

# SENATE BILL 704

C3, C4

(0lr1521)

## ENROLLED BILL

— Finance/Health and Government Operations —

Introduced by ~~Senators Garagiola and Frosh~~, Frosh, Exum, Kelley, Middleton, and Pugh

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Insurance – Coordination of Benefits – Health Insurance and Personal Injury**  
3 **Protection**

4 FOR the purpose of ~~providing that certain health maintenance organization contracts,~~  
5 ~~health insurance policies, and policies of nonprofit health service plans are~~  
6 ~~subject to certain provisions of law relating to coordination of benefits with~~  
7 ~~personal injury protection coverage under motor vehicle liability insurance~~  
8 ~~policies; prohibiting the contracts and policies from containing~~ authorizing  
9 prohibiting certain health maintenance organization contracts, health  
10 insurance policies or contracts, and policies or contracts of nonprofit health  
11 service plans ~~to contain~~ from containing a provision that requires certain  
12 personal injury protection benefits to be paid before benefits under the contracts  
13 and policies ~~under certain circumstances; prohibiting a motor vehicle liability~~  
14 ~~insurer from making a payment to a health maintenance organization, an~~

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



~~insurer, or a nonprofit health service plan unless a certain authorization is provided to the motor vehicle liability insurer; defining the term “insured” or “named insured” for purposes of certain provisions of law relating to personal injury protection coverage to include an individual entitled to hospital, medical, or surgical benefits under certain health insurance policies or contracts; providing for the application of this Act; and generally relating to coordination of health insurance and personal injury protection benefits.~~

BY repealing and reenacting, without amendments,

Article – Health – General

Section 19–713.1(d)

Annotated Code of Maryland

(2009 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–713.1(e)

Annotated Code of Maryland

(2009 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Insurance

Section 15–104(b)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

BY adding to

Article – Insurance

Section 15–104(d)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Insurance~~

~~Section 19–507~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2009 Supplement)~~

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

### Article – Health – General

19–713.1.

(d) Notwithstanding § 19–701(g)(3) of this subtitle, a contract between a health maintenance organization and its subscribers or a group of subscribers may

1 contain a provision allowing the health maintenance organization to be subrogated to  
2 a cause of action that a subscriber has against another person:

3 (1) To the extent that any actual payments made by the health  
4 maintenance organization result from the occurrence that gave rise to the cause of  
5 action; or

6 (2) For a nonprofit health maintenance organization that exclusively  
7 contracts with a group of physicians to provide or to arrange for the provision of health  
8 care services for its enrollees, for any service provided by the health maintenance  
9 organization as a result of the occurrence that gave rise to the cause of action, per the  
10 fee schedule established by the nonprofit health maintenance organization.

11 (e) (1) Subsection (d) of this section does not allow a contract between a  
12 health maintenance organization and its subscribers or a group of subscribers to  
13 contain a provision allowing the health maintenance organization to recover any  
14 payments made to a subscriber under [a personal injury protection] **THE PERSONAL**  
15 **INJURY PROTECTION COVERAGE OF A MOTOR VEHICLE LIABILITY INSURANCE**  
16 policy.

17 ~~(2) A CONTRACT BETWEEN A HEALTH MAINTENANCE~~  
18 ~~ORGANIZATION AND ITS SUBSCRIBERS OR A GROUP OF SUBSCRIBERS;~~

19 ~~(H) IS SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THE~~  
20 ~~INSURANCE ARTICLE; AND~~

21 ~~(H) MAY NOT CONTAIN A PROVISION THAT REQUIRES~~  
22 ~~PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY~~  
23 ~~INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE CONTRACT.~~

24 ~~(2) SUBJECT TO § 19-507(C)(3) OF THE INSURANCE ARTICLE, A~~  
25 ~~A CONTRACT BETWEEN A HEALTH MAINTENANCE ORGANIZATION AND ITS~~  
26 ~~SUBSCRIBERS OR A GROUP OF SUBSCRIBERS MAY NOT CONTAIN A PROVISION~~  
27 ~~THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR~~  
28 ~~VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER~~  
29 ~~THE CONTRACT.~~

30 **Article – Insurance**

31 15–104.

32 (b) In accordance with regulations that the Commissioner adopts, the  
33 Commissioner shall allow health insurance policies and policies of nonprofit health  
34 service plans to contain nonduplication provisions or provisions to coordinate coverage  
35 with:

1 (1) other health insurance policies, including commercial individual,  
2 group, and blanket policies and policies of nonprofit health service plans;

3 (2) subscriber contracts that are issued by health maintenance  
4 organizations; and

5 (3) other established programs under which the insured may make a  
6 claim.

7 ~~(D) HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT~~  
8 ~~HEALTH SERVICE PLANS;~~

9 ~~(1) ARE SUBJECT TO THE PROVISIONS OF § 19 507(C) OF THIS~~  
10 ~~ARTICLE; AND~~

11 ~~(2) MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL~~  
12 ~~INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY~~  
13 ~~INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICIES.~~

14 ~~(D) SUBJECT TO § 19 507(C)(3) OF THIS ARTICLE, A POLICY OR~~  
15 ~~CONTRACT BETWEEN AN INSURER OR A NONPROFIT HEALTH SERVICE PLAN AND~~  
16 ~~ITS INSURERS INSURED OR SUBSCRIBERS OR A GROUP OF INSURED INSUREDS~~  
17 ~~OR SUBSCRIBERS MAY~~ HEALTH INSURANCE POLICIES AND POLICIES OF  
18 NONPROFIT HEALTH SERVICE PLANS MAY NOT CONTAIN A PROVISION THAT  
19 REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR  
20 VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER  
21 THE POLICY OR CONTRACT POLICIES.

22 ~~19 507.~~

23 ~~(A) IN THIS SECTION, "INSURED" OR "NAMED INSURED" INCLUDES AN~~  
24 ~~INDIVIDUAL ENTITLED TO HOSPITAL, MEDICAL, OR SURGICAL BENEFITS UNDER~~  
25 ~~A HEALTH INSURANCE POLICY OR CONTRACT ISSUED BY:~~

26 ~~(1) AN INSURER;~~

27 ~~(2) A NONPROFIT HEALTH SERVICE PLAN; OR~~

28 ~~(3) A HEALTH MAINTENANCE ORGANIZATION.~~

29 ~~[(a)] (B) The benefits described in § 19 505 of this subtitle shall be payable~~  
30 ~~without regard to:~~

1 ~~(1) the fault or nonfault of the named insured or the recipient of~~  
2 ~~benefits in causing or contributing to the motor vehicle accident; and~~

3 ~~(2) any collateral source of medical, hospital, or wage continuation~~  
4 ~~benefits.~~

5 ~~[(b)] (C) (1) Subject to paragraph PARAGRAPHS (2) AND (3) of this~~  
6 ~~subsection, if the insured has both coverage for the benefits described in § 19-505 of~~  
7 ~~this subtitle and a collateral source of medical, hospital, or wage continuation benefits,~~  
8 ~~the insurer or insurers may coordinate the policies to provide for nonduplication of~~  
9 ~~benefits, subject to appropriate reductions in premiums for one or both of the policies~~  
10 ~~approved by the Commissioner.~~

11 ~~(2) The named insured may:~~

12 ~~(i) elect to coordinate the policies by indicating in writing which~~  
13 ~~policy is to be the primary policy; or~~

14 ~~(ii) reject the coordination of policies and nonduplication of~~  
15 ~~benefits.~~

16 ~~**(3) THE MOTOR VEHICLE LIABILITY INSURER MAY NOT MAKE A**~~  
17 ~~**PAYMENT TO A HEALTH MAINTENANCE ORGANIZATION, AN INSURER, OR A**~~  
18 ~~**NONPROFIT HEALTH SERVICE PLAN UNLESS THE HEALTH MAINTENANCE**~~  
19 ~~**ORGANIZATION, INSURER, OR NONPROFIT HEALTH SERVICE PLAN PROVIDES**~~  
20 ~~**THE MOTOR VEHICLE LIABILITY INSURER WRITTEN AUTHORIZATION FOR THE**~~  
21 ~~**PAYMENT FROM THE INSURED.**~~

22 ~~[(c)] (D) An insurer that issues a policy that contains the coverage~~  
23 ~~described in § 19-505 of this subtitle may not impose a surcharge or retier the policy~~  
24 ~~for a claim or payment made under that coverage and, at the time the policy is issued,~~  
25 ~~shall notify the policyholder in writing that a surcharge may not be imposed and the~~  
26 ~~policy may not be retiered for a claim or payment made under that coverage.~~

27 ~~[(d)] (E) An insurer that provides the benefits described in § 19-505 of this~~  
28 ~~subtitle does not have a right of subrogation and does not have a claim against any~~  
29 ~~other person or insurer to recover any benefits paid because of the alleged fault of the~~  
30 ~~other person in causing or contributing to a motor vehicle accident.~~

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
32 policies, contracts, and health benefit plans issued, delivered, or renewed in the State  
33 on or after October 1, 2010.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2010.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.