

Senate Bill 608

By: Senator Shafer of the 48th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 21 of Title 33 of the Official Code of Georgia Annotated, relating to
2 health maintenance organizations, so as to provide for the use of national standards for
3 quality certification in the grant, maintenance, denial, or revocation of certificates of
4 authority to health maintenance organizations; to provide for related matters; to provide for
5 an effective date; to provide for applicability; to repeal conflicting laws; and for other
6 purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Chapter 21 of Title 33 of the Official Code of Georgia Annotated, relating to health
10 maintenance organizations, is amended by striking Code Section 33-21-3, relating to grounds
11 and procedure for issuance or denial of a certificate of authority, and inserting in lieu thereof
12 a new Code Section 33-21-3 to read as follows:

13 "33-21-3.

14 (a) Upon receipt of an application for issuance of a certificate of authority, the
15 Commissioner of Insurance shall forthwith transmit copies of such application and
16 accompanying documents to the commissioner of human resources; provided, however,
17 that, if the applicant meets the standards of subsection (b.1) of this Code section, the
18 Commissioner shall not be required to transmit the application and accompanying
19 documents to the commissioner of human resources.

20 (b) The commissioner of human resources shall determine whether the applicant for a
21 certificate of authority, with respect to health care services to be furnished:

22 (1) Has demonstrated the willingness and potential ability to assure that such health care
23 services will be provided in a manner to assure both availability and accessibility of
24 adequate personnel and facilities and in a manner enhancing availability, accessibility,
25 and continuity of service;

1 (2) Has arrangements, established in accordance with existing laws and regulations
2 promulgated by the commissioner of human resources, for an ongoing quality of health
3 care assurance program concerning health care processes and outcomes;

4 (3) Has a procedure, established in accordance with regulations of the commissioner of
5 human resources, to develop, compile, evaluate, and report statistics relating to the cost
6 of its operations, the pattern of utilization of its services, the availability and accessibility
7 of its services, and such other matters as may be reasonably required by the commissioner
8 of human resources;

9 (4) Has arrangements, established in accordance with existing laws and regulations
10 promulgated by the commissioner of human resources, for coverage of out-of-area
11 emergency services rendered to its enrollees; and

12 (5) Has arrangements to comply with the provisions of Code Section 33-20A-9.1,
13 relating to nomination and reimbursement of providers which are not on that health
14 maintenance organization's provider panel.

15 (b.1) An applicant that is compliant with or accredited by a nationally recognized
16 accreditation agency or organization shall be deemed to be in compliance with subsection
17 (b) of this Code section; and, upon submission of proof of compliance or accreditation to
18 the Commissioner of Insurance, certification pursuant to subsection (c) of this Code section
19 shall not be required. The Commissioner of Insurance shall be authorized to promulgate
20 rules and regulations to determine which national accreditation agencies shall be used for
21 purposes of this Code section.

22 (c) Within 90 days of receipt of the application for issuance of a certificate of authority,
23 the commissioner of human resources shall certify to the Commissioner of Insurance
24 whether the proposed health maintenance organization meets the requirements of
25 subsection (b) of this Code section. If the commissioner of human resources certifies that
26 the health maintenance organization does not meet the requirements, he or she shall specify
27 in what respects it is deficient.

28 (d) The Commissioner of Insurance shall issue or deny a certificate of authority to any
29 person filing an application pursuant to Code Section 33-21-2 within 90 days of receipt of
30 the certification from the commissioner of human resources or upon the applicant's
31 presentation of proof to the Commissioner of Insurance of its compliance with or
32 accreditation by a national accreditation agency or organization. Issuance of a certificate
33 of authority shall be granted upon payment of the application fees prescribed in Code
34 Sections 33-8-1 and 33-8-3 if the Commissioner of Insurance is satisfied that the following
35 conditions are met:

- 1 (1) The persons responsible for the conduct of the affairs of the applicant are competent;
2 and trustworthy, possess good reputations, and have had appropriate administrative
3 experience, training, or education in health care delivery systems or allied professions;
- 4 (2) The commissioner of human resources certifies, in accordance with subsection (a)
5 of this Code section, that the health maintenance organization's proposed plan of
6 operation meets the requirements of subsection (b) of this Code section or the
7 Commissioner of Insurance has received proof of the health maintenance organization's
8 compliance with or accreditation by a nationally recognized accreditation agency or
9 organization;
- 10 (3) The health benefits plan constitutes an appropriate mechanism whereby the health
11 maintenance organization will effectively provide or arrange for the provision of basic
12 health care services on a prepaid basis, through insurance or otherwise, except to the
13 extent of reasonable requirements for copayments;
- 14 (4) The health maintenance organization is financially responsible and may reasonably
15 be expected to meet its obligations to enrollees and prospective enrollees. In making this
16 determination, the Commissioner of Insurance may consider:
- 17 (A) The financial soundness of the health benefits plan's arrangements for health care
18 services and the schedule or charges used in connection with providing health care
19 services;
- 20 (B) The adequacy of working capital;
- 21 (C) Any agreement with an insurer, a government, or any other organization for
22 insuring the payment of the cost of health care services or the provision for automatic
23 applicability of an alternative coverage in the event of discontinuance of the plan;
- 24 (D) Any agreement with providers for the provision of health care services; and
- 25 (E) Any deposit of cash or securities submitted in accordance with Code Section
26 33-21-10 as a guarantee that the obligations will be duly performed;
- 27 (5) The enrollees will be afforded an opportunity to participate in matters of policy and
28 operation pursuant to Code Section 33-21-6;
- 29 (6) Nothing in the proposed method of operation, as shown by the information submitted
30 pursuant to Code Section 33-21-2 or by independent investigation, is contrary to the
31 public interest; and
- 32 (7) Any deficiencies, if applicable, certified by the commissioner of human resources
33 have been corrected.
- 34 (e) Before any health maintenance organization changes its address, the certificate of
35 authority shall be returned to the Commissioner of Insurance who shall endorse the
36 certificate of authority indicating the change."

1 "(b) Whenever the commissioner of human resources shall deem it expedient, but not less
 2 than once every five years, he or she or his or her designee shall visit and examine all
 3 matters relating to the quality of health care services of any health maintenance
 4 organization and providers with whom the organization has contracts, agreements, or other
 5 arrangements pursuant to its health benefits plan as often as he or she deems it necessary
 6 for the protection of the interests of the people of this state; provided, however, that health
 7 maintenance organizations meeting the requirements of subsection (b.1) of Code Section
 8 33-21-3 shall not be subject to examination by the commissioner of human resources."

9 **SECTION 5.**

10 Said chapter is further amended by striking subsection (b) of Code Section 33-21-18, relating
 11 to adoption of rules and regulations generally, and inserting in lieu thereof a new subsection
 12 (b) to read as follows:

13 "(b) The commissioner of human resources shall adopt rules and regulations for health
 14 maintenance organizations subject to his or her jurisdiction which are not inconsistent with
 15 this chapter and which are necessary to establish and control the standards of health care
 16 which a health maintenance organization shall maintain. Health maintenance organizations
 17 meeting the requirements of subsection (b.1) of Code Section 33-21-3 shall not be subject
 18 to the jurisdiction of the commissioner of human resources."

19 **SECTION 6.**

20 Said chapter is further amended by subsection (b) of Code Section 33-21-20, relating to
 21 conduct of hearings generally, and inserting in lieu thereof a new subsection (b) to read as
 22 follows:

23 "(b) The commissioner of human resources, or his or her designated representative, shall
 24 be in attendance at the hearings and shall participate in the proceedings. The
 25 recommendation and findings of the commissioner of human resources with respect to
 26 matters regarding health maintenance organizations under his or her jurisdiction relating
 27 to the quality of health care services provided in connection with any decision regarding
 28 denial, suspension, or revocation of a certificate of authority shall be conclusive and
 29 binding upon the Commissioner of Insurance. Health maintenance organizations meeting
 30 the requirements of subsection (b.1) of Code Section 33-21-3 shall not be subject to the
 31 jurisdiction of the commissioner of human resources. After the hearing, or upon the failure
 32 of the health maintenance organization to appear at the hearing, the Commissioner of
 33 Insurance shall take action as is deemed advisable on written findings which shall be
 34 mailed to the health maintenance organization with a copy of the findings mailed to the
 35 commissioner of human resources. The action of the Commissioner of Insurance and the

1 recommendation and findings of the commissioner of human resources shall be subject to
2 review by the superior court having jurisdiction. The court may, in disposing of the issue
3 before it, modify, affirm, or reverse the order of the Commissioner of Insurance in whole
4 or in part."

5 **SECTION 7.**

6 Said chapter is further amended by adding a new Code Section 33-21-20.1 to read as follows:

7 "33-21-20.1.

8 Upon the effective date of this Code section, all health maintenance organizations meeting
9 the requirements of subsection (b.1) of Code Section 33-21-3 shall not be subject to
10 regulation by the commissioner of human resources. Upon the Commissioner of
11 Insurance's determination that a health maintenance organization no longer meets the
12 requirements of subsection (b.1) of Code Section 33-21-3, the Commissioner shall
13 immediately notify the commissioner of human resources and such health maintenance
14 organization shall be subject to regulation by the commissioner of human resources until
15 such time as it again meets the requirements of subsection (b.1) of Code Section 33-21-3
16 as determined by the Commissioner of Insurance."

17 **SECTION 8.**

18 This Act shall become effective upon its approval by the Governor or upon its becoming law
19 without such approval.

20 **SECTION 9.**

21 All laws and parts of laws in conflict with this Act are repealed.