

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 181

Short Title: HMO Cease and Desist.

(Public)

Sponsors: Representatives Adams; Capps, Davis, Fitch, Hall, McAllister, Michaux,
and Womble.

Referred to: Insurance.

February 20, 2001

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE CEASE AND DESIST PROVISIONS IN THE HMO
LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-67-165 reads as rewritten:

"§ 58-67-165. Penalties and enforcement.

(a) The Commissioner may, in addition to or in lieu of suspending or revoking a ~~certificate of authority license~~ under G.S. 58-67-140, proceed under G.S. 58-2-70, provided that the health maintenance organization has a reasonable time within which to remedy the defect in its operations that gave rise to the procedure under G.S. 58-2-70.

(b) Any person who violates this Article shall be guilty of a Class 1 misdemeanor.

(c) (1) If the Commissioner shall for any reason have cause to believe that any violation of this Article has occurred or is threatened, the Commissioner may give notice to the health maintenance organization and to the representatives or other persons who appear to be involved in such suspected violation to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation, and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation.

(2) Proceedings under this subsection shall not be governed by any formal procedural requirements, and may be conducted in such manner as the Commissioner may deem appropriate under the circumstances.

(d) (1) The Commissioner may issue an order directing a health maintenance organization or a representative of a health maintenance organization

1 to cease and desist from engaging in any act or practice in violation of
2 the provisions of this ~~Article~~Article or any other provisions of this
3 Chapter that are applicable to health maintenance organizations.

4 (2) Within 30 days after service of the ~~order of cease and desist, cease and~~
5 ~~desist order,~~ the respondent may request a hearing on the question of
6 whether acts or practices have occurred that are in violation of this
7 ~~Article have occurred.~~Article or any other provisions of this Chapter
8 that are applicable to health maintenance organizations. ~~Such~~The
9 hearing shall be conducted pursuant to Chapter 150B of the General
10 Statutes, and judicial review shall be available as provided by ~~the said~~
11 ~~Chapter 150B.~~Chapter 150B of the General Statutes.

12 (e) In the case of any violation of the provisions of this Article, if the
13 Commissioner elects not to issue a cease and desist order, or in the event of
14 noncompliance with a cease and desist order issued pursuant to subsection (d), the
15 Commissioner may institute a proceeding to obtain injunctive relief, or seeking other
16 appropriate relief, in the Superior Court of Wake County."

17 **SECTION 2.** G.S. 58-67-170 reads as rewritten:

18 "**§ 58-67-170. Statutory construction and relationship to other laws.**

19 (a) Except as otherwise provided in this ~~Article, Chapter,~~ provisions of the
20 insurance laws and ~~provisions of hospital or medical-service corporation laws shall not~~
21 ~~be applicable~~do not apply to any health maintenance organization ~~granted a certificate~~
22 ~~of authority licensed~~ under this Article. This ~~provision shall~~subsection does apply
23 to an insurer or ~~hospital or medical-service corporation licensed and regulated pursuant~~
24 ~~to under~~ the insurance laws or the ~~hospital or medical-service corporation laws of this~~
25 State except with respect to its health maintenance organization activities authorized
26 and regulated ~~pursuant to under~~ this ~~Article~~Article or any other provisions of this
27 Chapter that are applicable to health maintenance organizations.

28 (b) Solicitation of enrollees by a health maintenance organization granted a
29 ~~certificate of authority, license,~~ or its representatives, shall not be construed to violate
30 any provision of law relating to solicitation or advertising by health professionals.

31 (c) Any health maintenance organization authorized under this Article shall not
32 be deemed to be practicing medicine or dentistry and shall be exempt from the
33 provisions of Chapter 90 of the General Statutes relating to the practice of medicine and
34 dentistry; provided, however, that this exemption does not apply to individual providers
35 under contract with or employed by the health maintenance organization."

36 **SECTION 3.** This act is effective when it becomes law.