

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 168

Short Title: HMO Cease and Desist.

(Public)

Sponsors: Senator Wellons.

Referred to: Insurance and Consumer Protection.

February 15, 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 to cease and desist from engaging in any act or practice in violation of

1 the provisions of this ~~Article~~Article or any other provisions of this
2 Chapter that are applicable to health maintenance organizations.

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

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

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

17 "**§ 58-67-170. Statutory construction and relationship to other laws.**

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

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

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

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