organization and make recommendations for corrective
19 changes or new arrangements to meet these requirements; authorizing the
20 Secretary to take certain action under certain circumstances; authorizing the
21 Insurance Commissioner to suspend, revoke, or refuse to renew the certificate of
22 the medical director of a health maintenance organization under certain
23 circumstances; authorizing the Insurance Commissioner to impose certain
24 penalties on a health maintenance organization under certain circumstances;
25 requiring the Insurance Commissioner to give certain notice to the Secretary
26 under certain circumstances; repealing provisions that require the Insurance
27 Commissioner to give certain notice to a health maintenance organization and
28 hold a hearing before taking certain actions; authorizing the Secretary to issue
29 certain orders and impose certain penalties under certain circumstances;
30 providing that an aggrieved party is entitled to certain rights of appeal if the
31 Secretary takes certain action; making certain appeal provisions inapplicable to
32 a certain order issued by the Insurance Commissioner at the request of the
33 Secretary; defining certain terms; making certain conforming changes; and
34 generally relating to the Department of Health and Mental Hygiene and health
35 maintenance organizations.

1 BY repealing and reenacting, without amendments,
2 Article - Health - General
3 Section 19-702(b)(3), 19-705.2, and 19-729
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 1998 Supplement)

6 BY adding to
7 Article - Health - General
8 Section 19-705.8 and 19-731
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1998 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 19-728, 19-730, 19-732, and 19-733
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1998 Supplement)

16 BY repealing
17 Article - Health - General
18 Section 19-731
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1998 Supplement)

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

23 **Article - Health - General**

24 19-702.

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

27 (3) Provide for regulation of:

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

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

32 19-705.2.

33 (a) With the advice of the Secretary, the Commissioner shall adopt regulations
34 to establish a system for the receipt and timely investigation of complaints of

1 members and subscribers of health maintenance organizations concerning the
2 operation of any health maintenance organization in this State.

3 (b) The complaint system shall include:

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

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

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

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

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

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

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

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

24 19-705.8.

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

27 (2) "HMO QUALITY ASSURANCE UNIT" MEANS THE HEALTH
28 MAINTENANCE ORGANIZATION (HMO) QUALITY ASSURANCE UNIT IN THE
29 DEPARTMENT.

30 (3) "QUALITY ASSURANCE MEDICAL DIRECTOR" MEANS THE MEDICAL
31 DIRECTOR OF THE HMO QUALITY ASSURANCE UNIT.

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

34 (C) (1) THE SECRETARY SHALL APPOINT THE QUALITY ASSURANCE
35 MEDICAL DIRECTOR.

- 1 (2) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL:
- 2 (I) BE A PHYSICIAN WHO IS LICENSED IN THE STATE;
- 3 (II) BE BOARD CERTIFIED IN AT LEAST ONE SPECIALTY;
- 4 (III) HAVE EXPERIENCE IN PRIMARY CARE AND ADMINISTRATIVE
5 MEDICINE; AND
- 6 (IV) HAVE BROAD KNOWLEDGE OF HEALTH MAINTENANCE
7 ORGANIZATIONS AND MANAGED CARE ORGANIZATIONS.

8 (3) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL SERVE FOR A
9 TERM OF 4 YEARS THAT COINCIDES WITH THE TERM OF THE COMMISSIONER.

10 (4) THE QUALITY ASSURANCE MEDICAL DIRECTOR IS ENTITLED TO THE
11 COMPENSATION PROVIDED IN THE STATE BUDGET.

12 (5) SUBJECT TO THE AUTHORITY VESTED IN THE SECRETARY BY LAW,
13 THE QUALITY ASSURANCE MEDICAL DIRECTOR IS IN CHARGE OF AND RESPONSIBLE
14 FOR THE OPERATIONS OF THE HMO QUALITY ASSURANCE UNIT.

15 (6) IN ACCORDANCE WITH THE STATE BUDGET AND SUBJECT TO THE
16 AUTHORITY VESTED IN THE SECRETARY BY LAW, THE QUALITY ASSURANCE
17 MEDICAL DIRECTOR MAY EMPLOY STAFF FOR THE HMO QUALITY ASSURANCE UNIT.

18 (D) THE HMO QUALITY ASSURANCE UNIT SHALL:

19 (1) ENFORCE ALL REQUIREMENTS ESTABLISHED UNDER §§ 19-705 AND
20 19-705.1 OF THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THESE
21 PROVISIONS REGARDING THE QUALITY OF HEALTH CARE PROVIDED BY A HEALTH
22 MAINTENANCE ORGANIZATION; AND

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

25 (E) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL:

26 (1) DETERMINE WHETHER A HEALTH MAINTENANCE ORGANIZATION
27 MEETS THE REQUIREMENTS ESTABLISHED UNDER §§ 19-705 AND 19-705.1 OF THIS
28 SUBTITLE AND THE REGULATIONS ADOPTED UNDER THESE PROVISIONS REGARDING
29 THE QUALITY OF HEALTH CARE PROVIDED BY A HEALTH MAINTENANCE
30 ORGANIZATION; AND

31 (2) MAKE RECOMMENDATIONS FOR CORRECTIVE CHANGES OR NEW
32 ARRANGEMENTS TO MEET THESE REQUIREMENTS.

33 (F) IF THE SECRETARY AGREES WITH A DETERMINATION MADE BY THE
34 QUALITY ASSURANCE MEDICAL DIRECTOR THAT A HEALTH MAINTENANCE
35 ORGANIZATION DOES NOT MEET THE REQUIREMENTS ESTABLISHED UNDER §§
36 19-705 AND 19-705.1 OF THIS SUBTITLE OR THE REGULATIONS ADOPTED UNDER

1 THESE PROVISIONS REGARDING THE QUALITY OF HEALTH CARE PROVIDED BY A
2 HEALTH MAINTENANCE ORGANIZATION, THE SECRETARY MAY:

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

4 (2) SEND A WRITTEN DIRECTIVE TO THE COMMISSIONER UNDER §
5 19-728(A) OF THIS SUBTITLE THAT:

6 (I) SETS OUT THE QUALITY ASSURANCE MEDICAL DIRECTOR'S
7 FINDINGS AND THE REASONS FOR THE FINDINGS; AND

8 (II) DIRECTS THE COMMISSIONER TO SUSPEND, REVOKE, OR
9 REFUSE TO RENEW THE CERTIFICATE OF AUTHORITY OF THE HEALTH
10 MAINTENANCE ORGANIZATION OR TAKE ANY OTHER APPROPRIATE ACTION,
11 INCLUDING, IF APPLICABLE, IMPOSITION OF ANY OF THE SANCTIONS SPECIFIED IN §
12 19-730 OF THIS SUBTITLE FOR A VIOLATION OF § 19-729 OF THIS SUBTITLE.

13 19-728.

14 (a) (1) If, as to a matter that is within the jurisdiction of the Department
15 under this subtitle, the Secretary finds that a health maintenance organization does
16 not meet the requirements of this subtitle or the rules and regulations adopted under
17 it [and cannot or will not make corrective changes or new arrangements to meet
18 these requirements], the Secretary may send to the Commissioner a written directive
19 that sets out the findings of the Secretary and reasons for them and directs the
20 Commissioner to suspend [or revoke], REVOKE, OR REFUSE TO RENEW the certificate
21 of authority of the health maintenance organization or to take any other appropriate
22 action that the Secretary specifies, INCLUDING, IF APPLICABLE, IMPOSITION OF ANY
23 OF THE SANCTIONS SPECIFIED IN § 19-730 OF THIS SUBTITLE FOR A VIOLATION OF §
24 19-729 OF THIS SUBTITLE.

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

27 (b) The Commissioner is responsible for:

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

32 (2) Actuarial and financial evaluations and determinations of each
33 health maintenance organization.

34 (c) (1) If the Commissioner determines that a health maintenance
35 organization is not operating in a fiscally sound manner, the Commissioner shall
36 notify the Department of the determination.

37 (2) After notifying the Department in accordance with the provisions of
38 paragraph (1) of this subsection, the Commissioner shall monitor the health

1 maintenance organization on a continuous basis until the Commissioner determines
2 that the health maintenance organization is operating in a fiscally sound manner.

3 19-729.

4 (a) A health maintenance organization may not:

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

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

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

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

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

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

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

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

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

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

25 (11) Fail to comply with the provisions of Title 15, Subtitle 10A, 10B, or
26 10C or § 2-112.2 of the Insurance Article; or

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

28 (b) If any health maintenance organization violates this section, the
29 Commissioner may pursue any one or more of the courses of action described in §
30 19-730 of this subtitle.

31 19-730.

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

- 1 (1) Issue an administrative order that requires the health maintenance
2 organization to:
- 3 (i) Cease inappropriate conduct or practices by it or any of the
4 personnel employed or associated with it;
- 5 (ii) Fulfill its contractual obligations;
- 6 (iii) Provide a service that has been denied improperly;
- 7 (iv) Take appropriate steps to restore its ability to provide a service
8 that is provided under a contract;
- 9 (v) Cease the enrollment of any additional enrollees except
10 newborn children or other newly acquired dependents or existing enrollees; or
- 11 (vi) Cease any advertising or solicitation;
- 12 (2) Impose a penalty of not more than \$5,000 for each unlawful act
13 committed;
- 14 (3) Suspend [or revoke], REVOKE, OR REFUSE TO RENEW the certificate
15 of authority to do business as a health maintenance organization;
- 16 (4) SUSPEND, REVOKE, OR REFUSE TO RENEW THE CERTIFICATE OF A
17 MEDICAL DIRECTOR OF A HEALTH MAINTENANCE ORGANIZATION;
- 18 (5) IMPOSE ANY PENALTY THAT COULD BE IMPOSED ON AN INSURER
19 UNDER § 4-113(D) OF THE INSURANCE ARTICLE; or
- 20 [(4)] (6) Apply to any court for legal or equitable relief considered
21 appropriate by the Commissioner or the Department, in accordance with the joint
22 internal procedures.
- 23 (B) IF THE COMMISSIONER ISSUES AN ORDER OR IMPOSES ANY PENALTY
24 UNDER THIS SECTION, THE COMMISSIONER IMMEDIATELY SHALL PROVIDE WRITTEN
25 NOTICE OF THE ORDER OR PENALTY TO THE SECRETARY.
- 26 [19-731.
- 27 (a) Before the Commissioner or the Department takes any action under §
28 19-728(a), § 19-729, or § 19-730 of this subtitle, the Commissioner shall give a
29 written notice to the health maintenance organization or its agent or to the officer of
30 the organization who is accused of violating the law, that states specifically the
31 nature of the alleged violation and sets a time, place, and date that a hearing of the
32 matter will be held. The hearing date may not be less than 10 days after the notice.
- 33 (b) After the hearing or on failure of the accused to appear at the hearing, and
34 in accordance with rules and regulations adopted under this subtitle, the
35 Commissioner may impose any of the penalties described in § 19-730 of this subtitle
36 that the Commissioner considers advisable.]

1 19-731.

2 IF A PERSON VIOLATES ANY PROVISION OF § 19-729 OF THIS SUBTITLE, THE
3 SECRETARY, IN ADDITION TO ANY ACTION TAKEN UNDER § 19-728(A) OF THIS
4 SUBTITLE, MAY:

5 (1) ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE HEALTH
6 MAINTENANCE ORGANIZATION TO:

7 (I) CEASE INAPPROPRIATE CONDUCT OR PRACTICES BY IT OR ANY
8 OF THE PERSONNEL EMPLOYED BY OR ASSOCIATED WITH IT; OR

9 (II) PROVIDE ANY SERVICE THAT HAS BEEN DENIED IMPROPERLY;

10 (2) IMPOSE A PENALTY OF NOT LESS THAN \$100 AND NOT MORE THAN
11 \$125,000 FOR EACH VIOLATION;

12 (3) REQUIRE THE HEALTH MAINTENANCE ORGANIZATION TO MAKE
13 RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF
14 THE VIOLATION; OR

15 (4) APPLY TO ANY COURT FOR LEGAL OR EQUITABLE RELIEF
16 CONSIDERED APPROPRIATE BY THE SECRETARY.

17 19-732.

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

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

24 (2) Then take any further appeal allowed by the Administrative
25 Procedure Act.

26 19-733.

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

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