

HOUSE BILL 1210

Unofficial Copy  
J4

1999 Regular Session  
9lr2624  
CF 9lr2549

---

By: ~~Delegate~~ **Delegates Taylor, Boutin, Cane, Frush, Hammen, Hubbard, Klausmeier, Nathan-Pulliam, Stern, and Weir**

Introduced and read first time: March 8, 1999  
Assigned to: Rules and Executive Nominations  
Re-referred to: Environmental Matters, March 11, 1999

---

Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 22, 1999

---

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  
17 determine whether a health maintenance organization meets certain statutory  
18 and regulatory requirements relating to the quality of health care provided by a  
19 health maintenance organization and make recommendations for corrective  
20 changes or new arrangements to meet these requirements; authorizing the  
21 Secretary to take certain action under certain circumstances; authorizing the  
22 Insurance Commissioner to suspend, revoke, or refuse to renew the certificate of  
23 the medical director of a health maintenance organization under certain  
24 circumstances; repealing the authority of the Secretary to send a written  
25 directive to the Insurance Commissioner directing the Insurance Commissioner  
26 to take certain actions; authorizing the Insurance Commissioner to impose

1 certain penalties on a health maintenance organization under certain  
2 circumstances; requiring the Insurance Commissioner to give certain notice to  
3 the Secretary under certain circumstances; repealing provisions that require the  
4 Insurance Commissioner to give certain notice to a health maintenance  
5 organization and hold a hearing before taking certain actions; authorizing the  
6 Secretary to issue certain orders and impose certain penalties under certain  
7 circumstances; providing that an aggrieved party is entitled to certain rights of  
8 appeal if the Secretary takes certain action; making certain appeal provisions  
9 inapplicable to a certain order issued by the Insurance Commissioner at the  
10 request of the Secretary; defining certain terms; making certain conforming  
11 changes; and generally relating to the Department of Health and Mental  
12 Hygiene and health maintenance organizations.

13 BY repealing and reenacting, without amendments,  
14 Article - Health - General  
15 Section 19-702(b)(3), 19-705.2, and 19-729  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 1998 Supplement)

18 BY adding to  
19 Article - Health - General  
20 Section 19-705.8 and 19-731  
21 Annotated Code of Maryland  
22 (1996 Replacement Volume and 1998 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Health - General  
25 Section 19-728, 19-730, ~~19-732~~, and 19-733  
26 Annotated Code of Maryland  
27 (1996 Replacement Volume and 1998 Supplement)

28 BY repealing  
29 Article - Health - General  
30 Section 19-731 and 19-732  
31 Annotated Code of Maryland  
32 (1996 Replacement Volume and 1998 Supplement)

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

35 **Article - Health - General**

36 19-702.

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

1 (3) Provide for regulation of:

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

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

6 19-705.2.

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

11 (b) The complaint system shall include:

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

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

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

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

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

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

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

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

32 19-705.8.

33 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
34 INDICATED.

1 (2) "HMO QUALITY ASSURANCE UNIT" MEANS THE HEALTH  
2 MAINTENANCE ORGANIZATION (HMO) QUALITY ASSURANCE UNIT IN THE  
3 DEPARTMENT.

4 (3) "QUALITY ASSURANCE MEDICAL DIRECTOR" MEANS THE MEDICAL  
5 DIRECTOR OF THE HMO QUALITY ASSURANCE UNIT.

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

8 (C) (1) THE SECRETARY SHALL APPOINT THE QUALITY ASSURANCE  
9 MEDICAL DIRECTOR.

10 (2) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL:

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

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

13 (III) HAVE EXPERIENCE IN PRIMARY CARE AND ADMINISTRATIVE  
14 MEDICINE; AND

15 (IV) HAVE BROAD KNOWLEDGE OF HEALTH MAINTENANCE  
16 ORGANIZATIONS AND MANAGED CARE ORGANIZATIONS.

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

19 (II) THE SECRETARY MAY REMOVE THE QUALITY ASSURANCE  
20 MEDICAL DIRECTOR FROM OFFICE FOR CAUSE.

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

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

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

29 (D) THE HMO QUALITY ASSURANCE UNIT SHALL:

30 (1) ENFORCE ALL REQUIREMENTS ESTABLISHED UNDER §§ 19-705 AND  
31 19-705.1 OF THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THESE  
32 PROVISIONS REGARDING THE QUALITY OF HEALTH CARE PROVIDED BY A HEALTH  
33 MAINTENANCE ORGANIZATION; AND

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

1 (E) THE QUALITY ASSURANCE MEDICAL DIRECTOR SHALL:

2 (1) DETERMINE WHETHER A HEALTH MAINTENANCE ORGANIZATION  
3 MEETS THE REQUIREMENTS ESTABLISHED UNDER §§ 19-705 AND 19-705.1 OF THIS  
4 SUBTITLE AND THE REGULATIONS ADOPTED UNDER THESE PROVISIONS REGARDING  
5 THE QUALITY OF HEALTH CARE PROVIDED BY A HEALTH MAINTENANCE  
6 ORGANIZATION; AND

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

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

11 (F) IF THE SECRETARY AGREES WITH A DETERMINATION MADE BY THE  
12 QUALITY ASSURANCE MEDICAL DIRECTOR THAT A HEALTH MAINTENANCE  
13 ORGANIZATION DOES NOT MEET THE REQUIREMENTS ESTABLISHED UNDER §§  
14 19-705 AND 19-705.1 OF THIS SUBTITLE OR THE REGULATIONS ADOPTED UNDER  
15 THESE PROVISIONS REGARDING THE QUALITY OF HEALTH CARE PROVIDED BY A  
16 HEALTH MAINTENANCE ORGANIZATION, THE SECRETARY MAY:

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

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

20 ~~(I)~~ SETS OUT THE QUALITY ASSURANCE MEDICAL DIRECTOR'S  
21 ~~FINDINGS AND THE REASONS FOR THE FINDINGS; AND~~

22 ~~(H)~~ DIRECTS THE COMMISSIONER TO SUSPEND, REVOKE, OR  
23 ~~REFUSE TO RENEW THE CERTIFICATE OF AUTHORITY OF THE HEALTH~~  
24 ~~MAINTENANCE ORGANIZATION OR TAKE ANY OTHER APPROPRIATE ACTION,~~  
25 ~~INCLUDING, IF APPLICABLE, IMPOSITION OF ANY OF THE SANCTIONS SPECIFIED IN §~~  
26 ~~19-730 OF THIS SUBTITLE FOR A VIOLATION OF § 19-729 OF THIS SUBTITLE.~~

27 19-728.

28 (a) (1) If, as to a matter that is within the jurisdiction of the Department  
29 under this subtitle, the Secretary finds that a health maintenance organization does  
30 not meet the requirements of this subtitle or the rules and regulations adopted under  
31 it ~~[and cannot or will not make corrective changes or new arrangements to meet~~  
32 ~~these requirements]~~, the Secretary may send to the Commissioner a written directive  
33 that sets out the findings of the Secretary and reasons for them and directs the  
34 Commissioner to suspend ~~[or revoke], REVOKE, OR REFUSE TO RENEW~~ the certificate  
35 of authority of the health maintenance organization or to take any other appropriate  
36 action that the Secretary specifies, ~~INCLUDING, IF APPLICABLE, IMPOSITION OF ANY~~  
37 ~~OF THE SANCTIONS SPECIFIED IN § 19-730 OF THIS SUBTITLE FOR A VIOLATION OF §~~  
38 ~~19-729 OF THIS SUBTITLE.~~

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

3       (Ⓟ)     (A)     The Commissioner is responsible for:

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

8           (2)     Actuarial and financial evaluations and determinations of each  
9 health maintenance organization.

10       (Ⓢ)     (B)     (1)     If the Commissioner determines that a health maintenance  
11 organization is not operating in a fiscally sound manner, the Commissioner shall  
12 notify the Department of the determination.

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

17 19-729.

18       (a)     A health maintenance organization may not:

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

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

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

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

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

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

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

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

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

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

5 (11) Fail to comply with the provisions of Title 15, Subtitle 10A, 10B, or  
6 10C or § 2-112.2 of the Insurance Article; or

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

8 (b) If any health maintenance organization violates this section, the  
9 Commissioner may pursue any one or more of the courses of action described in §  
10 19-730 of this subtitle.

11 19-730.

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

14 (1) Issue an administrative order that requires the health maintenance  
15 organization to:

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

18 (ii) Fulfill its contractual obligations;

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

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

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

24 (vi) Cease any advertising or solicitation;

25 (2) Impose a penalty of not more than \$5,000 for each unlawful act  
26 committed;

27 (3) Suspend [or revoke], REVOKE, OR REFUSE TO RENEW the certificate  
28 of authority to do business as a health maintenance organization;

29 (4) SUSPEND, REVOKE, OR REFUSE TO RENEW THE CERTIFICATE OF A  
30 MEDICAL DIRECTOR OF A HEALTH MAINTENANCE ORGANIZATION;

31 (5) IMPOSE ANY PENALTY THAT COULD BE IMPOSED ON AN INSURER  
32 UNDER § 4-113(D) OF THE INSURANCE ARTICLE; or

1           [(4)]   (6)   Apply to any court for legal or equitable relief considered  
2 appropriate by the Commissioner or the Department, in accordance with the joint  
3 internal procedures.

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

7 [19-731.

8       (a)   Before the Commissioner or the Department takes any action under §  
9 19-728(a), § 19-729, or § 19-730 of this subtitle, the Commissioner shall give a  
10 written notice to the health maintenance organization or its agent or to the officer of  
11 the organization who is accused of violating the law, that states specifically the  
12 nature of the alleged violation and sets a time, place, and date that a hearing of the  
13 matter will be held. The hearing date may not be less than 10 days after the notice.

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

18 19-731.

19       IF A PERSON VIOLATES ANY PROVISION OF ~~§ 19-729~~ §§ 19-705 AND 19-705.1 OF  
20 THIS SUBTITLE, THE SECRETARY, ~~IN ADDITION TO ANY ACTION TAKEN UNDER §~~  
21 ~~19-728(A) OF THIS SUBTITLE,~~ MAY:

22           (1)   ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE HEALTH  
23 MAINTENANCE ORGANIZATION TO:

24                   (I)   CEASE INAPPROPRIATE CONDUCT OR PRACTICES BY IT OR ANY  
25 OF THE PERSONNEL EMPLOYED BY OR ASSOCIATED WITH IT AND COMPLY WITH THE  
26 STANDARDS ESTABLISHED BY THE DEPARTMENT; OR

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

29           (2)   IMPOSE A PENALTY OF NOT LESS THAN \$100 AND NOT MORE THAN  
30 \$125,000 FOR EACH VIOLATION;

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

34           (3)   SUSPEND, REVOKE, OR REFUSE TO RENEW THE CERTIFICATE OF  
35 AUTHORITY OF THE HEALTH MAINTENANCE ORGANIZATION; OR

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



1 ~~19-732.~~

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

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

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

10 ~~19-733. 19-732.~~

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

16 (B) A PARTY AGGRIEVED BY AN ORDER OF THE SECRETARY UNDER THIS  
17 SUBTITLE MAY APPEAL THAT ORDER TO THE DEPARTMENT AND TAKE ANY FURTHER  
18 APPEAL PROVIDED BY THE STATE GOVERNMENT ARTICLE.

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