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By: **Delegates Hammen, Boutin, Brown, Doory, Eckardt, Elliott, Frush,  
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Snodgrass, Wood, and Stull**

Introduced and read first time: February 2, 2001

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Maintenance Organizations - Patient Access to Choice of Provider**

3 FOR the purpose of altering certain standards of care for health maintenance  
4 organizations to make them apply to services of nurse practitioners in addition  
5 to physicians; requiring health maintenance organizations to allow for the  
6 designation by a member or subscriber of a nurse practitioner as a primary care  
7 provider; providing that this Act does not limit a member's or subscriber's  
8 selection of providers from those made available on the health maintenance  
9 organization's panel of providers; prohibiting a health maintenance organization  
10 from limiting to nurse practitioners the choice of a provider by subscribers and  
11 members; altering a definition; and generally relating to health maintenance  
12 organizations and nurse practitioners.

13 BY repealing and reenacting, without amendments,  
14 Article - Health - General  
15 Section 19-701(a), (h), and (i)  
16 Annotated Code of Maryland  
17 (2000 Replacement Volume)

18 BY repealing and reenacting, with amendments,  
19 Article - Health - General  
20 Section 19-701(f), 19-705.1(b), and 19-729  
21 Annotated Code of Maryland  
22 (2000 Replacement Volume)

23 BY adding to  
24 Article - Health - General  
25 Section 19-705.1(g)  
26 Annotated Code of Maryland  
27 (2000 Replacement Volume)

1 Preamble

2 WHEREAS, The 1997 federal budget bill contains provisions allowing direct  
3 Medicare reimbursement to nurse practitioners regardless of geographic setting; and

4 WHEREAS, The new Maryland Medicaid Program, known as "HealthChoice",  
5 has recognized nurse practitioners as primary care providers; and

6 WHEREAS, In 1995, the Maryland General Assembly passed the "Patient  
7 Access Act", which provided health maintenance organization (HMO) members or  
8 subscribers greater access and choice of providers; and

9 WHEREAS, It is the intent of the Maryland General Assembly to support health  
10 care providers who are practicing as their licenses allow; and

11 WHEREAS, It is the intent of the Maryland General Assembly to allow  
12 members or subscribers of HMOs the greatest amount of choice in selecting a primary  
13 care provider; and

14 WHEREAS, It is the intent of the Maryland General Assembly to effect both of  
15 these goals without interfering with the current relationship between physicians and  
16 nurse practitioners; and

17 WHEREAS, It is the intent of the Maryland General Assembly to clarify the  
18 laws of Maryland as they relate to allowing members or subscribers of HMOs the  
19 greatest amount of choice in selecting a primary care provider who can best provide  
20 for their health care needs; now, therefore,

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 19-701.

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

26 (f) "Health maintenance organization" means any person, including a profit  
27 or nonprofit corporation organized under the laws of any state or country, that:

28 (1) Operates or proposes to operate in this State;

29 (2) Except as provided in § 19-703(b) and (f) of this subtitle, provides or  
30 otherwise makes available to its members health care services that include at least  
31 physician, hospitalization, laboratory, X-ray, emergency, and preventive services,  
32 out-of-area coverage, and any other health care services that the Commissioner  
33 determines to be available generally on an insured or prepaid basis in the area  
34 serviced by the health maintenance organization, and, at the option of the health  
35 maintenance organization, may provide additional coverage;

1 (3) Except for any copayment or deductible arrangement, is compensated  
2 only on a predetermined periodic rate basis for providing to members the minimum  
3 services that are specified in item (2) of this subsection;

4 (4) Assures its subscribers and members, the Commissioner, and the  
5 Department that one clearly specified legal and administrative focal point or element  
6 of the health maintenance organization has the responsibility of providing the  
7 availability, accessibility, quality, and effective use of comprehensive health care  
8 services; and

9 (5) Primarily provides services of physicians OR NURSE PRACTITIONERS:

10 (i) Directly through physicians OR NURSE PRACTITIONERS who are  
11 either employees or partners of the health maintenance organization; or

12 (ii) Under arrangements with one or more groups of physicians OR  
13 NURSE PRACTITIONERS, who are organized on a group practice or individual practice  
14 basis, under which each group:

15 1. Is compensated for its services primarily on the basis of an  
16 aggregate fixed sum or on a per capita basis; and

17 2. Is provided with an effective incentive to avoid  
18 unnecessary inpatient use, whether the individual physician OR NURSE  
19 PRACTITIONER members of the group are paid on a fee-for-service or other basis.

20 (h) "Provider" means any person, including a physician or hospital, who is  
21 licensed or otherwise authorized in this State to provide health care services.

22 (i) "Subscriber" means a person who makes a contract with a health  
23 maintenance organization, either directly or through an insurer or marketing  
24 organization, under which the person or other designated persons are entitled to the  
25 health care services.

26 19-705.1.

27 (b) The standards of quality of care shall include:

28 (1) (i) A requirement that a health maintenance organization shall  
29 provide for regular hours during which a member may receive services, including  
30 providing for services to a member in a timely manner that takes into account the  
31 immediacy of need for services; and

32 (ii) Provisions for assuring that all covered services, including any  
33 services for which the health maintenance organization has contracted, are accessible  
34 to the enrollee with reasonable safeguards with respect to geographic locations;

35 (2) A requirement that a health maintenance organization shall have a  
36 system for providing a member with 24-hour access to a physician in cases where

1 there is an immediate need for medical services, and for promoting timely access to  
2 and continuity of health care services for members, including:

3 (i) Providing 24-hour access by telephone to a person who is able  
4 to appropriately respond to calls from members and providers concerning after-hours  
5 care; and

6 (ii) Providing a 24-hour toll free telephone access system for use in  
7 hospital emergency departments in accordance with § 19-705.7 of this subtitle;

8 (3) A requirement that any nonparticipating provider shall submit to the  
9 health maintenance organization the appropriate documentation of the medical  
10 complaint of the member and the services rendered;

11 (4) A requirement that a health maintenance organization shall have a  
12 physician available at all times to provide diagnostic and treatment services;

13 (5) A requirement that a health maintenance organization shall assure  
14 that:

15 (i) Each member who is seen for a medical complaint is evaluated  
16 under the direction of a physician OR NURSE PRACTITIONER; and

17 (ii) Each member who receives diagnostic evaluation or treatment  
18 is under the direct medical management of a health maintenance organization  
19 physician OR NURSE PRACTITIONER who provides continuing medical management;

20 (6) A requirement that each member shall have an opportunity to select  
21 a primary physician OR NURSE PRACTITIONER from among those available to the  
22 health maintenance organization; and

23 (7) A requirement that a health maintenance organization print, in any  
24 directory of participating providers or hospitals, in a conspicuous manner, the  
25 address, telephone number, and facsimile number of the State agency that members,  
26 enrollees, and insureds may call to discuss quality of care issues, life and health  
27 insurance complaints, and assistance in resolving billing and payment disputes with  
28 the health plan or health care provider, as follows:

29 (i) For quality of care issues and life and health care insurance  
30 complaints, the Maryland Insurance Administration; and

31 (ii) For assistance in resolving a billing or payment dispute with  
32 the health plan or a health care provider, the Health Education and Advocacy Unit of  
33 the Consumer Protection Division of the Office of the Attorney General.

34 (G) NOTWITHSTANDING SUBSECTION (B)(4) AND (5) OF THIS SECTION, THIS  
35 SECTION DOES NOT PREVENT A MEMBER OR SUBSCRIBER OF A HEALTH  
36 MAINTENANCE ORGANIZATION FROM SELECTING A PHYSICIAN OR NURSE  
37 PRACTITIONER OF THE MEMBER'S OR SUBSCRIBER'S CHOICE FROM AMONG THOSE

1 PHYSICIANS AND NURSE PRACTITIONERS MADE AVAILABLE ON THE PROVIDER  
2 PANEL MAINTAINED BY THE HEALTH MAINTENANCE ORGANIZATION.

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; OR

28 (13) REQUIRE OR ATTEMPT TO REQUIRE A MEMBER OR SUBSCRIBER TO  
29 SELECT OR BE SEEN BY A NURSE PRACTITIONER UNDER § 19-705.1(B) OF THIS  
30 SUBTITLE.

31 (b) If any health maintenance organization violates this section, the  
32 Commissioner may pursue any one or more of the courses of action described in §  
33 19-730 of this subtitle.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2001.