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112TH CONGRESS
1ST SESSION

H. R. 1409

To ensure and foster continued patient safety and quality of care by clarifying the application of the antitrust laws to negotiations between groups of health care professionals and health plans and health care insurance issuers.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2011

Mr. CONYERS (for himself, Mr. PAUL, and Mr. MILLER of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To ensure and foster continued patient safety and quality of care by clarifying the application of the antitrust laws to negotiations between groups of health care professionals and health plans and health care insurance issuers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality Health Care Coalition Act of 2011".

SEC. 2. APPLICATION OF THE FEDERAL ANTITRUST LAWS TO HEALTH CARE PROFESSIONALS NEGOTIATING WITH HEALTH PLANS.

(a) IN GENERAL.—Any health care professionals who are engaged in negotiations with a health plan regarding the terms of any contract under which the professionals provide health care items or services for which benefits are provided under such plan shall, in connection with such negotiations, be exempt from the Federal antitrust laws.

(b) LIMITATION.—

(1) NO NEW RIGHT FOR COLLECTIVE CESSATION OF SERVICE.—The exemption provided in subsection (a) shall not confer any new right to participate in any collective cessation of service to patients not already permitted by existing law.

(2) NO CHANGE IN NATIONAL LABOR RELATIONS ACT.—This section applies only to health care professionals excluded from the National Labor Relations Act. Nothing in this section shall be construed as changing or amending any provision of the National Labor Relations Act, or as affecting the status of any group of persons under that Act.

(c) NO APPLICATION TO FEDERAL PROGRAMS.—Nothing in this section shall apply to negotiations between

health care professionals and health plans pertaining to benefits provided under any of the following:

(1) The Medicare Program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) The Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) The SCHIP program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(4) Chapter 55 of title 10, United States Code (relating to medical and dental care for members of the uniformed services).

(5) Chapter 17 of title 38, United States Code (relating to Veterans' medical care).

(6) Chapter 89 of title 5, United States Code (relating to the Federal employees' health benefits program).

(7) The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ANTITRUST LAWS.—The term ''antitrust laws''—

(A) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes

section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) GROUP HEALTH PLAN.—The term ''group health plan'' means an employee welfare benefit plan to the extent that the plan provides medical care (including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

(3) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms ''group health plan'' and ''health insurance issuer'' include a third-party administrator or other person acting for or on behalf of such plan or issuer.

(4) HEALTH CARE SERVICES.—The term ''health care services'' means any services for which payment may be made under a health plan, including services related to the delivery or administration of such services.

(5) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means any individual or entity that provides health care items or services,

treatment, assistance with activities of daily living, or medications to patients and who, to the extent required by State or Federal law, possesses specialized training that confers expertise in the provision of such items or services, treatment, assistance, or medications.

(6) HEALTH INSURANCE COVERAGE.—The term ''health insurance coverage'' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(7) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' means an insurance company, insurance service, or insurance organization (including a health maintenance organization) that is licensed to engage in the business of insurance in a State and that is subject to State law regulating insurance. Such term does not include a group health plan.

(8) HEALTH MAINTENANCE ORGANIZATION.—The term ''health maintenance organization'' means—

(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a));

(B) an organization recognized under State law as a health maintenance organization; or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(9) HEALTH PLAN.—The term ''health plan'' means a group health plan or a health insurance issuer that is offering health insurance coverage.

(10) MEDICAL CARE.—The term ''medical care'' means amounts paid for—

(A) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body; and

(B) transportation primarily for and essential to receiving items and services referred to in subparagraph (A).

(11) PERSON.—The term ''person'' includes a State or unit of local government.

(12) STATE.—The term ''State'' includes the several States, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on on the date of the enactment of this Act and shall not apply with respect to conduct occurring before such date.

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