

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 585

(First Reading File Bill)

AMENDMENT NO. 1

On pages 1 and 2, strike beginning with “providing” in line 3 on page 1 down through “Act;” in line 9 on page 2 and substitute “requiring the Maryland Health Care Commission to approve a certain entity to be a physician rating system examiner under certain circumstances; providing that an entity that has a certain program approved by a certain consortium is deemed to be a ratings examiner; prohibiting certain health insurance carriers from using a physician rating system unless the physician rating system is approved by a ratings examiner; requiring a carrier to contract with and pay for a ratings examiner to review certain physician rating systems; providing that a physician rating system of a carrier is deemed to meet certain requirements of this Act under certain circumstances; requiring certain carriers to establish a certain appeals process; requiring certain carriers to provide certain physicians with certain information under certain circumstances; prohibiting a carrier from disclosing a certain rating under certain circumstances; requiring a carrier to post certain information on a certain section of the carrier’s website; requiring a carrier to notify the Maryland Insurance Commissioner of the results of a certain final review within a certain time period; authorizing the Commissioner to order a carrier to correct a certain deficiency or cease use of a certain physician rating system under certain circumstances; requiring certain carriers to annually report to the Commissioner on the number and outcome of certain appeals;”.

On page 2, in line 10, after “terms;” insert “providing for a delayed effective date;”; after line 11, insert:

“BY adding to

Article – Health – General

Section 19–142 and 19–143 to be under the new part “Part IV. Examiners of Physician Rating Systems

(Over)

Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)”;

and in line 14, strike “15–1709” and substitute “15–1704”.

AMENDMENT NO. 2

On page 2, after line 19, insert:

“Article – Health – General

PART IV. EXAMINERS OF PHYSICIAN RATING SYSTEMS.

19–142.

(A) IN THIS PART IV OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CARRIER” HAS THE MEANING STATED IN § 15–1301 OF THE INSURANCE ARTICLE.

(C) “ENROLLEE” MEANS AN INDIVIDUAL ENTITLED TO HEALTH BENEFITS FROM A CARRIER.

(D) “PHYSICIAN RATING SYSTEM” HAS THE MEANING STATED IN § 15–1701 OF THE INSURANCE ARTICLE.

(E) “RATINGS EXAMINER” MEANS AN INDEPENDENT ENTITY THAT IS APPROVED BY THE COMMISSION TO REVIEW PHYSICIAN RATING SYSTEMS.

19–143.

(A) THE COMMISSION SHALL APPROVE AN ENTITY THAT MEETS THE REQUIREMENTS OF THIS SECTION TO BE A RATINGS EXAMINER.

(B) TO BE APPROVED BY THE COMMISSION AS A RATINGS EXAMINER, AN ENTITY EXAMINING A PHYSICIAN RATING SYSTEM SHALL REQUIRE A PHYSICIAN RATING SYSTEM TO:

(1) USE ONLY QUALITY OF PERFORMANCE AND COST EFFICIENCY AS MEASUREMENT CATEGORIES;

(2) CALCULATE AND DISCLOSE SEPARATELY MEASURES OF COST EFFICIENCY AND QUALITY OF PERFORMANCE;

(3) DISCLOSE CLEARLY TO PHYSICIANS AND ENROLLEES THE PROPORTION OF THE COMPONENT SCORE FOR COST EFFICIENCY AND QUALITY OF PERFORMANCE IN EACH COMBINED SCORE;

(4) IN DETERMINING QUALITY OF PERFORMANCE, USE MEASURES:

(I) THAT ARE BASED ON NATIONALLY RECOGNIZED, EVIDENCE-BASED OR CONSENSUS-BASED CLINICAL RECOMMENDATIONS OR GUIDELINES; OR

(II) WHEN AVAILABLE, THAT ARE ENDORSED BY ENTITIES WHOSE WORK IN PHYSICIAN QUALITY OF PERFORMANCE IS GENERALLY ACCEPTED IN THE HEALTH CARE SYSTEM;

(Over)

(5) DISCLOSE TO PHYSICIANS WHO ARE SUBJECT TO THE PHYSICIAN RATING SYSTEM;

(I) THE MEASUREMENTS FOR EACH CRITERION AND THE RELATIVE WEIGHT OF EACH CRITERION AND MEASUREMENT IN THE OVERALL RATING OF THE PHYSICIAN;

(II) 1. THE BASIS FOR THE CARRIER'S QUALITY OF PERFORMANCE RATINGS;

2. THE DATA USED TO DETERMINE THE QUALITY OF PERFORMANCE RATINGS; AND

3. THE RELATIVE WEIGHT OR RELEVANCE OF QUALITY OF PERFORMANCE TO THE OVERALL RATING OF A PHYSICIAN IN THE PHYSICIAN RATING SYSTEM;

(III) THE BASIS FOR DETERMINING WHETHER THERE IS A SUFFICIENT NUMBER OF PATIENTS AND EPISODES OF CARE FOR A GIVEN DISEASE STATE AND SPECIALTY TO GENERATE RELIABLE RATINGS FOR A PHYSICIAN; AND

(IV) THE METHODOLOGY USED TO DETERMINE HOW DATA IS ATTRIBUTED TO A PHYSICIAN;

(6) USE APPROPRIATE RISK ADJUSTMENTS TO ACCOUNT FOR THE CHARACTERISTICS OF THE PATIENT POPULATION SEEN BY A PHYSICIAN IN DETERMINING THE QUALITY OF PERFORMANCE AND COST EFFICIENCY OF THE PHYSICIAN;

(7) IN MEASURING THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN:

(I) COMPARE PHYSICIANS WITHIN THE SAME SPECIALTY WITHIN THE APPROPRIATE GEOGRAPHICAL MARKET; AND

(II) USE APPROPRIATE AND COMPREHENSIVE EPISODE OF CARE COMPUTER SOFTWARE TO EVALUATE THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN;

(8) (I) INCLUDE AN APPEALS PROCESS THAT A PHYSICIAN SUBJECT TO THE PHYSICIAN RATING SYSTEM MAY USE TO APPEAL THE RATING RECEIVED UNDER THE PHYSICIAN RATING SYSTEM; AND

(II) BASED ON THE OUTCOME OF AN APPEAL, MAKE ANY NECESSARY CORRECTIONS TO THE DATA USED TO RATE THE PHYSICIAN IN THE PHYSICIAN RATING SYSTEM; AND

(9) DISCLOSE TO PHYSICIANS AND ENROLLEES HOW THE PERSPECTIVES OF ENROLLEES, CONSUMER ADVOCATES, EMPLOYERS, LABOR UNIONS, AND PHYSICIANS WERE INCORPORATED INTO THE DEVELOPMENT OF THE PHYSICIAN RATING SYSTEM.

(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AN ENTITY THAT HAS A PHYSICIAN PERFORMANCE RATING CERTIFICATION PROGRAM APPROVED AFTER AUGUST 1, 2008, BY A NATIONAL CONSORTIUM OF EMPLOYER, CONSUMER, AND LABOR ORGANIZATIONS WORKING TOWARD A COMMON GOAL TO ENSURE THAT ALL AMERICANS HAVE ACCESS TO PUBLICLY REPORTED HEALTH CARE PERFORMANCE INFORMATION:

(Over)

(1) IS DEEMED TO BE A RATINGS EXAMINER UNDER THIS PART;
AND

(2) IS DEEMED TO MEET THE REQUIREMENTS OF SUBSECTION (B)
OF THIS SECTION.

19-144. RESERVED.

19-145. RESERVED.”.

AMENDMENT NO. 3

On page 2, in line 26, strike “A PERSON” and substitute “AN INDIVIDUAL”; in line 28, after “THAT” insert “:

(1)”;

in line 29, strike “REPORTS” and substitute “RATES”; in the same line, strike “A PHYSICIAN” and substitute “PHYSICIANS”; in line 30, after “CARRIER” insert “; AND

(2) DISCLOSES THE MEASURES, RATES, OR TIERS TO
ENROLLEES OR THE PUBLIC”;

in line 32, strike “OFFICE OF THE ATTORNEY GENERAL” and substitute “MARYLAND HEALTH CARE COMMISSION”; and after line 34, insert:

“(A) A CARRIER MAY NOT USE A PHYSICIAN RATING SYSTEM UNLESS THE
PHYSICIAN RATING SYSTEM IS APPROVED BY A RATINGS EXAMINER.

(B) A CARRIER SHALL CONTRACT WITH AND PAY FOR A RATINGS
EXAMINER TO REVIEW ANY PHYSICIAN RATING SYSTEM OF THE CARRIER.

(C) A PHYSICIAN RATING SYSTEM OF A CARRIER IS DEEMED TO MEET THE REQUIREMENTS OF THIS SECTION IF THE PHYSICIAN RATING SYSTEM:

(1) IS APPROVED BY A RATINGS EXAMINER AS OF JANUARY 1, 2010; AND

(2) NOTWITHSTANDING ANY REVISIONS TO THE PHYSICIAN RATING SYSTEM, MAINTAINS ITS APPROVAL BY THE RATINGS EXAMINER.

15-1703.

(A) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL:

(1) ESTABLISH AN APPEALS PROCESS FOR PHYSICIANS TO USE TO CONTEST THEIR RATING; AND

(2) AT LEAST 45 DAYS BEFORE MAKING AVAILABLE TO ENROLLEES ANY NEW OR REVISED QUALITY OF PERFORMANCE OR COST-EFFICIENCY EVALUATIONS OR ANY NEW OR REVISED INCLUSIONS OR EXCLUSIONS FROM A PHYSICIAN RATING SYSTEM, PROVIDE EACH PHYSICIAN INCLUDED IN THE PHYSICIAN RATING SYSTEM WITH:

(I) A NOTICE OF THE PROPOSED CHANGE;

(II) AN EXPLANATION OF THE DATA USED TO ASSESS THE PHYSICIAN AND HOW THE PHYSICIAN MAY ACCESS THE DATA;

(III) THE METHODOLOGY AND MEASURES USED TO ASSESS THE PHYSICIAN;

(Over)

(IV) AN EXPLANATION OF THE RIGHT TO CONTEST THE RATING OF THE PHYSICIAN THROUGH THE APPEALS PROCESS OF THE CARRIER; AND

(V) INSTRUCTIONS ON HOW TO FILE A TIMELY APPEAL WITH THE CARRIER.

(B) IF A PHYSICIAN FILES A TIMELY APPEAL, AS DEFINED BY THE CARRIER, REGARDING THE RATING OF THE PHYSICIAN UNDER A PHYSICIAN RATING SYSTEM, THE CARRIER MAY NOT DISCLOSE THE RATING OF THE PHYSICIAN OR MAKE A CHANGE IN THE QUALITY OF PERFORMANCE OR COST-EFFICIENCY RATINGS OF THE PHYSICIAN UNTIL THE CARRIER COMPLETES ITS INVESTIGATION AND RENDERS A DECISION ON THE APPEAL.

(C) A CARRIER SHALL POST THE FOLLOWING INFORMATION PROMINENTLY ON THE SECTION OF THE CARRIER'S WEBSITE THAT DISCLOSES THE RATING OF A PHYSICIAN TO ENROLLEES OR TO THE PUBLIC:

(1) WHERE AN ENROLLEE CAN FIND THE PHYSICIAN PERFORMANCE RATINGS OF THE CARRIER;

(2) A DISCLOSURE THAT PHYSICIAN PERFORMANCE RATINGS ARE ONLY A GUIDE TO CHOOSING A PHYSICIAN BECAUSE THE RATINGS HAVE A RISK OF ERROR AND SHOULD NOT BE THE SOLE BASIS FOR SELECTING A PHYSICIAN;

(3) AN EXPLANATION OF THE PHYSICIAN RATING SYSTEM, INCLUDING THE BASIS ON WHICH PHYSICIAN PERFORMANCE IS MEASURED AND THE BASIS FOR DETERMINING THAT A PHYSICIAN IS NOT CURRENTLY RATED DUE TO INSUFFICIENT DATA OR A PENDING APPEAL;

(4) ANY LIMITATIONS OF THE DATA THAT THE CARRIER USES TO MEASURE PHYSICIAN PERFORMANCE;

(5) THE FACTORS AND CRITERIA USED IN THE CARRIER'S PHYSICIAN RATING SYSTEM, INCLUDING QUALITY OF PERFORMANCE MEASURES AND COST EFFICIENCY MEASURES; AND

(6) HOW A PHYSICIAN MAY APPEAL A PHYSICIAN RATING.

15-1704.

(A) A CARRIER SHALL NOTIFY THE COMMISSIONER OF THE RESULTS OF ANY FINAL REVIEW CONDUCTED BY A RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM OF THE CARRIER WITHIN 45 CALENDAR DAYS AFTER RECEIPT OF THE RESULTS BY THE CARRIER.

(B) IF THE REVIEW CONDUCTED BY A RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM OF A CARRIER INDICATES THAT THE PHYSICIAN RATING SYSTEM DOES NOT COMPLY WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH - GENERAL ARTICLE, THE COMMISSIONER MAY ORDER THE CARRIER TO:

(1) CORRECT THE DEFICIENCY; OR

(2) CEASE THE USE OF THE PHYSICIAN RATING SYSTEM.

(C) A CARRIER USING A PHYSICIAN RATING SYSTEM SHALL REPORT ANNUALLY TO THE COMMISSIONER:

(Over)

**(1) THE NUMBER OF APPEALS FILED BY PHYSICIANS UNDER THIS
SUBTITLE; AND**

(2) THE OUTCOME OF THE APPEALS.

On pages 3 through 7, strike in their entirety the lines beginning with line 1 on page 3 through line 30 on page 7, inclusive.

AMENDMENT NO. 4

On page 7, in line 32, strike “October 1, 2009” and substitute “January 1, 2010”.