

1 SB459
2 160170-1
3 By Senators Reed, Bussman, Waggoner and Marsh
4 RFD: Health
5 First Read: 11-MAR-14

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8 SYNOPSIS: Under existing law, medical services to
9 Medicaid beneficiaries are delivered on a managed
10 care basis through regional care organizations or
11 alternative care providers. The Medicaid Agency has
12 established geographic Medicaid regions with at
13 least one fully certified regional care
14 organization providing medical care to Medicaid
15 beneficiaries in the region directly or by contract
16 with other providers.

17 This bill would revise the membership of and
18 eligibility requirements for the governing board of
19 directors of a regional care organization.

20 This bill would authorize the board of
21 directors of a regional care organization to
22 appoint an executive committee or other committees
23 to take action as allowed by the governing
24 documents of the organization.

25 This bill would require each regional care
26 organization to create a provider standards
27 committee to review and develop performance

1 standards and quality measures required of a
2 provider by the organization, subject to the
3 approval of the Medicaid Quality Assurance
4 Committee.

5 This bill would require the Medicaid Agency
6 to, by rule, establish the minimum reimbursement
7 rate for providers pursuant to certain
8 methodologies and would require submission of the
9 rates to the Centers for Medicare and Medicaid
10 Services for approval.

11 This bill would provide that all contracts
12 of a regional care organization are subject to
13 review by the Medicaid Agency, establish procedures
14 for review of contract terms and provisions upon
15 the request of dissatisfied providers, and require
16 the Medicaid Agency to adopt rules regarding the
17 review of agreements and contracts by the contract
18 dispute committee.

19 This bill would prohibit a regional care
20 provider from excluding a provider from providing
21 services to a Medicaid region if the provider is
22 willing to meet the terms and conditions for
23 participation established by the organization.

24 This bill would also specify that all
25 agreements and contracts of regional care
26 organizations that have received probationary or

1 final certification are subject to review or
2 approval by the Medicaid Agency.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 Relating to the Medicaid Agency; to revise the
9 membership of and eligibility requirements for the governing
10 board of directors of a regional care organization; to
11 authorize the board of directors of a regional care
12 organization to appoint an executive committee and other
13 committees to take certain authorized action; to provide for
14 the membership of an executive committee; to require each
15 regional care organization to create a provider standards
16 committee to review and develop performance standards and
17 quality measures; to provide for approval of the standards by
18 the Medicaid Quality Assurance Committee; to require the
19 Medicaid Agency to, by rule, establish the minimum
20 reimbursement rate for providers pursuant to certain
21 methodologies; to provide for the review of provider contracts
22 by the Medicaid Agency; to establish procedures for the review
23 of contracts upon the request of dissatisfied providers; to
24 require the Medicaid Agency to adopt rules regarding the
25 review of agreements and contracts by the contract dispute
26 committee; to prohibit a regional care provider from excluding
27 a provider from providing services to a Medicaid region if the

1 provider is willing to meet certain criteria; to specify that
2 all agreements and contracts of regional care organizations
3 that have received probationary or final certification are
4 subject to review or approval by the Medicaid Agency; and to
5 further provide for the rulemaking authority of the Medicaid
6 Agency in the administration of the Alabama Medicaid Program.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 22-6-151, 22-6-153, 22-6-155,
9 22-6-158, 22-6-163, and 22-6-164, Code of Alabama 1975, are
10 amended to read as follows:

11 "§22-6-151.

12 "(a) A regional care organization shall serve only
13 Medicaid beneficiaries in providing medical care and services.

14 "(b) Notwithstanding any other provision of law, a
15 regional care organization shall not be deemed an insurance
16 company under state law.

17 "(c) (1) A regional care organization and an
18 organization with probationary regional care organization
19 certification shall have a governing board of directors
20 composed of the following members:

21 "a. Twelve members shall be persons representing
22 risk-bearing participants in the regional care organization or
23 organization with probationary certification. A participant
24 bears risk by contributing cash, capital, or other assets to
25 the regional care organization. A participant also bears risk
26 by contracting with the regional care organization to treat
27 Medicaid beneficiaries at a capitated rate per beneficiary or

1 to treat Medicaid beneficiaries even if the regional care
2 organization does not reimburse the participant.

3 "b. Eight members shall be persons who do not
4 represent a risk-bearing participant in the regional care
5 organization. Of these eight members, five members shall be
6 medical professionals who provide care to Medicaid
7 beneficiaries in the region. Three of these members shall be
8 primary care physicians, one an optometrist, and one a
9 pharmacist. One primary care physician shall be from a
10 Federally Qualified Health Center appointed jointly by the
11 Alabama Primary Health Care Association and the Alabama
12 Chapter of the National Medical Association and the other two
13 primary care physicians shall be appointed by ~~a caucus of~~
14 ~~county boards of health in the region~~ the Medical Association
15 of the State of Alabama, or its successor organization. The
16 optometrist shall be appointed by the Alabama Optometric
17 Association, or its successor organization. The pharmacist
18 shall be appointed by the Alabama Pharmacy Association, or its
19 successor organization. All five medical professionals shall
20 work in the region served by the regional care organization.
21 None of these members shall be a risk-bearing participant in
22 the regional care organization or be an employee of a
23 risk-bearing participant, but these members may contract with
24 the regional care organization on a fee-for-service basis.

25 "c. Three of the eight members shall be community
26 representatives as follows: 1. The chair of the citizens'
27 advisory committee established pursuant to subsection (d). 2.

1 Another citizens' advisory committee member, elected by the
2 committee, who is a representative of an organization that is
3 part of the Disabilities Leadership Coalition of Alabama or
4 Alabama Arise, or their successor organizations. 3. A business
5 executive, nominated by a chamber of commerce in the region,
6 who works in the region. These members may not be risk-bearing
7 participants in the regional care organization or employees of
8 a risk-bearing participant.

9 "(2) A majority of the members of the board may not
10 represent a single ~~type of provider, such as hospitals or~~
11 ~~doctors engaged in medical practice.~~ Any provider shall meet
12 licensing requirements set by law, shall have a valid Medicaid
13 provider number, and shall not otherwise be disqualified from
14 participating in Medicare or Medicaid. This subsection shall
15 not apply to a regional care organization if only one entity
16 offers to be a risk-bearing participant as defined in
17 subsection (c)(1)a.

18 "(3) The Medicaid Agency shall have the power to
19 approve the members of the governing board and the board's
20 structure, powers, bylaws, or other rules of procedure. No
21 organization shall be granted probationary regional care
22 organization certification or full regional care organization
23 certification without approval.

24 "(4) The regional care organization, or the
25 appropriate appointing authority to the regional care
26 organization governing board, ~~the caucus of county boards of~~
27 ~~health in the region, the citizens' advisory committee, and~~

1 ~~the optometric, and pharmacy associations~~ shall promptly fill
2 any vacancy on the board of directors. Notwithstanding other
3 provisions of this subsection, the Medicaid Commissioner shall
4 fill a board seat left vacant for at least three months.

5 "~~(5) The governing board may not take any action~~
6 ~~unless at least one physician appointed by a caucus of county~~
7 ~~boards of health in the region, who does not represent a~~
8 ~~risk-bearing participant and who does not hold one of the~~
9 ~~three seats held by community representatives, votes on the~~
10 ~~prevailing side.~~ The governing board may, by resolution
11 adopted by a majority of the directors, appoint an executive
12 committee, which shall consist of two or more directors, who
13 may have such authority and take such action allowed by the
14 articles of organization, bylaws, and other governing
15 documents of the organization consistent with Alabama law. The
16 governing board may also appoint such other committees as are
17 consistent with Alabama law. At least one member of an
18 executive committee and any other committee shall be one of
19 the physicians appointed to the board by the Medical
20 Association of the State of Alabama pursuant to subsection
21 (c) (1)b.

22 "(6) The membership of the governing board of
23 directors shall be inclusive and reflect the racial, gender,
24 geographic, urban/rural, and economic diversity of the region.

25 "(d) A citizen's advisory committee shall advise the
26 organization on ways the organization may be more efficient in
27 providing quality care to Medicaid beneficiaries. In addition,

1 an advisory committee shall carry out other functions and
2 duties assigned to it by a regional care organization and
3 approved by the Medicaid Agency. Each regional care
4 organization shall have a citizens' advisory committee, as
5 shall an organization seeking to become a regional care
6 organization, which membership shall be inclusive and reflect
7 the racial, gender, geographic, urban/rural, and economic
8 diversity of the state. The committee shall meet all of the
9 following criteria:

10 "(1) Be selected in a method established by the
11 organization seeking to become a regional care organization,
12 or established by the regional care organization, and approved
13 by the Medicaid Agency.

14 "(2) At least 20 percent of its members shall be
15 Medicaid beneficiaries or, if the organization has been
16 certified as a regional care organization, at least 20 percent
17 of its members shall be Medicaid beneficiaries enrolled in the
18 regional care organization.

19 "(3) Include members who are representatives of
20 organizations that are part of the Disabilities Leadership
21 Coalition of Alabama or Alabama Arise, or their successor
22 organizations.

23 "(4) Include only persons who live in the Medicaid
24 region the organization plans to serve; or if the organization
25 has become a regional care organization, include only persons
26 who live in the Medicaid region served by the regional care
27 organization. The membership of the committee shall be

1 inclusive and reflect the racial, gender, geographic,
2 urban/rural, and economic diversity of the region.

3 "(5) Elect a chair.

4 "(6) Meet at least every three months.

5 "(e) (1) Each regional care organization shall meet
6 minimum solvency and financial requirements as provided in
7 this subsection. The Medicaid Agency shall require a regional
8 care organization, as a condition of certification or
9 continued certification, to maintain minimum financial
10 reserves at the following levels:

11 "a. Restricted reserves of two hundred fifty
12 thousand dollars (\$250,000) or an amount equal to 25 percent
13 of the regional care organization's total actual or projected
14 average monthly expenditures, whichever is greater.

15 "b. Capital or surplus, or any combination thereof,
16 of two million five hundred thousand dollars (\$2,500,000).

17 "(2) Instead of maintaining the financial reserves
18 required in subdivision (1), a regional care organization that
19 has entered into a risk contract with the Medicaid Agency may
20 submit to the agency a written guaranty in the form of a bond
21 issued by an insurer, in an amount equal to the financial
22 reserves that would otherwise be required of the regional care
23 organization under subdivision (1), to guarantee the
24 performance of the provisions of the risk contract. The bond
25 shall be issued by an insurer authorized in this state and
26 approved by the Medicaid Commissioner. No assets of the

1 regional care organization shall be pledged or encumbered for
2 the payment of the performance bond.

3 "(f) A regional care organization shall provide such
4 financial reports and information as required by the Medicaid
5 Agency.

6 "(g) A regional care organization shall report all
7 data as required by the Medicaid Agency, consistent with the
8 federal Health Insurance Portability and Accountability Act
9 (HIPAA).

10 "(h) Each regional care organization shall create a
11 provider standards committee which shall review and develop
12 the performance standards and quality measures required of a
13 provider by the regional care organization. The performance
14 standards and quality measures shall be subject to the
15 approval of the Medicaid Quality Assurance Committee
16 established in Section 22-6-154. At least 60 percent of the
17 members of the provider standards committee shall be
18 physicians who provide care to Medicaid beneficiaries served
19 by the regional care organization. The regional care
20 organization medical director shall serve as chairperson of
21 the provider standards committee. No more than 50 percent of
22 the members shall reside in one county of the region.

23 "§22-6-153.

24 "(a) Subject to approval of the federal Centers for
25 Medicare and Medicaid Services, the Medicaid Agency shall
26 enter into a contract in each Medicaid region for at least one
27 fully certified regional care organization to provide,

1 pursuant to a risk contract under which the Medicaid Agency
2 makes a capitated payment, medical care to Medicaid
3 beneficiaries. However, the Medicaid Agency may enter into a
4 contract pursuant to this section only if, in the judgment of
5 the Medicaid Agency, care of Medicaid beneficiaries would be
6 better, more efficient, and less costly than under the then
7 existing care delivery system. The Medicaid Agency may
8 contract with more than one regional care organization in a
9 Medicaid region. Pursuant to the contract, the Medicaid Agency
10 shall set capitation payments for the regional care
11 organization.

12 "(b) The Medicaid Agency shall enroll beneficiaries
13 into regional care organizations. If more than one regional
14 care organization operates in a Medicaid region, a Medicaid
15 beneficiary may choose the organization to provide his or her
16 care. If a Medicaid beneficiary does not make a choice, the
17 Medicaid Agency shall assign the person to a care
18 organization. Medicaid may limit the circumstances under which
19 a Medicaid beneficiary may change care organizations.

20 "(c) A regional care organization shall provide
21 Medicaid services to Medicaid enrollees directly or by
22 contract with other providers. The regional care organization
23 shall establish an adequate medical service delivery network
24 as determined by the Medicaid Agency. An alternate care
25 provider contracting with Medicaid shall also establish such a
26 network. The Medicaid Agency shall by rule, pursuant to the
27 Alabama Administrative Procedure Act, establish the minimum

1 reimbursement rate for providers. The minimum reimbursement
2 rate shall be the prevailing Medicaid fee-for-service payment
3 schedule, unless otherwise jointly agreed to by a provider and
4 a regional care organization through a contract. The minimum
5 provider reimbursements shall be incorporated into the
6 actuarially sound rate development methodology for each
7 regional care organization. The methodology and resulting
8 rates shall be submitted to the Centers for Medicare and
9 Medicaid Services for approval.

10 "(d) The Medicaid Agency shall establish by rule
11 procedures for safeguarding against wrongful denial of claims
12 and addressing grievances of enrollees in a regional care
13 organization or an alternate care provider. The procedures
14 shall provide for a timely and meaningful right of appeal, by
15 Medicaid enrollees or their providers, of approvals or denials
16 of care, billing and payment issues, bundling matters, and the
17 provision of health care services. The rules shall include
18 procedures for a fair hearing on all claims or complaints
19 brought by Medicaid enrollees or other providers that shall
20 include the following:

21 "(1) An immediate appeal to the medical director of
22 the regional care organization, who shall be a primary care
23 physician. The rules of evidence shall not apply. The medical
24 director shall consider the materials submitted on the issue
25 and any oral arguments and render a decision. The medical
26 director's decision shall be binding on the regional care
27 organization.

1 "(2) If a patient or provider is dissatisfied with
2 the decision of the medical director, the patient or provider
3 may file a notice of appeal to be heard by a peer review
4 committee. The peer review committee shall be composed of at
5 least three physicians of the same specialty in the region in
6 which the services or matter is at issue. If three physicians
7 cannot be found, then the physicians may be selected outside
8 of the region. The Medicaid Agency shall develop rules
9 regarding the appeal to the peer review committee. The peer
10 review committee's decision shall be binding on the regional
11 care organization.

12 "(3) If a patient or the provider is dissatisfied
13 with the decision of the peer review committee, the patient or
14 provider may file a written notice of appeal to the Medicaid
15 Agency. The Medicaid Agency shall adopt rules governing the
16 appeal, which shall include a full evidentiary hearing and a
17 finding on the record. The Medicaid Agency's decision shall be
18 binding upon the regional care organization. However, a
19 patient or provider may file an appeal in circuit court in the
20 county in which the patient resides, or the county in which
21 the provider provides services.

22 "(e) The Medicaid Agency shall by rule establish
23 procedures for addressing grievances of regional care
24 organizations, except as otherwise provided in subsection (g).
25 The grievance procedure shall include an opportunity for a
26 fair hearing before an impartial hearing officer in accordance
27 with the Alabama Administrative Procedure Act, Chapter 22 of

1 Title 41. The state Medicaid Commissioner shall appoint one,
2 or more than one, hearing officer to conduct fair hearings.
3 After each hearing, the findings and recommendations of the
4 hearing officer shall be submitted to the commissioner, who
5 shall make a final decision for the agency. Judicial review of
6 the final decision of the Medicaid Agency may be sought
7 pursuant to the Alabama Administrative Procedure Act. All
8 costs related to development and implementation of the
9 grievance procedure, including the provision of administrative
10 hearings, shall be borne by the Medicaid Agency. The agency
11 may adopt rules for implementing this subsection in accordance
12 with the Alabama Administrative Procedure Act.

13 "(f) All provider contracts of an organization
14 granted probationary or final certification as a regional care
15 organization shall be subject to review and/or approval of the
16 Medicaid Agency.

17 "(g) (1) If a provider is dissatisfied with any term
18 or provision of the agreement or contract offered by a
19 regional care organization, the provider shall:

20 "a. Seek redress with the regional care
21 organization. In providing redress, the regional care
22 organization shall afford the provider a review by a panel
23 composed of a representative of the regional care
24 organization, a similar type of provider, and a representative
25 of the citizen's advisory board appointed by the chairman of
26 the advisory board.

1 "b. After seeking redress with the regional care
2 organization, a provider or the regional care organization who
3 remains dissatisfied may request a review of such disputed
4 term or provision by the Medicaid Agency. The Medicaid Agency
5 shall have 10 days to issue, in writing, its decision
6 regarding the dispute.

7 "c. Within 30 days of receipt of the Medicaid
8 Agency's decision, the provider or the regional care
9 organization may request review of the Medicaid Agency's
10 decision by a contract dispute committee. The committee shall
11 be appointed by the Medicaid Agency and shall be composed of
12 two providers from other Medicaid regions, two representatives
13 of regional care organizations from other Medicaid regions,
14 and an administrative law judge selected by the Medicaid
15 Agency. The two providers shall be selected by the affected
16 provider's professional or business association, and the two
17 representatives of the regional care organizations shall be
18 appointed by the Medicaid Agency from a list of four
19 representatives selected by regional care organizations from
20 the unaffected Medicaid regions.

21 "d. If the provider or the regional care
22 organization is dissatisfied with the decision of the contract
23 dispute committee, the provider or regional care organization
24 shall file an appeal in the Montgomery County Circuit Court
25 within 30 days of the decision.

26 "(2) The Medicaid Agency shall develop rules
27 regarding review of agreements and contracts by the contract

1 dispute committee. The standard of review for the contract
2 dispute committee shall be one of fairness and reasonableness.
3 The contract dispute committee shall undertake a de novo
4 review and shall consider current and historic reimbursement
5 rates; prevailing terms and standards in contracts currently
6 in existence; and customs, policies, and procedures prevalent
7 in the other Medicaid regions and under the Alabama Medicaid
8 Program. The rules shall include the requirement that the
9 contract dispute committee issue a written ruling on such
10 disputed term or provision stating its findings of fact and
11 conclusions of law no more than 20 days after the dispute is
12 submitted to it. The contract dispute committee's decision
13 shall be binding on the regional care organization and the
14 provider.

15 "~~(f)~~(h) In addition to the foregoing, the Medicaid
16 Agency shall do all of the following:

17 "(1) Establish by rule the criteria for probationary
18 and full certification of regional care organizations.

19 "(2) Establish the quality standards and minimum
20 service delivery network requirements for regional care
21 organizations or alternate care providers to provide care to
22 Medicaid beneficiaries.

23 "(3) Establish by rule and implement quality
24 assurance provisions for each regional care organization.

25 "(4) Adopt and implement, at its discretion,
26 requirements for a regional care organization concerning

1 health information technology, data analytics, quality of
2 care, and care-quality improvement.

3 "(5) Conduct or contract for financial audits of
4 each regional care organization. The audits shall be based on
5 requirements established by the Medicaid Agency by rule or
6 established by law. The audit of each regional care
7 organization shall be conducted at least every three years or
8 more frequently if requested by the Medicaid Agency.

9 "(6) Take such other action with respect to regional
10 care organizations or alternate care providers as may be
11 required by federal Medicaid regulations or under terms and
12 conditions imposed by the Centers for Medicare and Medicaid
13 Services in order to assure that payments to the regional care
14 organizations or alternate care providers qualify for federal
15 matching funds.

16 "§22-6-155.

17 "An initial contract between the Medicaid Agency and
18 a regional care organization shall be for three years, with
19 the option for Medicaid to renew the contract for not more
20 than two additional one-year periods. The Medicaid Agency
21 shall obtain provider input and an independent evaluation of
22 the cost savings, patient outcomes, and quality of care
23 provided by each regional care organization, and obtain the
24 results of each regional care organization's evaluation in
25 time to use the findings to decide whether to enter into
26 another multi-year contract with the regional care

1 organization or change the Medicaid region's care-delivery
2 system.

3 "§22-6-158.

4 ~~"A regional care organization shall contract with
5 any willing hospital, doctor, or other provider to provide
6 services in a Medicaid region if the provider is willing to
7 accept the payments and terms offered comparable providers.~~

8 "(a) A regional care organization shall not exclude
9 any provider from providing services in a Medicaid region who
10 is willing to meet the terms and conditions for participation
11 established by the regional care organization.

12 "(b) Any provider shall meet licensing requirements
13 set by law, shall have a Medicaid provider number, and shall
14 not otherwise be disqualified from participating in Medicare
15 or Medicaid.

16 "§22-6-163.

17 "(a) The Legislature declares that collaboration
18 among public payers, private health carriers, third party
19 purchasers, and providers to identify appropriate service
20 delivery systems and reimbursement methods in order to align
21 incentives in support of integrated and coordinated health
22 care delivery is in the best interest of the
23 public. Collaboration pursuant to this article is to provide
24 quality health care at the lowest possible cost to Alabama
25 citizens who are Medicaid eligible. The Legislature,
26 therefore, declares that this health care delivery system
27 affirmatively contemplates the foreseeable displacement of

1 competition, such that any anti-competitive effect may be
2 attributed to the state's policy to displace competition in
3 the delivery of a coordinated system of health care for the
4 public benefit. In furtherance of this goal, the Legislature
5 declares its intent to exempt from state anti-trust laws, and
6 provide immunity from federal anti-trust laws through the
7 state action doctrine to, collaborators, regional care
8 organizations, and contractors that are carrying out the
9 state's policy and regulatory program of health care delivery.

10 "(b) The Medicaid Agency shall adopt rules to carry
11 out the provisions of this section.

12 "(c) Collaborators shall apply with the Medicaid
13 Agency for a certificate in order to collaborate with other
14 entities, individuals, or regional care organizations. The
15 applicant shall describe what entities and persons with whom
16 the applicant intends on collaborating or negotiating, the
17 expected effects of the negotiated contract, and any other
18 information the Medicaid Agency deems fit. The applicant shall
19 certify that the bargaining is in good faith and necessary to
20 meet the legislative intent stated herein. Before commencing
21 cooperation or negotiations described in this section, an
22 entity or individual shall possess a valid certificate.

23 "(1) Upon a sufficient showing that the
24 collaboration is in order to facilitate the development and
25 establishment of the regional care organization or health care
26 payment reforms, the Medicaid Agency shall issue a certificate
27 allowing the collaboration.

1 "(2) A certificate shall allow collective
2 negotiations, bargaining, and cooperation among collaborators
3 and regional care organizations.

4 "(d) All agreements and contracts of regional care
5 organizations that have received probationary or final
6 certification shall be ~~approved~~ subject to review and/or
7 approval by the Medicaid ~~Commissioner~~ Agency.

8 "(e) Should collaborators or a regional care
9 organization be unable to reach an agreement, they may request
10 that the Medicaid Agency intervene and facilitate
11 negotiations.

12 "(f) Notwithstanding any other law, the Medicaid
13 Commissioner or the commissioner's designee may engage in any
14 other appropriate state supervision necessary to promote state
15 action immunity under state and federal anti-trust laws, and
16 may inspect or request additional documentation to verify that
17 the Medicaid laws are implemented in accordance with the
18 legislative intent.

19 "(g) The Medicaid Commissioner may convene
20 collaborators and regional care organizations to facilitate
21 the development and establishment of the regional care
22 organizations and health care payment reforms. Any
23 participation by such entities and individuals shall be on a
24 voluntary basis.

25 "(h) The Medicaid Agency may do any or all of the
26 following:

1 "(1) Conduct a survey of the entities and
2 individuals concerning payment and delivery reforms.

3 "(2) Collect information from other persons to
4 assist in evaluating the impact of any proposed agreement on
5 the health care marketplace.

6 "(3) Convene meetings at a time and place that is
7 convenient for the entities and individuals.

8 "(i) To the extent the collaborators and regional
9 care organizations are participating in good faith
10 negotiations, cooperation, bargaining, or contracting in ways
11 that support the intent of establishment of the regional care
12 organization or other health care payment reforms, those
13 state-authorized collaborators and regional care organizations
14 shall be exempt from the anti-trust laws under the state
15 action immunity doctrine.

16 "(j) All reports, notes, documents, statements,
17 recommendations, conclusions, or other information submitted
18 pursuant to this section, or created pursuant to this section,
19 shall be privileged and confidential, and shall only be used
20 in the exercise of the proper functions of the Medicaid
21 Agency. These confidential records shall not be public records
22 and shall not be subject to disclosure except under HIPAA. Any
23 information subject to civil discovery or production shall be
24 protected by a confidentiality agreement or order. Nothing
25 contained herein shall apply to records made in the ordinary
26 course of business of an individual, corporation, or entity.
27 Documents otherwise available from original sources are not to

1 be construed as immune from discovery or used in any civil
2 proceedings merely because they were submitted pursuant to
3 this section. Nothing in this subsection or article shall
4 apply to prohibit the disclosure of any information that is
5 required to be released to the United States government or any
6 subdivision thereof. The Medicaid Agency, in its sole
7 discretion, but with input from potential collaborators, may
8 promulgate rules to make limited exceptions to this immunity
9 and confidentiality for the disclosure of information. The
10 exceptions created by the Medicaid Agency shall be narrowly
11 construed.

12 "(k) The Medicaid Agency shall actively monitor
13 agreements approved under this article to ensure that a
14 collaborator's or regional care organization's performance
15 under the agreement remains in compliance with the conditions
16 of approval. Upon request and not less than annually, a
17 collaborator or regional care organization shall provide
18 information regarding agreement compliance. The Medicaid
19 Agency may revoke the agreement upon a finding that
20 performance pursuant to the agreement is not in substantial
21 compliance with the terms of the contract. Any entity or
22 individual aggrieved by any final decision regarding contracts
23 under this section that are approved by the Medicaid Agency,
24 or presented to the Medicaid Agency, may take direct judicial
25 appeal as provided for judicial review of final decisions in
26 the Administrative Procedure Act.

27 "§22-6-164.

1 "The Medicaid Agency may adopt rules necessary to
2 implement this article and to administer the Alabama Medicaid
3 Program in a manner consistent with state and federal law, as
4 well as any State Plan approved by the Centers for Medicare
5 and Medicaid Services."

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.