

106TH CONGRESS
2D SESSION

H. R. 1304

AN ACT

To ensure and foster continued patient safety and quality of care by making the antitrust laws apply to negotiations between groups of health care professionals and health plans and health insurance issuers in the same manner as such laws apply to collective bargaining by labor organizations under the National Labor Relations Act.

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To ensure and foster continued patient safety and quality of care by making the antitrust laws apply to negotiations between groups of health care professionals and health plans and health insurance issuers in the same manner as such laws apply to collective bargaining by labor organizations under the National Labor Relations Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Quality Health-Care
5 Coalition Act of 2000”.

6 **SEC. 2. APPLICATION OF THE ANTITRUST LAWS TO HEALTH**
7 **CARE PROFESSIONALS NEGOTIATING WITH**
8 **HEALTH PLANS.**

9 (a) IN GENERAL.—Any health care professionals who
10 are engaged in negotiations with a health plan regarding
11 the terms of any contract under which the professionals
12 provide health care items or services for which benefits
13 are provided under such plan shall, in connection with
14 such negotiations, be entitled to the same treatment under
15 the antitrust laws as the treatment to which bargaining
16 units which are recognized under the National Labor Rela-
17 tions Act are entitled in connection with such collective
18 bargaining. Such a professional shall, only in connection
19 with such negotiations, be treated as an employee engaged
20 in concerted activities and shall not be regarded as having
21 the status of an employer, independent contractor, mana-
22 gerial employee, or supervisor.

23 (b) PROTECTION FOR GOOD FAITH ACTIONS.—Ac-
24 tions taken in good faith reliance on subsection (a) shall
25 not be the subject under the antitrust laws of criminal

1 sanctions nor of any civil damages, fees, or penalties be-
2 yond actual damages incurred.

3 (c) LIMITATION.—

4 (1) NO NEW RIGHT FOR COLLECTIVE CES-
5 SATION OF SERVICE.—The exemption provided in
6 subsection (a) shall not confer any new right to par-
7 ticipate in any collective cessation of service to pa-
8 tients not already permitted by existing law.

9 (2) NO CHANGE IN NATIONAL LABOR RELA-
10 TIONS ACT.— This section applies only to health
11 care professionals excluded from the National Labor
12 Relations Act. Nothing in this section shall be con-
13 strued as changing or amending any provision of the
14 National Labor Relations Act, or as affecting the
15 status of any group of persons under that Act.

16 (d) 3-YEAR SUNSET.—The exemption provided in
17 subsection (a) shall only apply to conduct occurring during
18 the 3-year period beginning on the date of the enactment
19 of this Act and shall continue to apply for 1 year after
20 the end of such period to contracts entered into before
21 the end of such period.

22 (e) LIMITATION ON EXEMPTION.—Nothing in this
23 section shall exempt from the application of the antitrust
24 laws any agreement or otherwise unlawful conspiracy that
25 excludes, limits the participation or reimbursement of, or

1 otherwise limits the scope of services to be provided by
2 any health care professional or group of health care pro-
3 fessionals with respect to the performance of services that
4 are within their scope of practice as defined or permitted
5 by relevant law or regulation.

6 (f) NO EFFECT ON TITLE VI OF CIVIL RIGHTS ACT
7 OF 1964.—Nothing in this section shall be construed to
8 affect the application of title VI of the Civil Rights Act
9 of 1964.

10 (g) NO APPLICATION TO FEDERAL PROGRAMS.—
11 Nothing in this section shall apply to negotiations between
12 health care professionals and health plans pertaining to
13 benefits provided under any of the following:

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

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

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

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

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

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

4 (7) The Indian Health Care Improvement Act
5 (25 U.S.C. 1601 et seq.).

6 (h) EXEMPTION OF ABORTION AND ABORTION SERV-
7 ICES.—Nothing in this section shall apply to negotiations
8 specifically relating to requiring a health plan to cover
9 abortion or abortion services.

10 (i) GENERAL ACCOUNTING OFFICE STUDY AND RE-
11 PORT.—The Comptroller General of the United States
12 shall conduct a study on the impact of enactment of this
13 section during the 6-month period beginning with the
14 third year of the 3-year period described in subsection (d).
15 Not later than the end of such 6-month period the Comp-
16 troller General shall submit to Congress a report on such
17 study and shall include in the report such recommenda-
18 tions on the extension of this section (and changes that
19 should be made in making such extension) as the Comp-
20 troller General deems appropriate.

21 (j) DEFINITIONS.—For purposes of this section:

22 (1) ANTITRUST LAWS.—The term “antitrust
23 laws”—

24 (A) has the meaning given it in subsection

25 (a) of the first section of the Clayton Act (15

1 U.S.C. 12(a)), except that such term includes
2 section 5 of the Federal Trade Commission Act
3 (15 U.S.C. 45) to the extent such section 5 ap-
4 plies to unfair methods of competition; and

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

7 (2) HEALTH PLAN AND RELATED TERMS.—

8 (A) IN GENERAL.—The term “health plan”
9 means a group health plan or a health insur-
10 ance issuer that is offering health insurance
11 coverage.

12 (B) HEALTH INSURANCE COVERAGE;
13 HEALTH INSURANCE ISSUER.—The terms
14 “health insurance coverage” and “health insur-
15 ance issuer” have the meanings given such
16 terms under paragraphs (1) and (2), respec-
17 tively, of section 733(b) of the Employee Retire-
18 ment Income Security Act of 1974 (29 U.S.C.
19 1191b(b)).

20 (C) GROUP HEALTH PLAN.—The term
21 “group health plan” has the meaning given that
22 term in section 733(a)(1) of the Employee Re-
23 tirement Income Security Act of 1974 (29
24 U.S.C. 1191b(a)(1)).

1 (3) HEALTH CARE PROFESSIONAL.—The term
2 “health care professional” means an individual who
3 provides health care items or services, treatment, as-
4 sistance with activities of daily living, or medications
5 to patients and who, to the extent required by State
6 or Federal law, possesses specialized training that
7 confers expertise in the provision of such items or
8 services, treatment, assistance, or medications.
9 (k) SENSE OF THE CONGRESS.—It is the sense of
10 the Congress that decisions regarding medical care and
11 treatment should be made by the physician or health care
12 professional in consultation with the patient.

 Passed the House of Representatives June 30 (legis-
 lative day, June 29), 2000.

Attest:

Clerk.