GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

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SENATE BILL 168

Insurance and Consumer Protection Committee Substitute Adopted 2/20/01

Short Ti	itle: H	IMO Cease and Desist.	(Public)
Sponsor	s:		
Referred	d to:		
		February 15, 2001	
		A BILL TO BE ENTITLED	
AN AC	T TO T	JPDATE THE PENALTIES AND ENFORCEMENT I	PROVISIONS IN
THE	ЕНМО	LAWS.	
The Ger	neral A	ssembly of North Carolina enacts:	
	SEC	TION 1. G.S. 58-67-165 reads as rewritten:	
"§ 58-67		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 Article or any other provision of thi			
		spressly applies to health maintenance organizations sh	all be guilty of a
Class 1			. 1 11 .1
(c)	(1)	If the Commissioner shall for any reason have cause	
		any violation of this Article Article or any other	
		Chapter that expressly applies to health maintenance	
		occurred or is threatened, the Commissioner may g	
		health maintenance organization and to the represe	
		persons who appear to be involved in such suspe	
		arrange a conference with the alleged violators or	
		representatives for the purpose of attempting to as relating to such suspected violation, and, in the eve	
		any violation has occurred or is threatened, to arrive a	
		effective means of correcting or preventing such viola	*
	(2)	Proceedings under this subsection shall not be govern	
	(4)	procedural requirements, and may be conducted in su	• •
		Commissioner may deem appropriate under the circuit	
(d)	(1)	The Commissioner may issue an order directing a he	
(4)	(1)	organization or a representative of a health maintena	

- to cease and desist from engaging in any act or practice in violation of the provisions of this Article. Article or any other provision of this Chapter that expressly applies to health maintenance organizations.

 Within 30 days after service of the order of cease and desist, cease and
 - (2) Within 30 days after service of the order of cease and desist, cease and desist order, the respondent may request a hearing on the question of whether acts or practices have occurred that are in violation of this Article have occurred. Article or any other provision of this Chapter that expressly applies to health maintenance organizations. Such The hearing shall be conducted pursuant to under Article 3A of Chapter 150B of the General Statutes, and judicial review shall be available as provided by the said Chapter 150B. Article 4 of Chapter 150B of the General Statutes.
 - (e) In the case of any violation of the provisions of this Article, Article or any other provision of this Chapter that expressly applies to health maintenance organizations, if the Commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection (d), under subsection (d) of this section, the Commissioner may institute a proceeding to obtain injunctive relief, or seeking other appropriate relief, in the Superior Court of Wake County."

SECTION 2. G.S. 58-67-170 reads as rewritten: "§ **58-67-170.** Statutory construction and relationship to other laws.

- (a) Except as otherwise provided in this Article, Chapter, provisions of the insurance laws and provisions of hospital or medical service corporation laws shall not be applicabledo not apply to any health maintenance organization granted a certificate of authority licensed under this Article. This provision shall subsection does not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to under the insurance laws or the hospital or medical service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to under this Article. Article or any other provision of this Chapter that expressly applies to health maintenance organizations.
- (b) Solicitation of enrollees by a health maintenance organization granted a certificate of authority, license, or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.
- (c) Any health maintenance organization authorized under this Article shall not be deemed to be practicing medicine or dentistry and shall be exempt from the provisions of Chapter 90 of the General Statutes relating to the practice of medicine and dentistry; provided, however, that this exemption does not apply to individual providers under contract with or employed by the health maintenance organization."
 - **SECTION 3.** This act is effective when it becomes law.