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2<sup>D</sup> SESSION

# H. R. 1304

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IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on Health, Education, Labor, and  
Pensions

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## 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.

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)).

