

# SENATE BILL No. 3

January 11, 1989, Introduced by Senators N. SMITH and DILLINGHAM  
and referred to the Committee on Commerce and Technology.

A bill to amend section 21031 of Act No. 368 of the Public Acts of 1978, entitled as amended  
"Public health code,"  
as amended by Act No. 354 of the Public Acts of 1982, being section 333.21031 of the Michigan Compiled Laws, and to add section 21035.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 21031 of Act No. 368 of the Public Acts  
2 of 1978, as amended by Act No. 354 of the Public Acts of 1982,  
3 being section 333.21031 of the Michigan Compiled Laws, is amended  
4 and section 21035 is added to read as follows:

5       Sec. 21031. An application to the department for a license  
6 shall be verified by an officer or authorized representative of  
7 the applicant, and shall be on a form authorized and provided by

1 the department. An application for the initial license shall  
2 include:

3 (a) A copy of the basic organizational document of the  
4 applicant, such as the articles of incorporation, articles of  
5 association, partnership agreement, trust agreement, or other  
6 applicable document, and amendments thereto.

7 (b) A copy of the bylaws, rules, or similar form of document  
8 regulating the conduct of the affairs of the applicant.

9 (c) A list of the names, addresses, and official positions  
10 of individuals responsible for the conduct of the health mainte-  
11 nance organization's affairs, including members of the board of  
12 directors, board of trustees, executive committee, or other gov-  
13 erning body, the officers in case of a corporation, and the part-  
14 ners or associates in case of a partnership or association. The  
15 list shall be accompanied by a disclosure statement fully dis-  
16 closing to the department the nature and extent of any contracts  
17 or arrangements between those individuals or their immediate fam-  
18 ilies, or any legal entity in which they or their immediate fami-  
19 lies have a financial interest exceeding 5% of the stock or  
20 assets of the entity, and the organization or a provider or other  
21 person concerning any financial relationship with the  
22 organization. The statement shall be signed by each individual  
23 listed and notarized. The department shall be notified of a sub-  
24 stantial change in the facts set forth in the statement not more  
25 than 30 days after the effective date of the change.

26 (d) A statement generally describing the health maintenance  
27 organization, its operations, the type and quantity of health

1 professionals engaged to provide services, the location of  
2 facilities, and a description of services available at the loca-  
3 tions at which health maintenance services will be regularly  
4 available to enrollees.

5 (e) Forms of the health maintenance contracts which the  
6 applicant proposes to offer and the evidence of coverage issued  
7 to subscribers. THE DEPARTMENT SHALL BE NOTIFIED OF A SUBSTAN-  
8 TIAL CHANGE IN THE FORMS OF THE HEALTH MAINTENANCE CONTRACTS  
9 OFFERED BY A HEALTH MAINTENANCE ORGANIZATION, INCLUDING, BUT NOT  
10 LIMITED TO, THE ADDITION OF AN ARBITRATION PROVISION AS DESCRIBED  
11 IN SECTION 21035, WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE  
12 CHANGE.

13 (f) Financial statements showing the applicant's assets,  
14 liabilities, and sources of financial support.

15 (g) A statement of projected enrollment levels, copies of  
16 solicitation materials, and a general description of the market-  
17 ing and enrollment techniques to be employed by the health main-  
18 tenance organization, including a plan for informing enrollees of  
19 the sources and methods of obtaining services and instructing  
20 them in their use.

21 (h) A statement describing with reasonable certainty the  
22 geographic area to be served by the organization.

23 (i) A statement describing the applicant's procedures for  
24 resolving enrollee complaints and conducting grievance procedures  
25 as required by this part.

26 (j) A description of procedures for monitoring the quality  
27 of health care provided to enrollees as required by this part.

1 (k) Other information reasonably required by the department  
2 and the insurance bureau for the proper administration of this  
3 article.

4 SEC. 21035. (1) A HEALTH MAINTENANCE CONTRACT BETWEEN A  
5 HEALTH MAINTENANCE ORGANIZATION AND A SUBSCRIBER WHICH CONTAINS A  
6 PROVISION FOR ARBITRATION OF A DISPUTE AS TO THE MALPRACTICE OF A  
7 HEALTH PROFESSIONAL OR HEALTH FACILITY OR AGENCY EMPLOYED BY OR  
8 UNDER CONTRACT TO THE HEALTH MAINTENANCE ORGANIZATION SHALL  
9 INCLUDE A STATEMENT OF THAT FACT IN 12-POINT BOLDFACE TYPE.  
10 SUBJECT TO SUBSECTION (5), THE HEALTH MAINTENANCE CONTRACT SHALL  
11 ALSO PROVIDE THAT THE SUBSCRIBER MAY REVOKE THE AGREEMENT TO  
12 ARBITRATE AS IT APPLIES TO THE SUBSCRIBER OR ENROLLEE WITHIN 60  
13 DAYS AFTER THE EFFECTIVE DATE OF COVERAGE UNDER THE HEALTH MAIN-  
14 TENANCE CONTRACT AND THAT EXECUTION OF THE AGREEMENT TO ARBITRATE  
15 IS NOT A PREREQUISITE TO HEALTH CARE OR TREATMENT, AND SHALL  
16 INCLUDE A STATEMENT OF THOSE FACTS IN 12-POINT BOLDFACE TYPE.  
17 THE RIGHT OF THE SUBSCRIBER TO REVOKE THE AGREEMENT TO ARBITRATE  
18 SHALL BE EXERCISED ONLY AS PROVIDED IN SUBSECTIONS (6) AND (7).  
19 A HEALTH MAINTENANCE ORGANIZATION SHALL ALSO DEVELOP AND IMPLE-  
20 MENT A PROCEDURE FOR NOTIFYING POTENTIAL SUBSCRIBERS AND ENROLL-  
21 EES OF THE PROVISION FOR ARBITRATION. THE PROCEDURE SHALL  
22 INCLUDE, AT A MINIMUM, BOTH OF THE FOLLOWING:

23 (A) THAT ENROLLMENT CARDS USED BY THE HEALTH MAINTENANCE  
24 ORGANIZATION CONTAIN, ADJACENT TO THE SIGNATURE LINE AND IN  
25 12-POINT BOLDFACE TYPE, A STATEMENT DESCRIBING THE ARBITRATION  
26 REQUIREMENT.

1 (B) THAT THE HEALTH MAINTENANCE ORGANIZATION PROVIDE EACH  
2 SUBSCRIBER WITH AN INFORMATIONAL BROCHURE WHICH CLEARLY EXPLAINS  
3 THE ARBITRATION REQUIREMENT AND REVOCATION PROVISION.

4 (2) ARBITRATION OF A DISPUTE BETWEEN A HEALTH MAINTENANCE  
5 ORGANIZATION AND A SUBSCRIBER OR ENROLLEE AS TO THE MALPRACTICE  
6 OF A HEALTH PROFESSIONAL OR HEALTH FACILITY OR AGENCY EMPLOYED BY  
7 OR UNDER CONTRACT TO THE HEALTH MAINTENANCE ORGANIZATION SHALL BE  
8 CONDUCTED PURSUANT TO SECTIONS 5043 TO 5049 OF CHAPTER 50A OF THE  
9 REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF  
10 1961, BEING SECTIONS 600.5043 TO 600.5059 OF THE MICHIGAN  
11 COMPILED LAWS.

12 (3) IF A HEALTH MAINTENANCE CONTRACT INCLUDES AN ENROLLEE  
13 WHO IS A MINOR, THE CONTRACT SHALL NOT BE SUBJECT TO DISAFFIR-  
14 MANCE IF SIGNED OR OTHERWISE AGREED TO BY THE MINOR'S PARENT OR  
15 GUARDIAN.

16 (4) A HEALTH MAINTENANCE CONTRACT BETWEEN A HEALTH MAINTENANCE  
17 ORGANIZATION AND A SUBSCRIBER WHICH HAS AN ARBITRATION PRO-  
18 VISION WHICH IS IN COMPLIANCE WITH SUBSECTION (1) SHALL NOT BE  
19 CONSIDERED A CONTRACT OF ADHESION OR UNCONSCIONABLE OR OTHERWISE  
20 IMPROPER BECAUSE OF SUCH PROVISION. THE ARBITRATION PROVISION  
21 SHALL APPLY TO ALL SUBSCRIBERS AND ENROLLEES, THEIR SPOUSES AND  
22 CHILDREN, BOTH BORN AND IN UTERO, AND, IN THE CASE OF A MALPRAC-  
23 TICE ACTION INVOLVING THE DEATH OF A SUBSCRIBER OR ENROLLEE, ALL  
24 INDIVIDUALS TO WHOM THE SUBSCRIBER OR ENROLLEE, BY LAW, OWED A  
25 DUTY OF SUPPORT AT THE TIME OF THE SUBSCRIBER'S OR ENROLLEE'S  
26 DEATH.

1 (5) A HEALTH MAINTENANCE ORGANIZATION MAY OFFER ECONOMIC  
2 INCENTIVES IN CONSIDERATION OF A SUBSCRIBER'S AGREEMENT NOT TO  
3 EXERCISE THE RIGHT TO REVOKE AN AGREEMENT TO ARBITRATE CONTAINED  
4 IN THE HEALTH MAINTENANCE CONTRACT, AS PROVIDED IN SUBSECTION  
5 (1).

6 (6) THE RIGHT OF A SUBSCRIBER TO REVOKE AN AGREEMENT TO  
7 ARBITRATE CONTAINED IN A HEALTH MAINTENANCE CONTRACT SHALL BE  
8 EXERCISED PURSUANT TO EITHER THIS SUBSECTION OR SUBSECTION (7).  
9 UPON REQUEST OF THE SUBSCRIBER, THE HEALTH MAINTENANCE ORGANI-  
10 ZATION SHALL PROVIDE A FORM FOR THE SUBSCRIBER TO SIGN INDICATING  
11 THE SUBSCRIBER'S REVOCATION OF THE AGREEMENT TO ARBITRATE. THE  
12 FORM SHALL BE PRESCRIBED BY THE COMMISSIONER, AND SHALL CONTAIN  
13 AN ORIGINAL AND 1 COPY. THE SUBSCRIBER SHALL SIGN THE FORM AND  
14 SEND THE ORIGINAL BY REGISTERED MAIL TO THE TO THE HEALTH MAINTENANCE  
15 ORGANIZATION, AND SHALL RETAIN THE COPY.

16 (7) AS AN ALTERNATIVE TO THE REVOCATION PROCEDURE SET FORTH  
17 IN SUBSECTION (6), A SUBSCRIBER MAY REVOKE THE AGREEMENT TO ARBI-  
18 TRATE BY NOTIFYING THE HEALTH MAINTENANCE ORGANIZATION IN WRITING  
19 BY REGISTERED MAIL OF THE SUBSCRIBER'S INTENTION TO REVOKE THE  
20 ARBITRATION AGREEMENT. THE NOTICE SHALL INCLUDE, AT A MINIMUM,  
21 THE SUBSCRIBER'S NAME, ADDRESS, AND CONTRACT NUMBER, AND A STATE-  
22 MENT OF THE SUBSCRIBER'S INTENTION TO REVOKE THE ARBITRATION  
23 AGREEMENT.

24 (8) IF A SUBSCRIBER IS ALSO COVERED AS A DEPENDENT UNDER  
25 ANOTHER HEALTH CARE COVERAGE OR BENEFIT PLAN, AND THE SUBSCRIBER  
26 REVOKES THE AGREEMENT TO ARBITRATE CONTAINED IN THE HEALTH  
27 MAINTENANCE CONTRACT, THE SUBSCRIBER SHALL NOT BE BOUND BY AN

1 ARBITRATION AGREEMENT CONTAINED IN ANY OTHER HEALTH MAINTENANCE  
2 CONTRACT OR OTHER HEALTH CARE COVERAGE OR BENEFIT PLAN UNDER  
3 WHICH THE INDIVIDUAL IS COVERED AS A DEPENDENT.

4 (9) THE COMMISSIONER SHALL SUBMIT A WRITTEN REPORT TO THE  
5 LEGISLATURE ON THE EFFECT OF ARBITRATION AGREEMENTS CONTAINED IN  
6 HEALTH MAINTENANCE CONTRACTS INCLUDING, BUT NOT LIMITED TO, COST  
7 SAVINGS REALIZED BY HEALTH MAINTENANCE ORGANIZATIONS USING SUCH  
8 ARBITRATION AGREEMENTS. THE REPORT REQUIRED UNDER THIS SUBSEC-  
9 TION SHALL BE SUBMITTED NOT LATER THAN THE EXPIRATION OF 3 YEARS  
10 AFTER THE EFFECTIVE DATE OF THIS SECTION.

11 (10) AS USED IN THIS SECTION, "MALPRACTICE" MEANS A DISPUTE,  
12 CONTROVERSY, OR ISSUE ARISING OUT OF OR RESULTING FROM INJURY TO,  
13 OR THE DEATH OF, AN INDIVIDUAL WHICH WAS CAUSED BY AN ERROR,  
14 OMISSION, OR NEGLIGENCE IN THE PERFORMANCE OF SERVICES BY A  
15 HEALTH PROFESSIONAL, HEALTH FACILITY OR AGENCY, OR THEIR AGENT OR  
16 BASED ON A CLAIMED PERFORMANCE OF SUCH SERVICES WITHOUT CONSENT,  
17 IN BREACH OF WARRANTY, OR IN VIOLATION OF CONTRACT.