

(H. B. 2834)

(No. 161-2010)

(Approved November 1, 2010)

AN ACT

To amend subsection (a), repeal subsection (g), rename subsections (h) through (s) as subsections (g) through (r), respectively, and amend renamed subsections (i) and (k) of Section 2; amend subsection (a) and add subsections (f) through (k) to Section 6; add a new subsection (a) and rename subsections (a) and (b) as subsections (b) and (c), respectively, of Section 7 of Act No. 194 of August 25, 2000, as amended, known as the “Bill of Rights and Responsibilities of the Patient.”

STATEMENT OF MOTIVES

On March 23, 2010, the United States Congress passed Public Law No. 111-148, known as the “Patient Protection and Affordable Care Act” (PPACA), for the purpose of increasing access to and improving the health care services rendered to United States citizens. Such legislation constitutes an unprecedented reform to the United States healthcare system. The PPACA is directed to the thousands of United States citizens who are unable to obtain primary healthcare services due to the high costs of health insurance, which would guarantee a reasonable basic coverage for them. Furthermore, such Federal legislation guarantees that citizens shall have access to preventive treatments to keep them healthy, and intends to prevent thousands of United States citizens from being forced to abandon medical treatments because their health plans do not cover the cost of such treatments.

After hundreds of thousands of Puerto Ricans were divested from a health plan over the past few years, ensuring that all Puerto Ricans have access to more and better healthcare services is the goal and one of the top priorities of this Administration. For such reason, any and all necessary measures shall be taken to implement the Federal Health Reform in Puerto Rico. Thus, its impact on our healthcare system and our citizens is maximized. This legislation amends the Bill of Rights and Responsibilities of the Patient in order to guarantee that all Puerto Ricans shall enjoy all the protections recognized to patients under the Federal legislation.

Among the protections recognized to patients under the PPACA, and which we incorporate into our legislation today, is the prohibition of preexisting condition discrimination and the prohibition of lifetime, annual, or benefit limits, as these are defined in the Federal legislation. Likewise, patients are guaranteed coverage of preventive health services, as well as coverage with direct access, without referrals or authorization, to receive gynecology and obstetrics care, in the event that the plan covers such services. This legislation also guarantees that, when one of the beneficiaries is a minor, his/her father or mother or guardian may designate a pediatrician as his/her primary care provider, insofar as such pediatrician participates in the network of providers. Lastly, all patients shall be entitled to have their health insurance plan provide them with a system to submit claims that is duly approved and regulated by the Insurance Commissioner of Puerto Rico. Such system must include an internal appeals procedure and an appeals procedure before an external and independent entity. Patients shall also be entitled to an expeditious process in cases that require immediate action due to the fact that their life or health is in danger.

With these amendments, we take steps further toward making it possible for all Puerto Ricans to have adequate access to high quality health services and

facilities to suit their needs, regardless of their financial status, their preexisting health conditions, their medical history, and their ability to pay. After all, that was the reason behind the approval of Act No. 194 of August 25, 2000, which created the Bill of Rights and Responsibilities of the Patient that we are amending today.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—Subsection (a) is hereby amended, subsection (g) is repealed, subsections (h) through (s) are renamed as subsections (g) through (r), respectively, and renamed subsections (i) and (k) are hereby amended in Section 2 of Act No. 194 of August 25, 2000, as amended, to read as follows:

“Section 2.—Definitions.—

For the purposes of this Act, the following terms shall have the meaning indicated below:

(a) Insurer.—Means any person or entity authorized by the Insurance Commissioner to conduct insurance business as such in Puerto Rico that assumes a contractual risk in consideration of or exchange for the payment of a premium, including health services organizations. For purposes of this Act, the term insurer also includes any nonprofit association, society, or mutual assistance or aid association that has established, keeps, and operates in Puerto Rico any surgical medical services and hospitalization services plan for partners in consideration of payment of fees, or any entity engaged in the business of underwriting insurance contracts or offering healthcare service benefit plans.

....

(g) ...

(h) ...

(i) Patient.—Refers to those persons who are or shall be subject to treatment for their health, be it because of a physical or mental condition, and who consult a health professional or submit themselves to an examination by the latter

for the purpose of obtaining information for staying in good health, obtaining a diagnosis of their state of health or for the treatment of an illness or injury affecting their health, including preventive diagnoses or treatments for the early detection of possible medical conditions or complications of those already diagnosed and for prolonging the life and improving the quality of life of those with existing complications, regardless of whether or not they are subscribers or beneficiaries of a public or private healthcare plan.

(j) ...

(k) Healthcare Plan.—Means any agreement whereby any person commits him/herself to provide a subscriber, insured person, or group of subscribers or insured persons with certain healthcare or health insurance services, whether directly or through a provider, or to pay, in whole or in part, the cost of such services in consideration of the payment of an amount already fixed in such agreement which is deemed to be earned, regardless of whether the subscriber or insured person uses or does not use the healthcare services provided by the plan. The foregoing includes health insurance plans, healthcare plans, or any other insurance contract of a nature similar to that of such plans, regardless of the insurer offering such contract.

...”

Section 2.—Subsection (a) is hereby amended and subsections (f), (g), (h), (i), (j), and (k) are hereby added to Section 6 of Act No. 194 of August 25, 2000, as amended, to read as follows:

“Section 7.—Rights; Plan and Provider Selection.—

Concerning the selection of healthcare plans and medical and hospital healthcare service providers, all patients, consumers, or users of such plans and services in Puerto Rico are entitled to:

(a) An adequate and sufficient selection of healthcare plans and medical and hospital healthcare service providers to guarantee access to high-quality healthcare and services, in order for patients to be able to choose the healthcare plans and providers that best suit their needs and wishes, regardless of their socioeconomic status or their ability to pay. Patients under 19 years of age may choose the healthcare plan and those providers that best suit their needs without being discriminated against due to any preexisting medical condition or their medical history. As of 2014, the right not to be discriminated against for a preexisting medical condition or medical history shall apply to all patients, regardless of their age.

(b) ...

...

(f) Have healthcare plans offer them coverage without dollar limits, as defined in the Federal legislation and the Federal regulations thereunder, whether for lifetime, annual, or essential health benefits, as defined in Public Law 111-148, known as the ‘Patient Protection and Affordable Care Act,’ the regulations thereunder, and the norms established by the Commissioner.

(g) Have healthcare plans include as part of their basic coverage, without any additional costs or copay, the following preventive health services: the preventive care recommended by the United States Preventive Services Task Force; the immunizations recommended by the Advisory Committee Immunization Practices of the Centers for Disease Control and Prevention; as for infants, children, and adolescents, up to 21 years of age, preventive care that includes the

recommended vaccines according to their age; and, as for women, preventive care against breast cancer as recommended by the Health Resources and Services Administration. These are the minimum requirements, not to be construed to limit insurers in terms of offering greater coverage.

(h) Have healthcare plans that include dependents as part of their coverage, and to have these plans make their coverage extensive to unmarried dependents until 26 years of age. The Commissioner shall regulate these cases and their application.

(i) Have individual and group healthcare plans cover direct access gynecology and obstetrics care services without requiring referrals or previous authorization from the plan, insofar as such physician participates in the network of the healthcare providers.

(j) Have individual or group healthcare plans providing coverage for a minor as a participant or beneficiary allow the parent or tutor of the dependent minor to select a pediatrician as his/her primary care provider, insofar as such pediatrician participates in the network of healthcare providers.

(k) Have individual or group healthcare plans implement an internal claim system approved by the Commissioner that provides the adequate and reasonable procedures for the prompt settlement of disputes in connection with determinations regarding coverage and claims of insured persons. Plans shall notify their insured persons that they have access to an appeals procedure; that they are entitled to be assisted by a government official, such as the Advocate for Patients or the Ombudsman or the attorney of their choice; that they have access to their medical records; that they may present written or oral evidence; and that they are entitled to receive benefits, as determined in the process. Insured persons shall be entitled to have healthcare plans establish an appeals system before an external and independent entity that meets such requirements as established by the

Commissioner. All insured persons are entitled to have an expeditious evaluation process established in case of emergency when their health is at risk.

Section 3.—The rights set forth in Section 2 of this Act shall have the scope and be governed pursuant to the requirements and procedures provided in the PPACA and the Federal and State regulations adopted thereunder.”

Section 4.—A new subsection (a) is hereby added and subsections (a) and (b) are renamed as subsections (b) and (c) in Section 7 of Act No. 194 of August 25, 2000, as amended, to read as follows:

“Section 7.—Rights of Patients to the Continuation of Healthcare Services.—

All patients, consumers, or users of medical and hospital health services in Puerto Rico are entitled to:

(a) Healthcare plans that include in their contract or policy a provision stating that such healthcare plans may not be rescinded or amended, once the beneficiaries are covered under such plans or coverage, unless they default payment of premiums and do not comply with the grace periods granted by the Insurance Code; have performed an act that constitutes fraud; or makes an intentional misrepresentation of material facts as prohibited by such plans for the acceptance of risk or the risk assumed by such insurers.

(b) ...

(c) ...”

Section 5.—Effectiveness.—

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 161-2010 (H. B. 2834)** of the **4th Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend subsection (a), repeal subsection (g), rename subsections (h) through (s) as subsections (g) through (r), respectively, and amend renamed subsections (i) and (k) of Section 2; amend subsection (a) and add subsections (f) through (k) to Section 6; add a new subsection (a) and rename subsections (a) and (b) as subsections (b) and (c), respectively, of Section 7 of Act No. 194 of August 25, 2000, as amended, known as the “Bill of Rights and Responsibilities of the Patient.”

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on the 28th day of February, 2013.

Juan Luis Martínez Martínez
Director Interino