
By: **Chair, Health and Government Operations Committee (By Request -
Departmental - Insurance Administration, Maryland)**

Introduced and read first time: February 10, 2006

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Urgent Care Centers - Membership Programs - Regulation and Registration**

3 FOR the purpose of providing for the regulation by the Maryland Insurance
4 Commissioner of certain membership programs; providing that an urgent care
5 center membership program is not insurance; requiring the registration of
6 certain entities as urgent care centers selling membership programs in the
7 State; providing for the application and renewal process for registration;
8 requiring certain entities to obtain a certain bond in certain circumstances;
9 authorizing the Commissioner to deny a registration or refuse to renew,
10 suspend, or revoke a registration under certain circumstances; prohibiting
11 certain actions by an urgent care center that sells a membership program;
12 requiring certain disclosures to be made by a membership program in a certain
13 manner; requiring that a membership program provide certain evidence of
14 membership to a member; permitting an urgent care center membership
15 program to charge certain fees under a membership agreement; requiring a
16 member to receive certain reimbursement if the membership is terminated;
17 authorizing the Commissioner to take certain actions to enforce certain
18 provisions of law; providing for certain penalties; authorizing the Commissioner
19 to adopt certain regulations; defining certain terms; altering a certain
20 definition; providing for the application of this Act; and generally relating to
21 membership programs and urgent care centers.

22 BY repealing and reenacting, with amendments,
23 Article - Insurance
24 Section 1-101(t)
25 Annotated Code of Maryland
26 (2003 Replacement Volume and 2005 supplement)

27 BY adding to
28 Article - Insurance
29 Section 14-601 through 14-612, inclusive, to be under the new subtitle "Subtitle
30 6. Urgent Care Center Membership Programs"
31 Annotated Code of Maryland

1 (2002 Replacement Volume and 2005 Supplement)

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

4 **Article - Insurance**

5 1-101.

6 (t) (1) "Insurance business" includes the transaction of:

7 (i) all matters pertaining to an insurance contract, either before or
8 after it takes effect; and

9 (ii) all matters arising from an insurance contract or a claim under
10 it.

11 (2) "Insurance business" does not include:

12 (I) pooling by public entities for self-insurance of casualty,
13 property, or health risks; OR

14 (II) AN URGENT CARE MEMBERSHIP PROGRAM REGISTERED AND
15 OPERATED IN ACCORDANCE WITH TITLE 14, SUBTITLE 6 OF THIS ARTICLE.

16 SUBTITLE 6. URGENT CARE CENTER MEMBERSHIP PROGRAMS.

17 14-601.

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (B) (1) "HEALTH CARE CENTER" MEANS A MEDICAL PRACTICE GROUP THAT:

21 (I) IS OPEN 7 DAYS EACH WEEK;

22 (II) IS OPEN AT LEAST 10 OR MORE HOURS EACH DAY;

23 (III) DOES NOT REQUIRE AN APPOINTMENT FOR A PATIENT TO
24 RECEIVE CARE;

25 (IV) DOES NOT REQUIRE A PATIENT TO BE A MEMBER OR HAVE
26 INSURANCE TO RECEIVE CARE;

27 (V) PROVIDES MEDICAL SERVICES;

28 (VI) OFFERS ON-SITE LABORATORY SERVICES IN A LABORATORY
29 LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

30 (VII) OFFERS ON-SITE RADIOLOGY SERVICES IN A LABORATORY
31 LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE; AND

1 (VIII) OFFERS A BROAD ARRAY OF DIAGNOSTIC AND THERAPEUTIC
2 SERVICES.

3 (2) "HEALTH CARE CENTER" DOES NOT INCLUDE:

4 (I) A FACILITY OWNED BY A LICENSED HEALTH MAINTENANCE
5 ORGANIZATION;

6 (II) A FACILITY OWNED BY A HOSPITAL LICENSED UNDER THE
7 HEALTH - GENERAL ARTICLE; OR

8 (III) A FREESTANDING AMBULATORY SURGICAL FACILITY AS
9 DEFINED IN THE HEALTH - GENERAL ARTICLE.

10 (C) "MEDICAL SERVICES" MEANS THE DELIVERY OF PRIMARY CARE AND
11 DIAGNOSIS, OBSERVATION, TREATMENT, AND REHABILITATION OF MEDICAL
12 CONDITIONS THAT IS PROVIDED ON AN OUTPATIENT BASIS OUTSIDE OF A HOSPITAL
13 EMERGENCY DEPARTMENT.

14 (D) "MEMBER" MEANS AN INDIVIDUAL WHO IS ENROLLED IN A MEMBERSHIP
15 PROGRAM.

16 (E) "MEMBERSHIP AGREEMENT" MEANS AN AGREEMENT BETWEEN A
17 MEMBER AND AN URGENT CARE CENTER THAT ESTABLISHES THE TERMS OF THE
18 MEMBERSHIP PROGRAM.

19 (F) "MEMBERSHIP PROGRAM" MEANS A PROGRAM THAT PERMITS A MEMBER
20 TO ACCESS SPECIFIED MEDICAL SERVICES AS DESCRIBED IN THE MEMBERSHIP
21 AGREEMENT.

22 (G) "URGENT CARE CENTER" MEANS A PERSON THAT OWNS A HEALTH CARE
23 CENTER.

24 14-602.

25 (A) THE PURPOSE OF THIS SUBTITLE IS TO PERMIT REGISTERED URGENT
26 CARE CENTERS IN THE STATE TO PROVIDE MEDICAL SERVICES THROUGH A
27 MEMBERSHIP PROGRAM.

28 (B) A MEMBERSHIP PROGRAM IS NOT INSURANCE.

29 14-603.

30 (A) A PERSON MAY NOT ENTER INTO A MEMBERSHIP AGREEMENT IN THE
31 STATE UNLESS THE PERSON IS AN URGENT CARE CENTER THAT HAS REGISTERED
32 WITH THE COMMISSIONER.

33 (B) AN APPLICANT FOR REGISTRATION SHALL:

34 (1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE FORM
35 THAT THE COMMISSIONER REQUIRES;

1 (2) PAY TO THE COMMISSIONER AN APPLICATION FEE AS SET BY THE
2 COMMISSIONER; AND

3 (3) EXCEPT AS PROVIDED IN § 14-604(E) OF THIS SUBTITLE, FILE WITH
4 THE COMMISSIONER EVIDENCE OF THE BOND REQUIRED UNDER § 14-604 OF THIS
5 SUBTITLE.

6 14-604.

7 (A) THE BOND REQUIRED FOR AN URGENT CARE CENTER THAT REGISTERS
8 UNDER THIS SUBTITLE MUST:

9 (1) PROVIDE PROTECTION TO THE MEMBERS OF THE MEMBERSHIP
10 PROGRAM AGAINST THE LOSS OF UNEARNED MEMBERSHIP FEES COLLECTED BY
11 THE URGENT CARE CENTER; AND

12 (2) BE ISSUED BY AN AUTHORIZED CORPORATE SURETY INSURER THAT
13 IS AN ACCEPTABLE SURETY ON FEDERAL BONDS UNDER AUTHORITY GRANTED BY
14 THE SECRETARY OF THE TREASURY.

15 (B) (1) IN DETERMINING THE AMOUNT OF THE BOND, THE URGENT CARE
16 CENTER SHALL CONSIDER:

17 (I) THE ESTIMATED AVERAGE AMOUNT OF MEMBERSHIP FEES TO
18 BE COLLECTED BY THE URGENT CARE CENTER IN A YEAR; AND

19 (II) THE AVERAGE AMOUNT OF MEMBERSHIP FEES COLLECTED BY
20 THE URGENT CARE CENTER IN THE PREVIOUS YEAR.

21 (2) THE AMOUNT OF THE BOND MAY NOT BE LESS THAN \$2,500 AND
22 NEED NOT BE MORE THAN \$500,000.

23 (C) SUBJECT TO APPROVAL BY THE COMMISSIONER, THE AMOUNT OF THE
24 BOND SHALL BE DETERMINED AT THE TIME AN APPLICATION FOR REGISTRATION OR
25 RENEWAL OF REGISTRATION IS FILED.

26 (D) SUBJECT TO APPROVAL BY THE COMMISSIONER, THE BOND MAY BE AN
27 INDIVIDUAL BOND OR A BLANKET BOND THAT COVERS A GROUP OR CLASS.

28 (E) THE COMMISSIONER MAY WAIVE THE REQUIREMENT FOR AN APPLICANT
29 TO FILE EVIDENCE OF A BOND AS A CONDITION OF REGISTRATION OR RENEWAL OF
30 REGISTRATION IF THE COMMISSIONER FINDS THAT OTHER ARRANGEMENTS,
31 INCLUDING PROVIDING LETTERS OF CREDIT OR SIMILAR INSTRUMENTS, WOULD BE
32 ADEQUATE TO PROTECT THE INTERESTS OF MEMBERS.

33 14-605.

34 (A) A REGISTRATION EXPIRES ON THE SECOND JUNE 30 AFTER ITS EFFECTIVE
35 DATE UNLESS IT IS RENEWED AS PROVIDED IN THIS SECTION.

1 (B) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT MAY RENEW IT FOR
2 AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT:

3 (1) OTHERWISE IS ENTITLED TO BE REGISTERED;

4 (2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE
5 FORM THAT THE COMMISSIONER REQUIRES;

6 (3) EXCEPT AS PROVIDED IN § 14-604(E) OF THIS SUBTITLE, FILES WITH
7 THE COMMISSIONER EVIDENCE OF THE BOND REQUIRED UNDER § 14-604 OF THIS
8 SUBTITLE; AND

9 (4) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$50.

10 (C) AN APPLICATION FOR RENEWAL OF A REGISTRATION SHALL BE
11 CONSIDERED MADE IN A TIMELY MANNER IF IT IS POSTMARKED ON OR BEFORE
12 JUNE 30 OF THE YEAR OF RENEWAL.

13 (D) SUBJECT TO § 14-606 OF THIS SUBTITLE, THE COMMISSIONER SHALL
14 RENEW THE REGISTRATION OF EACH REGISTRANT THAT MEETS THE
15 REQUIREMENTS OF THIS SECTION.

16 14-606.

17 (A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE
18 COMMISSIONER MAY DENY A REGISTRATION TO AN APPLICANT OR REFUSE TO
19 RENEW, SUSPEND, OR REVOKE THE REGISTRATION OF A REGISTRANT IF THE
20 APPLICANT OR REGISTRANT, OR AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE
21 APPLICANT OR REGISTRANT:

22 (1) MAKES A MATERIAL MISSTATEMENT OR MISREPRESENTATION IN AN
23 APPLICATION FOR REGISTRATION;

24 (2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
25 OBTAIN A REGISTRATION FOR THE APPLICANT OR REGISTRANT OR FOR ANOTHER;

26 (3) IS CONVICTED OF A FELONY OR OF A MISDEMEANOR INVOLVING
27 MORAL TURPITUDE;

28 (4) IN CONNECTION WITH THE ADMINISTRATION OF AN MEMBERSHIP
29 PROGRAM, COMMITS FRAUD OR ENGAGES IN ILLEGAL OR DISHONEST ACTIVITIES;

30 (5) VIOLATES ANY PROVISION OF THIS SUBTITLE OR A REGULATION
31 ADOPTED UNDER IT;

32 (6) PROVIDES A FALSE, FALSELY DISPARAGING, OR MISLEADING ORAL
33 OR WRITTEN STATEMENT, VISUAL DESCRIPTION, OR OTHER REPRESENTATION OF
34 ANY KIND THAT HAS THE CAPACITY, TENDENCY, OR EFFECT OF DECEIVING OR
35 MISLEADING CONSUMERS;

1 (7) MAKES A REPRESENTATION THAT AN MEMBERSHIP PROGRAM HAS A
2 SPONSORSHIP, APPROVAL, CHARACTERISTIC, USE, OR BENEFIT THAT IT DOES NOT
3 HAVE;

4 (8) FAILS TO MAINTAIN LICENSURE OF THE RADIOLOGY LABORATORY
5 OF THE HEALTH CARE CENTER BY THE DEPARTMENT OF HEALTH AND MENTAL
6 HYGIENE;

7 (9) FAILS TO MAINTAIN LICENSURE OF THE LABORATORY OF THE
8 HEALTH CARE CENTER BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE; OR

9 (10) VIOLATES § 13-301 OF THE COMMERCIAL LAW ARTICLE.

10 (B) THIS SECTION DOES NOT LIMIT ANY REGULATORY POWER OF THE
11 COMMISSIONER UNDER TITLE 2 OF THIS ARTICLE.

12 14-607.

13 (A) AN URGENT CARE CENTER THAT SELLS A MEMBERSHIP PROGRAM MAY
14 NOT:

15 (1) ENTER INTO A MEMBERSHIP AGREEMENT WITH A SMALL EMPLOYER
16 AS DEFINED IN § 15-1201 OF THIS ARTICLE ON BEHALF OF THE EMPLOYEES OF THE
17 SMALL EMPLOYER; OR

18 (2) ACCEPT PAYMENT FOR MEMBERSHIP PROGRAMS FROM A SMALL
19 EMPLOYER THAT ALLOWS ITS EMPLOYEES TO PAY FOR MEMBERSHIP PROGRAMS
20 THROUGH PAYROLL DEDUCTIONS.

21 (B) AN URGENT CARE CENTER THAT PROVIDES SERVICES TO A MEMBER
22 UNDER A MEMBERSHIP AGREEMENT MAY NOT RECEIVE REIMBURSEMENT FROM A
23 THIRD PARTY PAYOR FOR THOSE SAME SERVICES.

24 (C) AN URGENT CARE CENTER THAT SELLS A MEMBERSHIP PROGRAM MAY
25 NOT:

26 (1) USE IN ITS ADVERTISEMENTS, MARKETING MATERIAL, BROCHURES,
27 AND MEMBERSHIP CARDS THE TERM "INSURANCE" EXCEPT:

28 (I) WHEN COMPARING THE MEMBERSHIP PROGRAM TO
29 INSURANCE OR OTHERWISE DISTINGUISHING THE MEMBERSHIP PROGRAM FROM
30 INSURANCE; OR

31 (II) AS OTHERWISE PROVIDED IN THIS SUBTITLE;

32 (2) USE IN ITS ADVERTISEMENTS, MARKETING MATERIAL, BROCHURES,
33 AND MEMBERSHIP CARDS THE TERMS "HEALTH PLAN", "COVERAGE", "CO-PAY",
34 "CO-PAYMENTS", "PREEXISTING CONDITIONS", "GUARANTEED ISSUE", "PREMIUM",
35 "PPO", "PREFERRED PROVIDER ORGANIZATION", OR OTHER TERMS, IN A CONTEXT

1 THAT COULD REASONABLY MISLEAD A PERSON INTO BELIEVING THE MEMBERSHIP
2 PROGRAM WAS HEALTH INSURANCE; OR

3 (3) REFUSE TO MODIFY A MEMBER'S METHOD OF PAYMENT ON
4 REQUEST, UNLESS A SPECIFIC METHOD OF PAYMENT IS REQUIRED AS A TERM OF
5 THE MEMBERSHIP AGREEMENT AND WAS AGREED TO IN WRITING IN ADVANCE BY
6 THE MEMBER.

7 14-608.

8 THE FOLLOWING DISCLOSURES SHALL BE MADE IN WRITING IN AT LEAST 12
9 POINT TYPE WITH EACH ENROLLMENT FORM:

10 (1) A STATEMENT THAT THE MEMBERSHIP PROGRAM IS NOT
11 INSURANCE;

12 (2) A CLEAR STATEMENT OF THE SERVICES THAT THE HEALTH CARE
13 CENTER PROVIDES TO MEMBERS OF THE MEMBERSHIP PROGRAM;

14 (3) THE NAME, LOCATION, AND CONTACT INFORMATION, INCLUDING A
15 TELEPHONE NUMBER, FOR THE MEMBERSHIP PROGRAM;

16 (4) THE LIMITS ON THE AVAILABILITY OF HOSPITALIZATION OR
17 SPECIALTY CARE AVAILABLE THROUGH THE MEMBERSHIP PROGRAM;

18 (5) THE INITIATION FEE, PERIODIC MEMBERSHIP FEE, AND
19 DISHONORED CHECK FEE THAT WILL BE CHARGED UNDER THE MEMBERSHIP
20 PROGRAM; AND

21 (6) ALL SERVICE FEES OR CHARGES FOR MEDICAL SERVICES TO BE
22 PROVIDED BY THE HEALTH CARE CENTER UNDER A MEMBERSHIP AGREEMENT.

23 14-609.

24 AN URGENT CARE CENTER SHALL PROVIDE EACH MEMBER OR EACH
25 HOUSEHOLD OF MEMBERS WRITTEN EVIDENCE OF MEMBERSHIP IN THE
26 MEMBERSHIP PROGRAM AT THE TIME OF ENROLLMENT.

27 14-610.

28 (A) AN URGENT CARE CENTER MEMBERSHIP PROGRAM MAY ONLY CHARGE:

29 (1) AN INITIAL ENROLLMENT FEE;

30 (2) A PERIODIC MEMBERSHIP FEE;

31 (3) A DISHONORED CHECK FEE OF NOT MORE THAN \$25; AND

32 (4) SERVICE FEES FOR MEDICAL SERVICES PROVIDED BY THE HEALTH
33 CARE CENTER.

1 (B) A MEMBERSHIP AGREEMENT SHALL ALLOW A MEMBER TO CANCEL
2 ENROLLMENT IN A MEMBERSHIP PROGRAM AT ANY TIME.

3 (C) IF A MEMBER CANCELS ENROLLMENT IN A MEMBERSHIP PROGRAM, THE
4 URGENT CARE CENTER THAT SOLD THE MEMBERSHIP PROGRAM SHALL REFUND TO
5 THE MEMBER ALL UNEARNED MEMBERSHIP FEES.

6 (D) A MEMBERSHIP AGREEMENT TERMINATES ON THE LAST DAY OF THE
7 CALENDAR MONTH IN WHICH NOTICE OF CANCELLATION IS RECEIVED BY THE
8 URGENT CARE CENTER.

9 (E) UNEARNED MEMBERSHIP FEES SHALL BE CALCULATED ON A PRO RATA
10 BASIS.

11 (F) IF A MEMBER'S ENROLLMENT IN A MEMBERSHIP PROGRAM TERMINATES
12 BECAUSE OF A FAILURE TO PAY THE MEMBERSHIP FEE, THE URGENT CARE CENTER
13 SHALL REINSTATE THE MEMBER WITHOUT FINANCIAL PENALTY OR CHARGING A
14 NEW INITIAL ENROLLMENT FEE IF:

15 (1) THE URGENT CARE CENTER HAS RECEIVED WITHIN 7 DAYS AFTER
16 TERMINATION A WRITTEN REQUEST FROM THE MEMBER TO BE REINSTATED; AND

17 (2) THE MEMBER TENDERS PAYMENT FOR ALL OUTSTANDING FEES
18 WHICH ARE DUE AND ALLOWABLE UNDER SUBSECTION (A) OF THIS SECTION.

19 14-611.

20 (A) TO ENFORCE THIS SUBTITLE AND ANY REGULATION ADOPTED UNDER IT,
21 THE COMMISSIONER MAY ISSUE AN ORDER:

22 (1) THAT REQUIRES THE VIOLATOR TO CEASE AND DESIST FROM THE
23 IDENTIFIED VIOLATION AND FURTHER SIMILAR VIOLATIONS;

24 (2) THAT REQUIRES THE VIOLATOR TO TAKE SPECIFIC AFFIRMATIVE
25 ACTION TO CORRECT THE VIOLATION; AND

26 (3) THAT REQUIRES THE VIOLATOR TO PAY RESTITUTION TO A MEMBER.

27 (B) (1) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION
28 MAY BE SERVED ON A VIOLATOR THAT IS REGISTERED UNDER THIS SUBTITLE IN THE
29 MANNER PROVIDED IN TITLE 2 OF THIS ARTICLE.

30 (2) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION
31 MAY BE SERVED ON A VIOLATOR THAT IS NOT REGISTERED UNDER THIS SUBTITLE IN
32 THE MANNER PROVIDED FOR SERVICE ON AN UNAUTHORIZED INSURER THAT DOES
33 AN ACT OF INSURANCE BUSINESS IN TITLE 4, SUBTITLE 2 OF THIS ARTICLE.

34 (3) A REQUEST FOR A HEARING ON ANY ORDER ISSUED UNDER THIS
35 SUBSECTION DOES NOT STAY THAT PART OF THE ORDER THAT REQUIRES THE
36 VIOLATOR TO CEASE AND DESIST FROM CONDUCT IDENTIFIED IN THE ORDER.

1 (4) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT
2 OF ANY COUNTY TO ENFORCE AN ORDER ISSUED UNDER THIS SECTION, WHETHER
3 OR NOT A HEARING HAS BEEN REQUESTED OR, IF REQUESTED, WHETHER OR NOT A
4 HEARING HAS BEEN HELD.

5 (5) IN AN ACTION BROUGHT BY THE COMMISSIONER UNDER THIS
6 SECTION, THE COMMISSIONER MAY RECOVER FOR THE USE OF THE STATE
7 REASONABLE ATTORNEY'S FEES AND THE COSTS OF THE ACTION.

8 (C) (1) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION TAKEN BY THE
9 COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL
10 PENALTY OF NOT MORE THAN \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.

11 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE
12 COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$1,000 PER DAY
13 FOR EACH DAY THAT A PERSON IS IN VIOLATION OF § 14-606 OF THIS SUBTITLE.

14 (D) THIS SECTION DOES NOT LIMIT ANY REGULATORY POWER OF THE
15 COMMISSIONER UNDER THIS ARTICLE.

16 14-612.

17 THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland
19 Insurance Administration shall begin accepting applications for registrations from
20 Urgent Care Centers on January 1, 2007.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
22 effect October 1, 2006.