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PROFESSIONS AND BUSINESSES Fair Health Care Billing: Provide for Legislative Findings and Intent; Provide for Standards of Certain Health Benefit Plan Contracts and Provide for Obligations and Fees Thereunder; Prohibit Certain Collections and Legal Actions; Provide for Applicability; Require Information Regarding Laboratory Tests and Provide for Implementation and Immunity Relating Thereto

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PROFESSIONS AND BUSINESSES

Fair Health Care Billing: Provide for Legislative Findings and Intent; Provide for Standards of Certain Health Benefit Plan Contracts and Provide for Obligations and Fees Thereunder; Prohibit Certain Collections and Legal Actions; Provide for Applicability; Require Information Regarding Laboratory Tests and Provide for Implementation and Immunity Relating Thereto

CODE SECTIONS:	O.C.G.A. §§ 10-1-393, 43-34-37 (amended)
BILL NUMBER:	SB 53
ACT NUMBER:	358
GEORGIA LAWS:	2001 Ga. Laws 1170
SUMMARY:	The Act provides that all contracts between physicians and insurers offering managed care plans must be in writing and that neither insurers nor patient shall be liable for any medical fees which exceed contracted-for amounts. The Act further provides that physicians may not collect or attempt to collect fees for which an insurer or a patient are not liable. The Act also gives the Composite State Board of Medical Examiners the authority to discipline a physician who fails to timely inform a patient that the physician has received the patient's laboratory results.
EFFECTIVE DATE:	January 1, 2002 (Section 3); ¹ July 1, 2001 (remainder)

History

Two factors prompted Senator Charles Walker to introduce SB 53.² Initially, Senator Walker had concerns about doctors billing a patient's managed health care organization and then billing the patient to make up the difference between the rate paid by the organization and the

1. See 2001 Ga. Laws 1170, § 4, at 1172.

2. See Doug Gross, *Bill Aims to Assist Patients: Local Lawmaker Moves to Prevent Doctors from Billing for Fees on Discount Contracts*, AUGUSTA CHRON., Feb. 23, 2001, at C1.

doctor's customary fee.³ The second factor was that many doctors failed to notify patients about the results of laboratory tests and other office procedures.⁴

SB 53

Introduction

Senators Charles Walker, Connie Stokes, Regina Thomas, Horacena Tate, Gloria Butler and Nadine Thomas of the 22nd, 43rd, 2nd, 38th, 55th, and 10th Districts, respectively, sponsored SB 53.⁵ On January 23, 2001, Senator Walker introduced the bill on the Senate floor.⁶ The Senate assigned the bill to its Health and Human Services Committee, which favorably reported the bill as amended.⁷ Senator Walker then offered a floor substitute.⁸ The Senate adopted the Committee's version and Senator Walker's floor substitute.⁹ On February 26, 2001, the Senate passed SB 53.¹⁰ On February 27, 2001, SB 53 was introduced in the House.¹¹ The House assigned SB 53 to its House Committee on Insurance, which favorably reported the bill without changes.¹² The House passed the bill on March 15, 2001.¹³ Governor Roy Barnes signed SB 53 into law on April 28, 2001.¹⁴

3. *See id.*; Telephone Interview with Rep. Ben Harbin, House District No. 113 (May 29, 2001).

4. *See Gross, supra* note 2, at C1.

5. *See* SB 53, as introduced, 2001 Ga. Gen. Assem.

6. *See* State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001. As introduced, the bill was assigned number LC 11 0154. *See* SB 53, as introduced, 2001 Ga. Gen. Assem.

7. *See* State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001.

8. *See* Audio Recording of Senate Proceedings, Feb. 22, 2001 (remarks by Sen. Charles Walker), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio].

9. *See id.*

10. *See* Georgia Senate Voting Record, SB 53 (Feb. 26, 2001); State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001.

11. *See* State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001.

12. *See id.*

13. *See id.*

14. *See* 2001 Ga. Laws 1170, § 5, at 1172.

Senate Treatment

On January 24, 2001, SB 53 was introduced on the Senate floor.¹⁵ The President of the Senate referred SB 53 to the Senate's Health and Human Services Committee.¹⁶

As introduced, SB 53 was to add a new chapter to Title 43 of the Georgia Code, entitled the "Fair Health Care Billing Act of 2001."¹⁷ The bill provided that all contracts between physicians and insurers, offering health benefit plans under which the physician provided patient care, had to be in writing.¹⁸ It further provided that neither the insured nor the insurer would be liable for any costs exceeding the contracted-for amount.¹⁹ The bill also provided that if a non-plan physician accepted a patient from a plan physician, then the non-plan physician would only be entitled to the amount of fees that would be payable to a comparable plan physician.²⁰ Further, the bill provided that the plan was to pay the accepting physician's fees and that the patient would not be liable for any such fees.²¹ The bill also provided that no physician could attempt to collect fees for which the patient was not liable, that deductibles and copayments were excluded, and that any contract for managed care services would have to reflect the restrictions and limitations imposed by the new chapter.²² SB 53 further provided that a physician must attempt to inform a patient regarding laboratory test results within twenty-four hours of receiving the results.²³ In addition, violations of the new chapter would be unlawful practices under both Code sections 10-1-393 and 33-6-5, and the rules imposed under the new chapter would only apply to contracts made or renewed on or after July 1, 2001.²⁴ As introduced, SB 53 also amended Code sections 10-1-393 and 33-6-5, by outlining that a violation of the new chapter would be a violation of those Code sections.²⁵

15. See State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001.

16. See *id.*

17. See SB 53, as introduced, 2001 Ga. Gen. Assem.

18. See *id.*

19. See *id.*

20. See *id.*

21. See *id.*

22. See *id.*

23. See *id.*

24. See *id.*

25. See *id.*

Consideration by the Senate Health and Human Services Committee

The Senate Health and Human Services Committee offered five amendments to SB 53.²⁶ The first, third, and fifth amendments deleted the bill's references to violations of the Act as being unfair insurance practices.²⁷ The second amendment deleted the language regarding acceptance of patients by referral.²⁸ The fourth amendment made it a violation of the new chapter only if a physician knowingly tried to collect fees for which a patient was not liable.²⁹ On February 8, 2001, the Senate Health and Human Services Committee favorably reported SB 53 as amended.³⁰

From the Senate Health and Human Services Committee to the Senate Floor

On February 22, 2001, the Secretary of the Senate read SB 53 for the third time, announced that the Senate Committee on Health and Human Services had amended SB 53, and that the Committee recommended that SB 53 pass as amended.³¹ The Secretary also announced that Senator Walker had proposed his own floor substitute to SB 53.³²

Senator Walker's Floor Substitute

Senator Walker's floor substitute did not call for the creation of a new chapter and did not include any reference to a title, but did include modified legislative findings.³³ The proposed floor substitute amended Code section 10-1-393 by adding a new subsection which included definitions, a requirement that contracts between physicians and managed care plans be in writing, and a restriction that no physician may intentionally collect fees from a patient for which the patient is not liable.³⁴ Senator Walker's floor amendment also excluded deductibles

26. Compare SB 53, as introduced, 2001 Ga. Gen. Assem., with SB 53 (SCA), 2001 Ga. Gen. Assem.

27. Compare SB 53, as introduced, 2001 Ga. Gen. Assem., with SB 53 (SCA), 2001 Ga. Gen. Assem.

28. Compare SB 53, as introduced, 2001 Ga. Gen. Assem., with SB 53 (SCA), 2001 Ga. Gen. Assem.

29. Compare SB 53, as introduced, 2001 Ga. Gen. Assem., with SB 53 (SCA), 2001 Ga. Gen. Assem.

30. See State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001.

31. See State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001; Senate Audio, *supra* note 8 (remarks by Secretary of Senate).

32. See Senate Audio, *supra* note 8 (remarks by Sen. Charles Walker).

33. Compare SB 53 (SCA), 2001 Ga. Gen. Assem., with SB 53 (SCAFS), 2001 Ga. Gen. Assem.

34. Compare SB 53 (SCA), 2001 Ga. Gen. Assem., with SB 53 (SCAFS), 2001 Ga. Gen. Assem.

and copayments and made the statute applicable to contracts issued, delivered, or renewed on or after July 2, 2001.³⁵

Further, Senator Walker's floor substitute amended Code section 43-34-37, adding a subsection making it unlawful for a physician to fail to timely inform a patient that the physician has received laboratory test results.³⁶ The floor substitute further provided that section 3 of the bill, relating to laboratory test results, would become effective on January 1, 2002, while the rest of the bill would become effective on July 1, 2001.³⁷

The Senate's Vote on SB 53

Senator Walker rose to speak for SB 53.³⁸ Senator Walker stated that SB 53 simply dealt with "balanced billing" and required physicians to notify patients of lab results in a timely manner.³⁹ He also stated that his floor substitute represented a compromise version of SB 53.⁴⁰

After Senator Walker's remarks, the Senate voted unanimously to adopt the committee's version.⁴¹ It then voted 32 to 0 to adopt Senator Walker's floor substitute.⁴² The Senate held the bill over pursuant to Senate Rule 143.⁴³ On February 26, 2001, the next legislative day, the Senate unanimously passed the bill, as substituted.⁴⁴

House of Representatives

On February 27, 2001, the House assigned SB 53 to its Insurance Committee.⁴⁵ That committee favorably reported the bill on March 8, 2001, without changes.⁴⁶ On March 15, 2001, the bill was discussed on

35. Compare SB 53 (SCA), 2001 Ga. Gen. Assem., with SB 53 (SCAFS), 2001 Ga. Gen. Assem.

36. Compare SB 53 (SCA), 2001 Ga. Gen. Assem., with SB 53 (SCAFS), 2001 Ga. Gen. Assem.

37. Compare SB 53 (SCA), 2001 Ga. Gen. Assem., with SB 53 (SCAFS), 2001 Ga. Gen. Assem.

38. See Senate Audio, *supra* note 8 (remarks by Sen. Charles Walker).

39. See *id.*

40. See *id.*

41. See Senate Audio, *supra* note 8 (vote on Committee version of SB 53).

42. See *id.* (vote on floor substitute); Georgia Senate Voting Record, SB 53 (Feb. 26, 2001).

43. See Senate Audio, *supra* note 8 (procedural discussion after SB 53 passage). "[W]hen the Senate adopts a substitute to any bill or resolution other than one offered by the committee from which the bill was last reported, passage of the bill shall be suspended at that time," placed on the General Calendar for, and automatically reconsidered on, the next legislative day. GA. SEN. R. 143(b).

44. See Georgia Senate Voting Record, SB 53 (Feb. 26, 2001); State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001. Eight senators did not vote. See Georgia Senate Voting Record, SB 53 (Feb. 26, 2001).

45. See State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001.

46. See State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001.

the House floor.⁴⁷ Representative Ben Harbin of the 113th District rose for the bill and stated that he would object to all offered amendments.⁴⁸ After Representative Harbin finished, the Speaker of the House announced that Representative Mary Squires of the 78th District had offered an amendment.⁴⁹ The Speaker then announced that Representative Doug Everett of the 163d District had offered an amendment to Representative Squires' amendment.⁵⁰ Representative Squires rose and queried whether it was true that consumers should have the right to choose their doctor or hospital.⁵¹ She then pointed out that every female representative, regardless of political affiliation, had signed her amendment.⁵² Representative Squires then withdrew her amendment.⁵³ The Speaker put SB 53, as it had passed the Senate, to a vote.⁵⁴ The House passed the bill by a vote of 156 to 0.⁵⁵

The Act

Section 1 of the Act states the General Assembly's specific findings regarding managed health care plans and states part of the Act's purpose.⁵⁶ The General Assembly found that managed health care has

47. *See id.*; Audio Recording of House Proceedings, Mar. 15, 2001, at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio].

48. *See* House Audio, *supra* note 47 (remarks by Representative Ben Harbin).

49. *See id.* (remarks by Rep. Mary Squires). Representative Squires' amendment to SB 53 was intended to prevent Atlanta Northside Hospital from contracting with insurance companies. *See Lawmakers 2001* (GPTV broadcast, Mar. 15, 2001) (on file with the *Georgia State University Law Review*); Telephone Interview with Rep. Mary Squires, House District 78 (May 29, 2001) [hereinafter Squires Interview]. The way Representative Squires' amendment was written, however, led some lobbyists and legal consultants to conclude that the amendment would have eliminated managed care because the amendment stated that any contract which restricts any insurer's right to contract with any other hospital would be unenforceable. *See Lawmakers 2001* (GPTV broadcast, Mar. 15, 2001) (on file with the *Georgia State University Law Review*).

50. *See* House Audio, *supra* note 47 (remarks by Rep. Doug Everett). Representative Everett intended his amendment to prevent discussion of the Certificate of Need in connection with Representative Squires' amendment. *See* Telephone Interview with Rep. Doug Everett, House District No. 163 (May 29, 2001). Representative Harbin offered his amendment because he felt that the Certificate of Need issue should stand and be debated on its own. *See id.*

51. *See* House Audio, *supra* note 47 (remarks by Rep. Mary Squires); *see also* Squires Interview, *supra* note 49.

52. *See* House Audio, *supra* note 47 (remarks by Rep. Mary Squires).

53. *See id.*

54. *See id.*

55. *See* Georgia House of Representatives Voting Record, SB 53 (Mar. 15, 2001); State of Georgia Final Composite Status Sheet, SB 53, Mar. 21, 2001. Twenty-four representatives did not vote. *See* Georgia House of Representatives Voting Record, SB 53 (Mar. 15, 2001). Three of the non-voting representatives had been excused for the day. *See id.*

56. *See* 2001 Ga. Laws 1170, § 1, at 1170.

benefitted consumers by negotiating with physicians for the price of certain services.⁵⁷ Managed health care plans protect consumers by insulating them from being billed for charges made above and beyond the price negotiated between the managed care company and the physician.⁵⁸ The General Assembly further found that in order to ensure that consumers continue to receive the fixed-price benefits of managed health care plans, “it is imperative that physicians adhere to their contractual obligations to charge only those fees contractually agreed to and not attempt to pass additional or hidden costs along to consumers.”⁵⁹ Section 1 also states that Section 2's purpose is to ensure that consumers are not charged fees above and beyond the contractually agreed upon price negotiated by their managed health care plan and the treating physician.⁶⁰

Section 2 amends Title 10 of the Georgia Code by inserting a new Code subsection 10-1-393(b)(30.1), which provides that all contracts between physicians and insurers must be in writing and that neither an insurer nor a patient shall be liable for any medical fees which exceed the limits established in the contract.⁶¹ It also provides that physicians cannot intentionally attempt to collect fees for which a patient is not liable.⁶² The subsection also excludes deductibles and copayments from the Act and makes the Act applicable only to contracts issued, delivered, or renewed on or after July 2, 2001.⁶³

Section 3 of the Act amends Title 43 of the Code by inserting a new Code subsection 43-34-37(a)(11.1), which empowers the Composite State Board of Medical Examiners to discipline a physician for failing to attempt to timely inform a patient that the physician has received the patient's laboratory test results.⁶⁴ The subsection further provides that the Composite Board must make rules to implement the subsection by January 1, 2002.⁶⁵ The subsection also provides for immunity from civil

57. *See id.*

58. *See id.*

59. *Id.*

60. *See id.*

61. *Compare* 1996 Ga. Laws 1030, § 1, at 1047-48 (formerly found at O.C.G.A. § 10-1-393 (1995)), with O.C.G.A. § 10-1-393(b)(30.1)(B) (Supp. 2001).

62. *Compare* 1996 Ga. Laws 1030, § 1, at 1047-48 (formerly found at O.C.G.A. § 10-1-393 (1995)), with O.C.G.A. § 10-1-393(b)(30.1)(C) (Supp. 2001).

63. *Compare* 1996 Ga. Laws 1030, § 1, at 1047-48 (formerly found at O.C.G.A. § 10-1-393 (1995)), with O.C.G.A. §§ 10-1-393(b)(30.1)(D), (E) (Supp. 2001).

64. *Compare* 1974 Ga. Laws 1156, § 6, at 1156-70 (formerly found at O.C.G.A. § 43-34-37 (1995)), with O.C.G.A. § 43-34-37(a)(11.1) (Supp. 2001).

65. *Compare* 1974 Ga. Laws 1156, § 6, at 1156-70 (formerly found at O.C.G.A. § 43-34-37 (1995)),

and criminal liability for physicians who comply with the Composite Board's rules.⁶⁶

Section 4 of the Act provides that Section 3 will become effective on January 1, 2002, and that the remainder of the Act will become effective on July 1, 2001.⁶⁷

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with O.C.G.A. § 43-34-37(a)(11.1) (Supp. 2001).

66. Compare 1974 Ga. Laws 1156, § 6, at 1156-70 (formerly found at O.C.G.A. § 43-34-37 (1995)), with O.C.G.A. § 43-34-37(a)(11.1) (Supp. 2001).

67. See 2001 Ga. Laws 1170, § 4, at 1172.