

1 AN ACT in relation to insurance.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by
5 adding Sections 155.37, 503.5, and 511.114 as follows:

6 (215 ILCS 5/155.37 new)

7 Sec. 155.37. Disclosure of medical or genetic history.

8 A person or entity that underwrites or sells annuity
9 contracts or contracts insuring, guaranteeing, or
10 indemnifying against loss, harm, damage, illness, or death
11 and any affiliate of that person or entity may not disclose
12 individually identifiable information concerning the health
13 of, or the medical or genetic history of, a customer to any
14 affiliated or nonaffiliated financial institution or other
15 third party for use regarding the granting of credit.

16 (215 ILCS 5/503.5 new)

17 Sec. 503.5. Disclosure of medical or genetic history.

18 An insurance producer is subject to Section 155.37 of this
19 Code.

20 (215 ILCS 5/511.114 new)

21 Sec. 511.114. Disclosure of medical or genetic history.

22 A third party administrator is subject to Section 155.37 of
23 this Code.

24 Section 10. The Health Maintenance Organization Act is
25 amended by changing Section 5-3 as follows:

26 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

27 Sec. 5-3. Insurance Code provisions.

1 (a) Health Maintenance Organizations shall be subject to
2 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
3 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
4 154.6, 154.7, 154.8, 155.04, 155.37, 355.2, 356m, 356v, 356w,
5 356x, 356y, 367i, 368a, 401, 401.1, 402, 403, 403A, 408,
6 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
7 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
8 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

9 (b) For purposes of the Illinois Insurance Code, except
10 for Sections 444 and 444.1 and Articles XIII and XIII 1/2,
11 Health Maintenance Organizations in the following categories
12 are deemed to be "domestic companies":

13 (1) a corporation authorized under the Dental
14 Service Plan Act or the Voluntary Health Services Plans
15 Act;

16 (2) a corporation organized under the laws of this
17 State; or

18 (3) a corporation organized under the laws of
19 another state, 30% or more of the enrollees of which are
20 residents of this State, except a corporation subject to
21 substantially the same requirements in its state of
22 organization as is a "domestic company" under Article
23 VIII 1/2 of the Illinois Insurance Code.

24 (c) In considering the merger, consolidation, or other
25 acquisition of control of a Health Maintenance Organization
26 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

27 (1) the Director shall give primary consideration
28 to the continuation of benefits to enrollees and the
29 financial conditions of the acquired Health Maintenance
30 Organization after the merger, consolidation, or other
31 acquisition of control takes effect;

32 (2)(i) the criteria specified in subsection (1)(b)
33 of Section 131.8 of the Illinois Insurance Code shall not
34 apply and (ii) the Director, in making his determination

1 with respect to the merger, consolidation, or other
2 acquisition of control, need not take into account the
3 effect on competition of the merger, consolidation, or
4 other acquisition of control;

5 (3) the Director shall have the power to require
6 the following information:

7 (A) certification by an independent actuary of
8 the adequacy of the reserves of the Health
9 Maintenance Organization sought to be acquired;

10 (B) pro forma financial statements reflecting
11 the combined balance sheets of the acquiring company
12 and the Health Maintenance Organization sought to be
13 acquired as of the end of the preceding year and as
14 of a date 90 days prior to the acquisition, as well
15 as pro forma financial statements reflecting
16 projected combined operation for a period of 2
17 years;

18 (C) a pro forma business plan detailing an
19 acquiring party's plans with respect to the
20 operation of the Health Maintenance Organization
21 sought to be acquired for a period of not less than
22 3 years; and

23 (D) such other information as the Director
24 shall require.

25 (d) The provisions of Article VIII 1/2 of the Illinois
26 Insurance Code and this Section 5-3 shall apply to the sale
27 by any health maintenance organization of greater than 10% of
28 its enrollee population (including without limitation the
29 health maintenance organization's right, title, and interest
30 in and to its health care certificates).

31 (e) In considering any management contract or service
32 agreement subject to Section 141.1 of the Illinois Insurance
33 Code, the Director (i) shall, in addition to the criteria
34 specified in Section 141.2 of the Illinois Insurance Code,

1 take into account the effect of the management contract or
2 service agreement on the continuation of benefits to
3 enrollees and the financial condition of the health
4 maintenance organization to be managed or serviced, and (ii)
5 need not take into account the effect of the management
6 contract or service agreement on competition.

7 (f) Except for small employer groups as defined in the
8 Small Employer Rating, Renewability and Portability Health
9 Insurance Act and except for medicare supplement policies as
10 defined in Section 363 of the Illinois Insurance Code, a
11 Health Maintenance Organization may by contract agree with a
12 group or other enrollment unit to effect refunds or charge
13 additional premiums under the following terms and conditions:

14 (i) the amount of, and other terms and conditions
15 with respect to, the refund or additional premium are set
16 forth in the group or enrollment unit contract agreed in
17 advance of the period for which a refund is to be paid or
18 additional premium is to be charged (which period shall
19 not be less than one year); and

20 (ii) the amount of the refund or additional premium
21 shall not exceed 20% of the Health Maintenance
22 Organization's profitable or unprofitable experience with
23 respect to the group or other enrollment unit for the
24 period (and, for purposes of a refund or additional
25 premium, the profitable or unprofitable experience shall
26 be calculated taking into account a pro rata share of the
27 Health Maintenance Organization's administrative and
28 marketing expenses, but shall not include any refund to
29 be made or additional premium to be paid pursuant to this
30 subsection (f)). The Health Maintenance Organization and
31 the group or enrollment unit may agree that the
32 profitable or unprofitable experience may be calculated
33 taking into account the refund period and the immediately
34 preceding 2 plan years.

1 The Health Maintenance Organization shall include a
2 statement in the evidence of coverage issued to each enrollee
3 describing the possibility of a refund or additional premium,
4 and upon request of any group or enrollment unit, provide to
5 the group or enrollment unit a description of the method used
6 to calculate (1) the Health Maintenance Organization's
7 profitable experience with respect to the group or enrollment
8 unit and the resulting refund to the group or enrollment unit
9 or (2) the Health Maintenance Organization's unprofitable
10 experience with respect to the group or enrollment unit and
11 the resulting additional premium to be paid by the group or
12 enrollment unit.

13 In no event shall the Illinois Health Maintenance
14 Organization Guaranty Association be liable to pay any
15 contractual obligation of an insolvent organization to pay
16 any refund authorized under this Section.

17 (Source: P.A. 90-25, eff. 1-1-98; 90-177, eff. 7-23-97;
18 90-372, eff. 7-1-98; 90-583, eff. 5-29-98; 90-655, eff.
19 7-30-98; 90-741, eff. 1-1-99; 91-357, eff. 7-29-99; 91-406,
20 eff. 1-1-00; 91-549, eff. 8-14-99; 91-605, eff. 12-14-99;
21 91-788, eff. 6-9-00.)

22 Section 15. The Voluntary Health Services Plans Act is
23 amended by changing Section 10 as follows:

24 (215 ILCS 165/10) (from Ch. 32, par. 604)

25 Sec. 10. Application of Insurance Code provisions.
26 Health services plan corporations and all persons interested
27 therein or dealing therewith shall be subject to the
28 provisions of Articles IIA and XII 1/2 and Sections 3.1, 133,
29 140, 143, 143c, 149, 155.37, 354, 355.2, 356r, 356t, 356u,
30 356v, 356w, 356x, 356y, 367.2, 368a, 401, 401.1, 402, 403,
31 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of
32 Section 367 of the Illinois Insurance Code.

1 (Source: P.A. 90-7, eff. 6-10-97; 90-25, eff. 1-1-98; 90-655,
2 eff. 7-30-98; 90-741, eff. 1-1-99; 91-406, eff. 1-1-00;
3 91-549, eff. 8-14-99; 91-605, eff. 12-14-99; 91-788, eff.
4 6-9-00.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.