

SENATE BILL 269

J1
SB 1043/06 – FIN

71r0918

By: ~~Senator Conway~~ Senators Conway, Exum, Garagiola, Kelley, Middleton, and Pugh

Introduced and read first time: January 30, 2007

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2007

CHAPTER _____

1 AN ACT concerning

2 ~~Maryland Health Care Commission Racial and Ethnic Variations Data~~
3 ~~Nondiscrimination in Health Insurance~~
4 Health Insurance – Collection of Racial and Ethnic Data –
5 Nondiscrimination

6 FOR the purpose of ~~requiring the Maryland Health Care Commission to include~~
7 ~~certain racial and ethnic variations in certain systems to evaluate the quality of~~
8 ~~care outcomes and performance measurements of certain health maintenance~~
9 ~~organization benefit plans, nursing facilities, hospitals, and ambulatory surgical~~
10 ~~facilities;~~ authorizing certain entities that provide health insurance to make an
11 inquiry about race and ethnicity under certain circumstances, and subject to
12 certain limitations; ~~prohibiting the use of certain racial or ethnic variations~~
13 ~~information to deny or otherwise affect a health insurance policy or contract;~~
14 ~~providing that the provisions of certain insurance laws apply to health~~
15 ~~maintenance organizations; and generally relating to the collection and use of~~
16 ~~racial and ethnic variations data by health insurers.~~

17 ~~BY repealing and reenacting, with amendments,~~
18 ~~Article – Health – General~~
19 ~~Section 19-134(c) and (d)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–134(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)
(As enacted by Chapter 450 of the Acts of the General Assembly of 2006)~~

~~BY repealing and reenacting, with amendments, adding to
Article – Health – General
Section 19–706(ddd) 19–706(jjj)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–501(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–501(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)~~

~~BY adding to
Article – Insurance
Section 27–914
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)~~

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

Article – Health – General

~~19–134.~~

~~(e) (1) The Commission shall:~~

~~(i) Establish and implement a system to comparatively evaluate the quality of care outcomes and performance measurements of health maintenance organization benefit plans and services on an objective basis; and~~

~~(ii) Annually publish the summary findings of the evaluation.~~

~~(2) The purpose of a comparable performance measurement system established under this subsection is to assist health maintenance organization benefit plans to improve the quality of care provided by establishing a common set of performance measurements and disseminating the findings of the performance measurements to health maintenance organizations and interested parties.~~

~~(3) The system, where appropriate, shall:~~

~~(i) [solicit] SOLICIT performance information from enrollees of health maintenance organizations; and~~

~~(ii) On or before October 1, 2007, to the extent feasible, incorporate INFORMATION ON racial and ethnic variations.~~

~~(4) (i) The Commission shall adopt regulations to establish the system of evaluation provided under this subsection.~~

~~(ii) Before adopting regulations to implement an evaluation system under this subsection, the Commission shall consider any recommendations of the quality of care subcommittee of the Group Health Association of America and the National Committee for Quality Assurance.~~

~~(5) The Commission may contract with a private, nonprofit entity to implement the system required under this subsection provided that the entity is not an insurer.~~

~~(6) The annual evaluation summary required under paragraph (1) of this subsection shall:~~

~~(i) Include a summary of the Drug Formulary Accreditation Standards of the National Committee for Quality Assurance (NCQA);~~

~~(ii) Indicate whether the formulary development process of each health maintenance organization evaluated complies with the National Committee for Quality Assurance (NCQA) accreditation standards; and~~

~~(iii) Include to the extent feasible information on racial and ethnic variations.~~

~~(d) (1) The Commission, in consultation with the Department of Health and Mental Hygiene and the Department of Aging, shall:~~

~~(i) On or before July 1, 2001, develop and implement a system to comparatively evaluate the quality of care and performance of nursing facilities on an objective basis; and~~

~~(ii) Annually publish the summary findings of the evaluation.~~

~~(2) (i) The purpose of the comparative evaluation system established under this subsection is to improve the quality of care provided by nursing facilities by establishing a common set of performance measures and disseminating the findings of the comparative evaluation to nursing facilities, consumers, and other interested parties.~~

~~(ii) In developing the comparative evaluation system, the Commission shall consider the health status of the population served.~~

~~(3) (i) The system, as appropriate, shall solicit performance information from consumers and their families.~~

~~(ii) On or before October 1, 2007, to the extent feasible, the system shall incorporate **INFORMATION ON** racial and ethnic variations.~~

~~(4) The Commission may adopt regulations to establish the comparative evaluation system provided under this subsection.~~

~~(e) (1) The Commission may:~~

~~(i) On or before July 1, 2001, develop and implement a system to comparatively evaluate the quality of care outcomes and performance measurements of hospitals and ambulatory surgical facilities on an objective basis; and~~

~~(ii) Annually publish the summary findings of the evaluation.~~

~~(2) (i) The purpose of a comparable performance measurement system established under this subsection is to improve the quality of care provided by hospitals and ambulatory surgical facilities by establishing a common set of performance measurements and disseminating the findings of the performance~~

1 ~~measurements to hospitals, ambulatory surgical facilities, consumers, and interested~~
2 ~~parties.~~

3 ~~(ii) In developing the performance measurement system, the~~
4 ~~Commission shall consider the geographic location, urban or rural orientation, and~~
5 ~~teaching or nonteaching status of the hospital and the ambulatory surgical facilities,~~
6 ~~and the health status of the population served.~~

7 ~~(3) (i) The system, where appropriate, shall solicit performance~~
8 ~~information from consumers.~~

9 ~~(ii) On or before October 1, 2007, to the extent feasible, the~~
10 ~~system shall incorporate INFORMATION ON racial and ethnic variations.~~

11 ~~(4) (i) The Commission may adopt regulations to establish the~~
12 ~~system of evaluation provided under this subsection.~~

13 ~~(ii) Before adopting regulations to implement an evaluation~~
14 ~~system under this subsection, the Commission shall:~~

15 ~~1. Consider the performance measurements of~~
16 ~~appropriate accreditation organizations, State licensure regulations, Medicare~~
17 ~~certification regulations, the quality indicator project of the Association of Maryland~~
18 ~~Hospitals and Health Systems, and any other relevant performance measurements;~~

19 ~~2. Evaluate the desirability and feasibility of developing~~
20 ~~a consumer clearinghouse on health care information using existing available data;~~
21 ~~and~~

22 ~~3. On or before January 1, 2001, report to the General~~
23 ~~Assembly, subject to § 2-1246 of the State Government Article, on any performance~~
24 ~~evaluation developed under this subsection.~~

25 ~~(5) The Commission may contract with a private entity to implement~~
26 ~~the system required under this subsection provided that the entity is not a hospital or~~
27 ~~an ambulatory surgical facility.~~

28 ~~(6) (i) The comparable evaluation system established under this~~
29 ~~subsection shall include health care associated infection information from hospitals.~~

30 ~~(ii) The comparable evaluation system shall adhere, to the~~
31 ~~extent possible, to the current recommendations of the federal Centers for Disease~~

~~Control and Prevention (CDC) and the CDC Healthcare Infection Control Practices
Advisory Committee regarding public reporting of health care associated infections.~~

~~19-706.~~

~~(ggg) (1) The provisions of [§ 15-131] § 27-914 of the Insurance Article
apply to health maintenance organizations.~~

~~(2) FOR PURPOSES OF § 27-914(C) OF THE INSURANCE ARTICLE,
§§ 4-113, 4-114, 27-501, AND 27-505 OF THE INSURANCE ARTICLE APPLY TO
HEALTH MAINTENANCE ORGANIZATIONS.~~

~~Article – Insurance~~

~~19-706.~~

(JJJ) (1) THE PROVISIONS OF § 27-914 OF THE INSURANCE ARTICLE
APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

(2) FOR PURPOSES OF § 27-914(C) OF THE INSURANCE ARTICLE,
§§ 4-113, 4-114, 27-501, AND 27-505 OF THE INSURANCE ARTICLE APPLY TO
HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

27-501.

(a) (1) An insurer or insurance producer may not cancel or refuse to
underwrite or renew a particular insurance risk or class of risk for a reason based
wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder
or for any arbitrary, capricious, or unfairly discriminatory reason.

(2) Except as provided in this section, an insurer or insurance
producer may not cancel or refuse to underwrite or renew a particular insurance risk
or class of risk except by the application of standards that are reasonably related to
the insurer's economic and business purposes.

(b) (1) An insurer may not require special conditions, facts, or situations
as a condition to its acceptance or renewal of a particular insurance risk or class of
risks in an arbitrary, capricious, unfair, or discriminatory manner based wholly or

1 partly on race, creed, color, sex, religion, national origin, place of residency, blindness,
2 or other physical handicap or disability.

3 (2) Actuarial justification may be considered with respect to sex.

4 (c) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
5 SUBSECTION, AN insurer or insurance producer may not make an inquiry about race,
6 creed, color, or national origin in an insurance form, questionnaire, or other manner of
7 requesting general information that relates to an application for insurance.

8 (2) SUBJECT TO § 27-914 OF THIS TITLE, A HEALTH INSURER,
9 NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION
10 MAY MAKE AN INQUIRY ABOUT RACE AND ETHNICITY IN AN INSURANCE FORM,
11 QUESTIONNAIRE, OR OTHER MANNER REQUESTING GENERAL INFORMATION
12 FOR THE EVALUATION OF QUALITY OF CARE OUTCOMES AND PERFORMANCE
13 MEASUREMENTS, INCLUDING THE COLLECTION OF INFORMATION REQUIRED
14 UNDER § 19-134 OF THE HEALTH – GENERAL ARTICLE.

15 **27-914.**

16 (A) **THIS SECTION DOES NOT APPLY TO LIFE INSURANCE POLICIES,**
17 **ANNUITY CONTRACTS, LONG-TERM CARE INSURANCE POLICIES, OR DISABILITY**
18 **INSURANCE POLICIES.**

19 (B) **AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH**
20 **MAINTENANCE ORGANIZATION MAY NOT USE ~~RACIAL OR ETHNIC VARIATIONS~~**
21 **~~DATA COLLECTED UNDER § 19-134 OF THE HEALTH – GENERAL ARTICLE~~ RACE**
22 **OR ETHNICITY DATA TO REJECT, DENY, LIMIT, CANCEL, REFUSE TO RENEW,**
23 **INCREASE THE RATES OF, AFFECT THE TERMS OR CONDITIONS OF, OR**
24 **OTHERWISE AFFECT A HEALTH INSURANCE POLICY OR CONTRACT.**

25 (C) (1) **FOR PURPOSES OF THIS SUBSECTION, §§ 4-113 AND 4-114 OF**
26 **THIS ARTICLE AND §§ 27-501 AND 27-505 OF THIS TITLE APPLY TO NONPROFIT**
27 **HEALTH SERVICE PLANS AND HEALTH MAINTENANCE ORGANIZATIONS.**

28 (2) **THE COMMISSIONER MAY ISSUE AN ORDER UNDER §§ 4-113**
29 **AND 4-114 OF THIS ARTICLE AND §§ 27-501 AND 27-505 OF THIS TITLE IF THE**
30 **COMMISSIONER FINDS A VIOLATION OF THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2007.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.