



Rep. Naomi D. Jakobsson

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1 AMENDMENT TO HOUSE BILL 4059

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4059, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Illinois Insurance Code is amended by  
6 changing Section 351B-5 and adding Section 367.4 as follows:

7 (215 ILCS 5/351B-5) (from Ch. 73, par. 963B-5)

8 Sec. 351B-5. Applicability of other Code provisions. All  
9 policies of accident and health insurance issued under this  
10 Article shall be subject to the provisions of Sections 356c,  
11 subsection (a) of Section 356g, 356h, 356n, 367.4, 367c, 367d,  
12 370, 370a, and 370e of this Code.

13 (Source: P.A. 86-1407; 87-792; 87-1066.)

14 (215 ILCS 5/367.4 new)

15 Sec. 367.4. Reporting of claims information to group health  
16 plan sponsor.

17 (a) In this Section, "group health plan", "health insurance  
18 coverage", "health insurance issuer", and "plan sponsor" have  
19 the meanings ascribed to those terms in the Illinois Health  
20 Insurance Portability and Accountability Act.

21 Summary health information" means information that may be  
22 individually identifiable health information and (i) that  
23 summarizes the claims history, claims expenses, or type of

1 claims experienced by individuals for whom a plan sponsor has  
2 provided health benefits under a group health plan and (ii)  
3 from which the information identifying an individual, a  
4 relative or employer of the individual, or a member of the  
5 individual's household has been deleted, except that  
6 information describing geographic subdivisions of a State need  
7 only be aggregated to the level of a 5-digit zip code.

8 (b) A group health plan, or a health insurance issuer or  
9 health maintenance organization with respect to a group health  
10 plan, shall disclose summary health information to the plan  
11 sponsor if the plan sponsor requests the summary health  
12 information for the purpose of (i) obtaining premium bids from  
13 health plans for providing health insurance coverage under the  
14 group health plan or (ii) modifying, amending, or terminating  
15 the group health plan.

16 The plan documents of the group health plan must be amended  
17 to incorporate provisions to do the following:

18 (1) Establish the permitted and required uses and  
19 disclosures of such information by the plan sponsor.

20 (2) Provide that the plan sponsor agrees to not use or  
21 further disclose the information other than as permitted or  
22 required by the plan documents or as required by law.

23 (3) Provide that the plan sponsor agrees to not use or  
24 disclose the information for employment-related actions  
25 and decisions or in connection with any other benefit or  
26 employee benefit plan of the plan sponsor.

27 (4) Provide that the plan sponsor agrees to report to  
28 the group health plan any use or disclosure of the  
29 information that is inconsistent with the uses or  
30 disclosures provided for of which it becomes aware.

31 (5) Provide that the plan sponsor agrees to make  
32 available the information required to provide an  
33 accounting of disclosures.

34 (6) Provide that the plan sponsor agrees to make its

1 internal practices, books, and records relating to the use  
2 and disclosure of the summary health information received  
3 from the group health plan available to the Director for  
4 purposes of determining compliance by the group health plan  
5 with this Section.

6 (7) Provide that the plan sponsor agrees to, if  
7 feasible, return or destroy all protected health  
8 information received from the group health plan that the  
9 sponsor still maintains in any form and retain no copies of  
10 such information when no longer needed for the purpose for  
11 which disclosure was made, except that, if such return or  
12 destruction is not feasible, limit further uses and  
13 disclosures to those purposes that make the return or  
14 destruction of the information infeasible.

15 (c) A health insurance issuer may not report any  
16 information required under this Section the release of which is  
17 prohibited by State or federal law or regulation.

18 (d) A health insurance issuer must provide information  
19 under this Section in the aggregate, without any information  
20 through which a specific individual covered under the plan may  
21 be identified.

22 (e) Information obtained by a plan sponsor under this  
23 Section is confidential. The sponsor may use the information  
24 only for purposes relating to obtaining and maintaining health  
25 insurance coverage for the sponsor's employees (if the sponsor  
26 is an employer) or members (if the sponsor is an employee  
27 organization).

28 Section 10. The Health Care Purchasing Group Act is amended  
29 by changing Section 5 as follows:

30 (215 ILCS 123/5)

31 Sec. 5. Purpose; applicability of Illinois Health  
32 Insurance Portability and Accountability Act.

1 (a) The purpose and intent of this Act is to authorize the  
2 formation, operation, and regulation of health care purchasing  
3 groups (referred to in this Act as "HPGs") as described by this  
4 Act, to authorize the sale and regulation of health insurance  
5 products for employers that are sold to HPGs, and to encourage  
6 the development of financially secure and cost effective  
7 markets for the basic health care needs of employers,  
8 employees, and their dependents in this State. Nothing in this  
9 Act authorizes an employer to join with other employers to  
10 self-insure through risk pooling.

11 (b) All health insurance contracts issued under this Act  
12 are subject to the Illinois Health Insurance Portability and  
13 Accountability Act.

14 (c) All health insurance contracts issued under this Act  
15 are subject to Section 367.4 of the Illinois Insurance Code.

16 (Source: P.A. 90-337, eff. 1-1-98; 90-567, eff. 1-23-98.)

17 Section 15. The Health Maintenance Organization Act is  
18 amended by changing Section 5-3 as follows:

19 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

20 Sec. 5-3. Insurance Code provisions.

21 (a) Health Maintenance Organizations shall be subject to  
22 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
23 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
24 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,  
25 356y, 356z.2, 356z.4, 356z.5, 367.2, 367.2-5, 367.4, 367i,  
26 368a, 368b, 368c, 368d, 368e, 401, 401.1, 402, 403, 403A, 408,  
27 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection  
28 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,  
29 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

30 (b) For purposes of the Illinois Insurance Code, except for  
31 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health  
32 Maintenance Organizations in the following categories are

1 deemed to be "domestic companies":

2 (1) a corporation authorized under the Dental Service  
3 Plan Act or the Voluntary Health Services Plans Act;

4 (2) a corporation organized under the laws of this  
5 State; or

6 (3) a corporation organized under the laws of another  
7 state, 30% or more of the enrollees of which are residents  
8 of this State, except a corporation subject to  
9 substantially the same requirements in its state of  
10 organization as is a "domestic company" under Article VIII  
11 1/2 of the Illinois Insurance Code.

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

15 (1) the Director shall give primary consideration to  
16 the continuation of benefits to enrollees and the financial  
17 conditions of the acquired Health Maintenance Organization  
18 after the merger, consolidation, or other acquisition of  
19 control takes effect;

20 (2) (i) the criteria specified in subsection (1) (b) of  
21 Section 131.8 of the Illinois Insurance Code shall not  
22 apply and (ii) the Director, in making his determination  
23 with respect to the merger, consolidation, or other  
24 acquisition of control, need not take into account the  
25 effect on competition of the merger, consolidation, or  
26 other acquisition of control;

27 (3) the Director shall have the power to require the  
28 following information:

29 (A) certification by an independent actuary of the  
30 adequacy of the reserves of the Health Maintenance  
31 Organization sought to be acquired;

32 (B) pro forma financial statements reflecting the  
33 combined balance sheets of the acquiring company and  
34 the Health Maintenance Organization sought to be

1           acquired as of the end of the preceding year and as of  
2           a date 90 days prior to the acquisition, as well as pro  
3           forma financial statements reflecting projected  
4           combined operation for a period of 2 years;

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

9           (D) such other information as the Director shall  
10          require.

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

17          (e) In considering any management contract or service  
18          agreement subject to Section 141.1 of the Illinois Insurance  
19          Code, the Director (i) shall, in addition to the criteria  
20          specified in Section 141.2 of the Illinois Insurance Code, take  
21          into account the effect of the management contract or service  
22          agreement on the continuation of benefits to enrollees and the  
23          financial condition of the health maintenance organization to  
24          be managed or serviced, and (ii) need not take into account the  
25          effect of the management contract or service agreement on  
26          competition.

27          (f) Except for small employer groups as defined in the  
28          Small Employer Rating, Renewability and Portability Health  
29          Insurance Act and except for medicare supplement policies as  
30          defined in Section 363 of the Illinois Insurance Code, a Health  
31          Maintenance Organization may by contract agree with a group or  
32          other enrollment unit to effect refunds or charge additional  
33          premiums under the following terms and conditions:

34                 (i) the amount of, and other terms and conditions with

1       respect to, the refund or additional premium are set forth  
2       in the group or enrollment unit contract agreed in advance  
3       of the period for which a refund is to be paid or  
4       additional premium is to be charged (which period shall not  
5       be less than one year); and

6       (ii) the amount of the refund or additional premium  
7       shall not exceed 20% of the Health Maintenance  
8       Organization's profitable or unprofitable experience with  
9       respect to the group or other enrollment unit for the  
10      period (and, for purposes of a refund or additional  
11      premium, the profitable or unprofitable experience shall  
12      be calculated taking into account a pro rata share of the  
13      Health Maintenance Organization's administrative and  
14      marketing expenses, but shall not include any refund to be  
15      made or additional premium to be paid pursuant to this  
16      subsection (f)). The Health Maintenance Organization and  
17      the group or enrollment unit may agree that the profitable  
18      or unprofitable experience may be calculated taking into  
19      account the refund period and the immediately preceding 2  
20      plan years.

21      The Health Maintenance Organization shall include a  
22      statement in the evidence of coverage issued to each enrollee  
23      describing the possibility of a refund or additional premium,  
24      and upon request of any group or enrollment unit, provide to  
25      the group or enrollment unit a description of the method used  
26      to calculate (1) the Health Maintenance Organization's  
27      profitable experience with respect to the group or enrollment  
28      unit and the resulting refund to the group or enrollment unit  
29      or (2) the Health Maintenance Organization's unprofitable  
30      experience with respect to the group or enrollment unit and the  
31      resulting additional premium to be paid by the group or  
32      enrollment unit.

33      In no event shall the Illinois Health Maintenance  
34      Organization Guaranty Association be liable to pay any

1 contractual obligation of an insolvent organization to pay any  
2 refund authorized under this Section.

3 (Source: P.A. 92-764, eff. 1-1-03; 93-102, eff. 1-1-04; 93-261,  
4 eff. 1-1-04; 93-477, eff. 8-8-03; 93-529, eff. 8-14-03; revised  
5 9-25-03.)

6 Section 20. The Limited Health Service Organization Act is  
7 amended by changing Section 4003 as follows:

8 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

9 Sec. 4003. Illinois Insurance Code provisions. Limited  
10 health service organizations shall be subject to the provisions  
11 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,  
12 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,  
13 155.04, 155.37, 355.2, 356v, 367.4, 368a, 401, 401.1, 402, 403,  
14 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles IIA,  
15 VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the  
16 Illinois Insurance Code. For purposes of the Illinois Insurance  
17 Code, except for Sections 444 and 444.1 and Articles XIII and  
18 XIII 1/2, limited health service organizations in the following  
19 categories are deemed to be domestic companies:

20 (1) a corporation under the laws of this State; or

21 (2) a corporation organized under the laws of another  
22 state, 30% of more of the enrollees of which are residents  
23 of this State, except a corporation subject to  
24 substantially the same requirements in its state of  
25 organization as is a domestic company under Article VIII  
26 1/2 of the Illinois Insurance Code.

27 (Source: P.A. 91-549, eff. 8-14-99; 91-605, eff. 12-14-99;  
28 91-788, eff. 6-9-00; 92-440, eff. 8-17-01.)

29 Section 25. The Voluntary Health Services Plans Act is  
30 amended by changing Section 10 as follows:



1 (215 ILCS 165/10) (from Ch. 32, par. 604)

2 Sec. 10. Application of Insurance Code provisions. Health  
3 services plan corporations and all persons interested therein  
4 or dealing therewith shall be subject to the provisions of  
5 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,  
6 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,  
7 356y, 356z.1, 356z.2, 356z.4, 356z.5, 367.2, 367.4, 368a, 401,  
8 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
9 and (15) of Section 367 of the Illinois Insurance Code.

10 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01;  
11 92-651, eff. 7-11-02; 92-764, eff. 1-1-03; 93-102, eff. 1-1-04;  
12 93-529, eff. 8-14-03; revised 9-25-03.)".