

113TH CONGRESS
2^D SESSION

H. R. 4077

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

FEBRUARY 25, 2014

Mr. CONYERS (for himself and Mr. BENISHEK) introduced the following bill;
which was referred to the Committee on the Judiciary

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.

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 2014”.

1 **SEC. 2. APPLICATION OF THE FEDERAL ANTITRUST LAWS**
2 **TO HEALTH CARE PROFESSIONALS NEGOTI-**
3 **ATING WITH HEALTH PLANS.**

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

11 (b) LIMITATION.—

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

17 (2) NO CHANGE IN NATIONAL LABOR RELA-
18 TIONS ACT.—This section applies only to health care
19 professionals excluded from the National Labor Re-
20 lations Act. Nothing in this section shall be con-
21 strued as changing or amending any provision of the
22 National Labor Relations Act, or as affecting the
23 status of any group of persons under that Act.

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

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

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

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

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

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

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

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

17 (7) The Indian Health Care Improvement Act
18 (25 U.S.C. 1601 et seq.).

19 **SEC. 3. DEFINITIONS.**

20 In this Act, the following definitions shall apply:

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

23 (A) has the meaning given it in subsection

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

25 U.S.C. 12(a)), except that such term includes

1 section 5 of the Federal Trade Commission Act
2 (15 U.S.C. 45) to the extent such section ap-
3 plies to unfair methods of competition; and

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

6 (2) GROUP HEALTH PLAN.—The term “group
7 health plan” means an employee welfare benefit plan
8 to the extent that the plan provides medical care (in-
9 cluding items and services paid for as medical care)
10 to employees or their dependents (as defined under
11 the terms of the plan) directly or through insurance,
12 reimbursement, or otherwise.

13 (3) GROUP HEALTH PLAN, HEALTH INSURANCE
14 ISSUER.—The terms “group health plan” and
15 “health insurance issuer” include a third-party ad-
16 ministrator or other person acting for or on behalf
17 of such plan or issuer.

18 (4) HEALTH CARE SERVICES.—The term
19 “health care services” means any services for which
20 payment may be made under a health plan, includ-
21 ing services related to the delivery or administration
22 of such services.

23 (5) HEALTH CARE PROFESSIONAL.—The term
24 “health care professional” means any individual or
25 entity that provides health care items or services,

1 treatment, assistance with activities of daily living,
2 or medications to patients and who, to the extent re-
3 quired by State or Federal law, possesses specialized
4 training that confers expertise in the provision of
5 such items or services, treatment, assistance, or
6 medications.

7 (6) HEALTH INSURANCE COVERAGE.—The term
8 “health insurance coverage” means benefits con-
9 sisting of medical care (provided directly, through
10 insurance or reimbursement, or otherwise and in-
11 cluding items and services paid for as medical care)
12 under any hospital or medical service policy or cer-
13 tificate, hospital or medical service plan contract, or
14 health maintenance organization contract offered by
15 a health insurance issuer.

16 (7) HEALTH INSURANCE ISSUER.—The term
17 “health insurance issuer” means an insurance com-
18 pany, insurance service, or insurance organization
19 (including a health maintenance organization) that
20 is licensed to engage in the business of insurance in
21 a State and that is subject to State law regulating
22 insurance. Such term does not include a group
23 health plan.

1 (8) HEALTH MAINTENANCE ORGANIZATION.—

2 The term “health maintenance organization”
3 means—

4 (A) a federally qualified health mainte-
5 nance organization (as defined in section
6 1301(a) of the Public Health Service Act (42
7 U.S.C. 300e(a)));

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

10 (C) a similar organization regulated under
11 State law for solvency in the same manner and
12 to the same extent as such a health mainte-
13 nance organization.

14 (9) HEALTH PLAN.—The term “health plan”
15 means a group health plan or a health insurance
16 issuer that is offering health insurance coverage.

17 (10) MEDICAL CARE.—The term “medical
18 care” means amounts paid for—

19 (A) the diagnosis, cure, mitigation, treat-
20 ment, or prevention of disease, or amounts paid
21 for the purpose of affecting any structure or
22 function of the body; and

23 (B) transportation primarily for and essen-
24 tial to receiving items and services referred to
25 in subparagraph (A).

1 (11) PERSON.—The term “person” includes a
2 State or unit of local government.

3 (12) STATE.—The term “State” includes the
4 several States, the District of Columbia, Puerto
5 Rico, the Virgin Islands of the United States, Guam,
6 American Samoa, and the Commonwealth of the
7 Northern Mariana Islands.

8 **SEC. 4. EFFECTIVE DATE.**

9 This Act shall take effect on the date of the enact-
10 ment of this Act and shall not apply with respect to con-
11 duct occurring before such date.

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