

SENATE BILL 661

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9lr1131
CF HB 585

By: **Senators Garagiola, Astle, Kelley, and Middleton**

Introduced and read first time: February 6, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Use of Physician Rating Systems by Carriers**

3 FOR the purpose of providing that a carrier may only use a physician rating system
4 for certain health benefit plans if the system meets certain requirements;
5 providing that a carrier may only use certain categories of measurements in a
6 physician rating system; prohibiting a carrier from rating a physician based
7 solely on cost efficiency; requiring a carrier to calculate and disclose certain
8 measures in a certain manner; requiring a carrier to disclose a material change
9 in a physician rating system at a certain time; requiring a carrier to use certain
10 risk adjustments in determining the quality of performance and the cost
11 efficiency of a physician; requiring a carrier to describe its physician rating
12 system to certain physicians in a certain manner; requiring a carrier to make
13 certain disclosures to certain physicians and enrollees; requiring a carrier to
14 ensure that certain data is accurate; requiring a carrier to use certain
15 measurements under certain circumstances; requiring a carrier to describe to
16 certain physicians and to a certain ratings examiner certain information;
17 requiring a carrier to make certain determinations in determining the data to
18 be used to measure the quality of performance of a physician; requiring a
19 carrier to use the most current claims and data to measure physician quality of
20 performance; requiring a carrier to use certain computer software under certain
21 circumstances; requiring a carrier that uses a physician rating system to
22 establish a certain complaint process for enrollees; requiring a carrier that uses
23 a physician rating system to post certain information on its website in a certain
24 manner; requiring a carrier to provide certain physicians certain information at
25 a certain time before making certain information available to enrollees;
26 prohibiting a carrier from making a certain change under certain
27 circumstances; requiring a carrier to establish a certain appeals process under
28 certain circumstances; providing that a ratings examiner shall have oversight
29 and review of the appeals process; requiring a carrier to contract with and pay
30 for a ratings examiner to review certain physician rating systems; prohibiting a
31 carrier from implementing a physician rating system until the carrier submits

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the system to a certain ratings examiner for review; requiring a carrier to make
 2 certain disclosures and provide certain information to a ratings examiner;
 3 requiring a carrier to obtain certain reviews by a ratings examiner under
 4 certain circumstances; requiring a carrier to disclose the results of any reviews
 5 conducted by a ratings examiner in a certain manner; requiring a certain
 6 ratings examiner to report annually to the Maryland Health Care Commission
 7 and the Maryland Insurance Administration regarding certain information;
 8 authorizing the Insurance Commissioner, in consultation with the Maryland
 9 Health Care Commission, to adopt regulations to implement the provisions of
 10 this Act; defining certain terms; and generally relating to use of physician
 11 rating systems by health insurance carriers.

12 BY adding to

13 Article – Insurance

14 Section 15–1701 through 15–1709 to be under the new subtitle “Subtitle 17.
 15 Regulation of Physician Rating Systems”

16 Annotated Code of Maryland

17 (2006 Replacement Volume and 2008 Supplement)

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

20 **Article – Insurance**

21 **SUBTITLE 17. REGULATION OF PHYSICIAN RATING SYSTEMS.**

22 **15–1701.**

23 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 24 INDICATED.

25 (B) “CARRIER” HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

26 (C) “ENROLLEE” MEANS A PERSON ENTITLED TO HEALTH CARE
 27 BENEFITS FROM A CARRIER.

28 (D) “PHYSICIAN RATING SYSTEM” MEANS ANY PROGRAM THAT
 29 MEASURES, REPORTS, OR TIERS THE PERFORMANCE OF A PHYSICIAN UNDER
 30 CONTRACT WITH THE CARRIER.

31 (E) “RATINGS EXAMINER” MEANS AN INDEPENDENT ENTITY THAT IS
 32 APPROVED BY THE MARYLAND HEALTH CARE COMMISSION TO REVIEW
 33 PHYSICIAN RATING SYSTEMS.

34 **15–1702.**

1 (A) A CARRIER MAY USE A PHYSICIAN RATING SYSTEM FOR HEALTH
2 BENEFIT PLANS THAT ARE DELIVERED, ISSUED, OR RENEWED IN THE STATE
3 ONLY IF THE PHYSICIAN RATING SYSTEM MEETS THE REQUIREMENTS OF THIS
4 SUBTITLE.

5 (B) A CARRIER MAY USE ONLY THE FOLLOWING CATEGORIES OF
6 MEASUREMENTS IN A PHYSICIAN RATING SYSTEM:

7 (1) QUALITY OF PERFORMANCE; AND

8 (2) COST EFFICIENCY.

9 (C) A CARRIER MAY NOT RATE A PHYSICIAN IN A PHYSICIAN RATING
10 SYSTEM BASED SOLELY ON COST EFFICIENCY.

11 (D) (1) A CARRIER SHALL CALCULATE AND DISCLOSE SEPARATELY
12 MEASURES OF THE COST EFFICIENCY AND QUALITY OF PERFORMANCE OF A
13 PHYSICIAN.

14 (2) IF A CARRIER COMBINES INDIVIDUAL SCORES FOR QUALITY
15 OF PERFORMANCE AND COST EFFICIENCY FOR ONE TOTAL COMBINED SCORE
16 FOR A PHYSICIAN, THE CARRIER SHALL DISCLOSE CLEARLY TO PHYSICIANS
17 UNDER CONTRACT WITH THE CARRIER AND ENROLLEES THE INDIVIDUAL
18 COMPONENT SCORES OF THE PHYSICIAN AND THE PROPORTION OF EACH
19 COMPONENT SCORE OF THE TOTAL COMBINED SCORE.

20 (E) AT LEAST 45 DAYS PRIOR TO IMPLEMENTATION OF A MATERIAL
21 CHANGE IN THE PHYSICIAN RATING SYSTEM, A CARRIER SHALL DISCLOSE THE
22 CHANGE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER.

23 (F) IN DETERMINING THE QUALITY OF PERFORMANCE AND THE COST
24 EFFICIENCY OF A PHYSICIAN, A CARRIER SHALL USE APPROPRIATE RISK
25 ADJUSTMENT TO ACCOUNT FOR THE CHARACTERISTICS OF THE PATIENT
26 POPULATION SEEN BY THE PHYSICIAN.

27 (G) IN DESCRIBING THE CARRIER'S PHYSICIAN RATING SYSTEM TO
28 PHYSICIANS, THE CARRIER SHALL CLEARLY INDICATE THE MEASUREMENTS
29 FOR EACH CRITERION AND THE RELATIVE WEIGHT OF EACH CRITERION AND
30 MEASUREMENT IN THE OVERALL RATING OF THE PHYSICIAN.

31 (H) A CARRIER SHALL DISCLOSE TO PHYSICIANS AND ENROLLEES HOW
32 THE PERSPECTIVES OF ENROLLEES, CONSUMER ADVOCATES, EMPLOYERS,
33 LABOR UNIONS, AND PHYSICIANS WERE INCORPORATED INTO THE
34 DEVELOPMENT OF THE PHYSICIAN RATING SYSTEM.

1 (I) A CARRIER SHALL ENSURE THAT THE DATA RELIED ON TO
2 DETERMINE THE RATING OF A PHYSICIAN IN A PHYSICIAN RATING SYSTEM IS
3 ACCURATE.

4 (J) A CARRIER SHALL USE ACCURATE MEASUREMENTS TO DETERMINE
5 THE QUALITY OF PERFORMANCE AND COST EFFICIENCY OF A PHYSICIAN.

6 **15-1703.**

7 (A) (1) TO DETERMINE QUALITY OF PERFORMANCE IN A PHYSICIAN
8 RATING SYSTEM, A CARRIER SHALL USE MEASURES THAT ARE BASED ON
9 NATIONALLY RECOGNIZED, EVIDENCE-BASED OR CONSENSUS-BASED CLINICAL
10 RECOMMENDATIONS OR GUIDELINES.

11 (2) WHEN AVAILABLE, A CARRIER SHALL USE MEASURES TO
12 DETERMINE QUALITY OF PERFORMANCE IN A PHYSICIAN RATING SYSTEM THAT
13 ARE ENDORSED BY ENTITIES WHOSE WORK IN PHYSICIAN QUALITY OF
14 PERFORMANCE IS GENERALLY ACCEPTED IN THE HEALTH CARE INDUSTRY.

15 (B) A CARRIER SHALL DISCLOSE TO PHYSICIANS UNDER CONTRACT
16 WITH THE CARRIER THE BASIS OF THE CARRIER'S QUALITY OF PERFORMANCE
17 RATINGS, THE DATA USED TO DETERMINE THE RATINGS, AND THE RELATIVE
18 WEIGHT OR RELEVANCE OF QUALITY OF PERFORMANCE TO THE OVERALL
19 RATING OF A PHYSICIAN IN THE PHYSICIAN RATING SYSTEM.

20 (C) A CARRIER SHALL DESCRIBE TO PHYSICIANS UNDER CONTRACT
21 WITH THE CARRIER AND TO A RATINGS EXAMINER THE STATISTICAL BASIS FOR
22 THE NUMBER OF PATIENTS FOR EACH DISEASE STATE OR SPECIALTY.

23 (D) IN DETERMINING THE DATA TO BE USED TO MEASURE THE QUALITY
24 OF PERFORMANCE OF A PHYSICIAN, A CARRIER SHALL DETERMINE WHICH
25 PHYSICIANS SHOULD BE HELD REASONABLY ACCOUNTABLE FOR THE CARE OF A
26 PATIENT AND SHALL FULLY DISCLOSE TO PHYSICIANS UNDER CONTRACT WITH
27 THE CARRIER THE METHODOLOGY USED TO DETERMINE HOW DATA WILL BE
28 ATTRIBUTED TO A PHYSICIAN.

29 (E) A CARRIER SHALL USE THE MOST CURRENT CLAIMS AND DATA TO
30 MEASURE PHYSICIAN QUALITY OF PERFORMANCE.

31 **15-1704.**

1 (A) IN MEASURING THE COST EFFICIENCY OF THE PERFORMANCE OF A
2 PHYSICIAN, A CARRIER SHALL COMPARE PHYSICIANS WITHIN THE SAME
3 SPECIALTY WITHIN THE APPROPRIATE GEOGRAPHICAL MARKET.

4 (B) A CARRIER SHALL USE APPROPRIATE AND COMPREHENSIVE
5 EPISODE OF CARE COMPUTER SOFTWARE TO EVALUATE THE COST EFFICIENCY
6 OF THE PERFORMANCE OF A PHYSICIAN.

7 (C) A CARRIER SHALL DISCLOSE TO PHYSICIANS UNDER CONTRACT
8 WITH THE CARRIER THE BASIS OF THE CARRIER'S COST-EFFICIENCY RATINGS,
9 THE DATA USED TO DETERMINE THE RATINGS, AND THE RELATIVE WEIGHT OR
10 RELEVANCE OF COST EFFICIENCY TO THE OVERALL RATING OF A PHYSICIAN.

11 (D) A CARRIER SHALL DESCRIBE TO PHYSICIANS UNDER CONTRACT
12 WITH THE CARRIER AND TO A RATINGS EXAMINER THE STATISTICAL BASIS FOR
13 THE NUMBER OF PATIENT EPISODES OF CARE AND USE ACCURATE
14 MEASUREMENTS OF THE COST EFFICIENCY OF THE PERFORMANCE OF A
15 PHYSICIAN.

16 **15-1705.**

17 (A) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL
18 ESTABLISH A PROCESS FOR ENROLLEES TO SUBMIT COMPLAINTS ABOUT THE
19 PHYSICIAN RATING SYSTEM.

20 (B) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL POST
21 THE FOLLOWING INFORMATION PROMINENTLY ON ITS WEBSITE:

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

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

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

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

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

4 (6) HOW AN ENROLLEE MAY SUBMIT A COMPLAINT WITH THE
5 CARRIER ABOUT THE PHYSICIAN RATING SYSTEM.

6 **15-1706.**

7 (A) AT LEAST 45 DAYS BEFORE MAKING AVAILABLE TO ENROLLEES ANY
8 NEW OR REVISED QUALITY OF PERFORMANCE OR COST-EFFICIENCY
9 EVALUATIONS OR ANY NEW OR REVISED INCLUSIONS OR EXCLUSIONS FROM A
10 PHYSICIAN RATING SYSTEM, A CARRIER SHALL PROVIDE EACH PHYSICIAN
11 UNDER CONTRACT WITH THE CARRIER:

12 (1) A NOTICE OF THE PROPOSED CHANGE;

13 (2) AN EXPLANATION OF THE DATA USED FOR THE PHYSICIAN
14 AND HOW THE PHYSICIAN MAY ACCESS THE DATA;

15 (3) THE METHODOLOGY AND MEASURES USED TO ASSESS THE
16 PHYSICIAN; AND

17 (4) AN EXPLANATION OF THE RIGHT OF THE PHYSICIAN TO MAKE
18 CORRECTIONS TO THE DATA AND THE RATING AND TO APPEAL.

19 (B) A CARRIER SHALL ESTABLISH A PROCESS WHERE A PHYSICIAN
20 UNDER CONTRACT WITH THE CARRIER MAY APPEAL THE RATING RECEIVED
21 UNDER A PHYSICIAN RATING SYSTEM AND MAKE CORRECTIONS TO THE DATA
22 USED TO RATE THE PHYSICIAN IN A PHYSICIAN RATING SYSTEM.

23 (C) A RATINGS EXAMINER SHALL HAVE OVERSIGHT AND REVIEW OF
24 THE PHYSICIAN APPEALS PROCESS REQUIRED UNDER SUBSECTION (B) OF THIS
25 SECTION.

26 (D) IF A PHYSICIAN FILES A TIMELY APPEAL WITH THE CARRIER, A
27 CARRIER MAY NOT MAKE A CHANGE IN THE QUALITY OF PERFORMANCE OR
28 COST-EFFICIENCY RATINGS OF THE PHYSICIAN UNTIL THE APPEAL IS
29 COMPLETED.

30 **15-1707.**

31 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CARRIER SHALL:

1 (1) CONTRACT WITH AND PAY FOR A RATINGS EXAMINER TO
2 REVIEW ANY PHYSICIAN RATING SYSTEM OF THE CARRIER;

3 (2) COMPLETE AND MAINTAIN IN GOOD STANDING A REVIEW OF
4 THE CARRIER'S PHYSICIAN RATING SYSTEM BY A RATINGS EXAMINER;

5 (3) FULLY DISCLOSE TO A RATINGS EXAMINER ITS PROCEDURES
6 FOR ENROLLEE AND PHYSICIAN APPEALS AND GRIEVANCES RELATED TO THE
7 CARRIER'S PHYSICIAN RATING SYSTEM.

8 (4) OBTAIN REVIEW BY A RATINGS EXAMINER OF ANY NATIONAL
9 STANDARDIZED REVIEW PROCESSES THAT MAY BE NECESSARY TO ASSURE
10 COMPLIANCE WITH THIS SUBTITLE;

11 (5) DISCLOSE THE RESULTS OF ANY REVIEWS CONDUCTED BY A
12 RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM IN ALL LOCATIONS AND
13 DOCUMENTS THAT DESCRIBE THE PHYSICIAN RATING SYSTEM; AND

14 (6) PROVIDE A PLAN TO A RATINGS EXAMINER TO USE
15 AGGREGATED DATA, VALIDATED AS APPROPRIATE, AS A SUPPLEMENT TO TEST
16 THE CARRIER'S CLAIMS DATA.

17 (B) A CARRIER MAY NOT IMPLEMENT A PHYSICIAN RATING SYSTEM
18 UNTIL THE CARRIER SUBMITS THE SYSTEM TO THE RATINGS EXAMINER FOR
19 REVIEW.

20 **15-1708.**

21 A RATINGS EXAMINER SHALL REPORT ANNUALLY TO THE MARYLAND
22 HEALTH CARE COMMISSION AND THE MARYLAND INSURANCE
23 ADMINISTRATION REGARDING METHODOLOGIES USED IN A PHYSICIAN RATING
24 SYSTEM UNDER REVIEW BY THE RATINGS EXAMINER AND THE EXTENT TO
25 WHICH THE PHYSICIAN RATING SYSTEM COMPLIES WITH THE PROVISIONS OF
26 THIS SUBTITLE.

27 **15-1709.**

28 THE COMMISSIONER, IN CONSULTATION WITH THE MARYLAND HEALTH
29 CARE COMMISSION, MAY ADOPT REGULATIONS TO IMPLEMENT THE
30 PROVISIONS OF THIS SUBTITLE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2009.