

SENATE BILL 52

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(PRE-FILED)

By: **Chairman, Finance Committee (Departmental - Insurance
Administration, Maryland)**

Requested: November 15, 1999
Introduced and read first time: January 12, 2000
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 16, 2000

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Dental Plan Organizations**

3 FOR the purpose of requiring dental plan organizations to meet certain capital and
4 surplus requirements; requiring dental plan organizations to deposit a certain
5 amount of security with the Maryland Insurance Commissioner or a certain
6 organization or trustee; specifying the purpose of the deposit requirement;
7 authorizing the Commissioner to reduce or eliminate the deposit requirement
8 under certain circumstances; authorizing the Commissioner to impose certain
9 penalties against dental plan organizations under certain circumstances;
10 authorizing the Commissioner to require dental plan organizations to make
11 restitution to a person who suffered financial injury; and generally relating to
12 dental plan organizations, capital and surplus requirements, and penalties.

13 BY repealing and reenacting, without amendments,
14 Article - Insurance
15 Section 14-401
16 Annotated Code of Maryland
17 (1997 Volume and 1999 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Insurance
20 Section 14-404 and 14-409
21 Annotated Code of Maryland
22 (1997 Volume and 1999 Supplement)

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

3 **Article - Insurance**

4 14-401.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) "Dental plan" means a contractual arrangement for dental services.

7 (c) "Dental plan organization" means a person that provides directly, arranges
8 for, or administers a dental plan on a prepaid or postpaid individual or group
9 capitation basis.

10 (d) "Dental service" means a service included in practicing dentistry as
11 defined in § 4-101 of the Health Occupations Article.

12 (e) "Enrollee" means an individual or dependent of the individual who is
13 enrolled in a dental plan.

14 (f) "Evidence of coverage" means a contract or certificate that is issued to an
15 enrollee and that specifies the dental services to which the enrollee is entitled.

16 14-404.

17 (a) In accordance with this section, a dental plan organization shall [obtain a
18 bond or possess surplus for the protection of enrollees] HAVE AND MAINTAIN AT ALL
19 TIMES A SURPLUS EQUAL TO THE GREATER OF:

20 (1) \$50,000; OR

21 (2) 2% OF THE ORGANIZATIONS' ANNUAL GROSS PREMIUM INCOME, UP
22 TO A MAXIMUM OF THE REQUIRED CAPITAL AND SURPLUS OF A STOCK INSURER
23 UNDER § 4-103 OF THIS ARTICLE.

24 [(b) (1) The amount of the surplus or bond shall equal the lesser of:

25 (i) 7% of the gross contract and certificate income of the dental
26 plan organization for 1 year; or

27 (ii) \$150,000.

28 (2) The amount of the surplus or bond shall be adjusted:

29 (i) within 20 days after a change in the gross contract and
30 certificate income; or

31 (ii) if necessary, annually on July 1.

1 (c) (1) Notwithstanding subsection (b) of this section, if the Commissioner
2 determines after a hearing that the surplus or bond provided by the dental plan
3 organization under subsections (a) and (b) of this section is excessive, the
4 Commissioner may reduce the amount of the surplus or bond required.

5 (2) The Commissioner may not reduce the amount of the surplus or bond
6 unless the Commissioner determines that the dental plan organization is solvent and
7 has surplus assets of at least \$75,000 in excess of liabilities.

8 (3) A dental plan organization that is allowed to reduce the amount of its
9 surplus or bond under this subsection thereafter shall maintain surplus assets of at
10 least \$75,000 in excess of liabilities.

11 (d) The gross contract and certificate income for 1 year of a dental plan
12 organization that is referred to in subsection (b) of this section may not include
13 income earned from a dental plan if:

14 (1) participation is wholly voluntary on the part of the enrollee;

15 (2) the cost for the dental plan is borne by the enrollee; and

16 (3) the payment for the dental plan is by payroll deduction on the basis of
17 every week, 2 weeks, or month.]

18 (B) (1) A DENTAL PLAN ORGANIZATION SHALL DEPOSIT WITH THE
19 COMMISSIONER OR WITH ANY ORGANIZATION OR TRUSTEE ACCEPTABLE TO THE
20 COMMISSIONER THROUGH WHICH A CUSTODIAL OR CONTROLLED ACCOUNT IS
21 ~~UTILIZED~~ USED, CASH, SECURITIES, OR ANY COMBINATION OF THESE OR OTHER
22 MEASURES THAT IS ACCEPTABLE TO THE COMMISSIONER IN AN AMOUNT EQUAL TO
23 \$25,000 PLUS 25% OF THE SURPLUS REQUIRED IN SUBSECTION (A) OF THIS SECTION,
24 PROVIDED THAT THE DEPOSIT SHALL NOT BE REQUIRED TO EXCEED \$100,000.

25 (2) THE DEPOSIT SHALL BE:

26 (I) AN ADMITTED ASSET OF THE DENTAL PLAN ORGANIZATION IN
27 THE DETERMINATION OF SURPLUS;

28 (II) USED TO PROTECT THE INTERESTS OF THE DENTAL PLAN
29 ORGANIZATION'S ENROLLEES;

30 (III) USED TO ASSURE CONTINUATION OF LIMITED HEALTH CARE
31 SERVICES TO ENROLLEES OF A DENTAL PLAN ORGANIZATION THAT IS IN
32 REHABILITATION OR CONSERVATION; AND

33 (IV) IF A DENTAL PLAN ORGANIZATION IS PLACED IN
34 RECEIVERSHIP OR LIQUIDATION, AN ASSET SUBJECT TO PROVISIONS OF THE
35 UNIFORM INSURERS LIQUIDATION ACT.

36 (3) ALL INCOME FROM DEPOSITS SHALL BE AN ASSET OF THE DENTAL
37 PLAN ORGANIZATION.

1 (4) A DENTAL PLAN ORGANIZATION MAY WITHDRAW A DEPOSIT OR ANY
2 PART THEREOF AFTER MAKING A SUBSTITUTE DEPOSIT OF EQUAL AMOUNT AND
3 VALUE.

4 (5) A SUBSTITUTE DEPOSIT OF ANY SECURITIES ~~SHALL BE APPROVED~~
5 ~~BY THE COMMISSIONER~~ IS SUBJECT TO THE APPROVAL OF THE COMMISSIONER.

6 (C) THE COMMISSIONER MAY REDUCE OR ELIMINATE THE DEPOSIT
7 REQUIREMENT IF THE DENTAL PLAN ORGANIZATION HAS MADE AN ACCEPTABLE
8 DEPOSIT WITH THE STATE OR JURISDICTION OF DOMICILE FOR THE PROTECTION OF
9 ALL ENROLLEES, WHEREVER LOCATED, AND DELIVERS TO THE COMMISSIONER A
10 CERTIFICATE TO SUCH EFFECT, DULY AUTHENTICATED BY THE APPROPRIATE STATE
11 OFFICIAL HOLDING THE DEPOSIT.

12 14-409.

13 (a) The Commissioner may suspend or revoke a certificate of authority issued
14 to a dental plan organization under this subtitle if the Commissioner finds that:

15 (1) the dental plan organization is operating in a manner significantly
16 contrary to that described in §§ 14-403, 14-405, 14-407, and 14-408 of this subtitle;

17 (2) the dental plan organization issues evidence of coverage that does not
18 comply with § 14-410 of this subtitle;

19 (3) the dental plan organization can no longer be expected to meet its
20 obligations to enrollees;

21 (4) the agreements of the dental plan organization with dentists are not
22 sufficient to provide the dental services covered by the dental plan;

23 (5) the dental plan organization, or authorized person acting on its
24 behalf, has advertised or merchandised its services in an untrue or misleading
25 manner;

26 (6) the conditions or methods of operation of the dental plan organization
27 make continued operation hazardous to enrollees or the public; or

28 (7) the dental plan organization has failed to comply with this subtitle or
29 any regulations adopted under this subtitle.

30 (b) If the Commissioner has cause to believe that grounds exist for the
31 suspension or revocation of a certificate of authority, the Commissioner shall notify
32 the dental plan organization of the suspension or revocation in writing and the
33 grounds.

34 (c) If the Commissioner suspends the certificate of authority, the dental plan
35 organization may not accept additional enrollees or engage in advertising or
36 solicitation during the period of suspension.

1 (d) (1) If the Commissioner revokes the certificate of authority, the dental
2 plan organization shall dissolve its structure immediately after the effective date of
3 the order of revocation and may not conduct further business, except as essential to
4 the orderly conclusion of the affairs of the dental plan organization.

5 (2) By written order, the Commissioner may allow further operation of
6 the dental plan organization if the Commissioner finds that it is in the best interest of
7 enrollees and that enrollees will be afforded the greatest practical opportunity to
8 obtain continuing dental plan coverage.

9 (E) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A
10 CERTIFICATE OF AUTHORITY, THE COMMISSIONER MAY:

11 (1) IMPOSE ON THE HOLDER A PENALTY OF NOT LESS THAN \$1,000 BUT
12 NOT EXCEEDING \$50,000 FOR EACH VIOLATION OF THIS SUBTITLE; AND

13 (2) REQUIRE THE HOLDER TO MAKE RESTITUTION TO ANY PERSON WHO
14 HAS SUFFERED FINANCIAL INJURY BECAUSE OF A VIOLATION OF THIS SUBTITLE.

15 [(e)] (F) (1) Notwithstanding subsections (c) [and], (d), AND (E) of this
16 section, a dental plan organization that has had its certificate of authority suspended
17 or revoked, HAS BEEN ORDERED TO PAY A PENALTY OR MAKE RESTITUTION, or has
18 suffered an adverse decision by the Commissioner is entitled to a hearing under §
19 2-210 of this article.

20 (2) Hearings and appeals from orders of the Commissioner are governed
21 by §§ 2-203 and 2-210 through 2-215 of this article.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2000.