

# ASSEMBLY, No. 2001

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman JON M. BRAMNICK**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Allows physicians to jointly negotiate with carriers over contractual terms and conditions.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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1 AN ACT providing for joint negotiations by physicians with carriers,  
2 supplementing Title 52 of the Revised Statutes, and repealing  
3 P.L.2001, c.371.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. The Legislature finds and declares that:

9 a. Active, robust and fully competitive markets for health care  
10 services provide the best opportunity for the residents of this State  
11 to receive high-quality health care services at an appropriate cost;

12 b. A substantial amount of health care services in this State is  
13 purchased for the benefit of patients by health insurance carriers  
14 engaged in the financing of health care services or is otherwise  
15 delivered subject to the terms of agreements between carriers and  
16 physicians;

17 c. Carriers are able to control the flow of patients to physicians  
18 through compelling financial incentives for patients in their health  
19 benefits plans to utilize only the services of physicians with whom  
20 the carriers have contracted;

21 d. Carriers also control the health care services rendered to  
22 patients through utilization management and other managed care  
23 tools and associated coverage and payment policies;

24 e. Carriers are often able to virtually dictate the terms of the  
25 contracts that they offer physicians and commonly offer these  
26 contracts on a take-it-or-leave-it basis;

27 f. The power of carriers to unilaterally impose provider  
28 contract terms jeopardizes the ability of physicians to deliver the  
29 superior quality health care services traditionally available in this  
30 State;

31 g. Physicians do not have sufficient market power to reject  
32 unfair provider contract terms offered by carriers that impede their  
33 ability to deliver medically appropriate care without undue delay or  
34 difficulties;

35 h. Inadequate reimbursement and other unfair payment terms  
36 offered by carriers adversely affect the quality of patient care and  
37 access to care by reducing the resources that physicians can devote  
38 to patient care and decreasing the time that physicians are able to  
39 spend with their patients;

40 i. Inequitable reimbursement and other unfair payment terms  
41 also endanger the health care infrastructure and medical progress by  
42 diverting capital needed for reinvestment in the health care delivery  
43 system, curtailing the purchase of state-of-the-art technology, the  
44 pursuit of medical research, and expansion of medical services, all  
45 to the detriment of the residents of this State;

46 j. The inevitable collateral reduction and migration of the  
47 health care work force will also have negative consequences for the  
48 economy of this State;

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1 k. Empowering independent physicians to jointly negotiate  
2 with carriers as provided in this act will help restore the competitive  
3 balance and improve competition in the markets for health care  
4 services in this State, thereby providing benefits for consumers,  
5 physicians and less dominant carriers;

6 l. This act is necessary and proper, and constitutes an  
7 appropriate exercise of the authority of this State to regulate the  
8 business of insurance and the delivery of health care services;

9 m. The pro-competitive and other benefits of the joint  
10 negotiations and related joint activity authorized by this act,  
11 including, but not limited to, restoring the competitive balance in  
12 the market for health care services, protecting access to quality  
13 patient care, promoting the health care infrastructure and medical  
14 progress, and improving communications, outweigh any potential  
15 anti-competitive effects of this act; and

16 n. It is the intention of the Legislature to authorize independent  
17 physicians to jointly negotiate with carriers and to qualify such joint  
18 negotiations and related joint activities for the State-action  
19 exemption to the federal antitrust laws through the articulated State  
20 policy and active supervision provided under this act.

21

22 2. As used in this act:

23 "Carrier" means an insurance company, health service  
24 corporation, hospital service corporation, medical service  
25 corporation or health maintenance organization which is authorized  
26 to issue health benefits plans in this State.

27 "Covered person" means a person on whose behalf a carrier  
28 which offers a health benefits plan is obligated to pay benefits or  
29 provide services pursuant to the plan.

30 "Covered service" means a health care service provided to a  
31 covered person under a health benefits plan for which the carrier is  
32 obligated to pay benefits or provide services.

33 "Health benefits plan" means a plan which pays or provides  
34 hospital and medical expense benefits for covered services, and is  
35 delivered or issued for delivery in this State by or through a carrier.  
36 For the purposes of this act, health benefits plan shall not include  
37 the following plans, policies or contracts: Medicare supplement  
38 coverage and risk contracts, accident only, specified disease or  
39 other limited benefit, credit, disability, long term care, TRICARE  
40 supplement coverage, coverage arising out of a workers'  
41 compensation or similar law, automobile medical payment  
42 insurance, personal injury protection insurance issued pursuant to  
43 P.L.1972, c.70 (C.39:6A-1 et seq.), dental or vision care coverage  
44 only, or hospital expense or confinement indemnity coverage only.

45 "Joint negotiation representative" means a representative selected  
46 by two or more independent physicians to engage in joint  
47 negotiations with a carrier on their behalf.

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1 "Physician" means a person who is licensed to practice medicine  
2 and surgery by the State Board of Medical Examiners in accordance  
3 with the provisions of Title 45 of the Revised Statutes.

4 "Utilization management" means a system for reviewing the  
5 appropriate and efficient allocation of health care services under a  
6 health benefits plan in accordance with specific guidelines, for the  
7 purpose of determining whether, or to what extent, a health care  
8 service that has been provided or is proposed to be provided to a  
9 covered person is to be covered under the health benefits plan.

10

11 3. Two or more independent physicians who are practicing in  
12 the service area of a carrier may jointly negotiate with a carrier and  
13 engage in related joint activity, as provided in this act, regarding  
14 non-fee-related matters which may affect patient care, including,  
15 but not limited to, any of the following:

16 a. the definition of medical necessity and other conditions of  
17 coverage;

18 b. utilization management criteria and procedures;

19 c. clinical practice guidelines;

20 d. preventive care and other medical management policies;

21 e. patient referral standards and procedures, including, but not  
22 limited to, those applicable to out-of-network referrals;

23 f. drug formularies and standards and procedures for  
24 prescribing off-formulary drugs;

25 g. quality assurance programs;

26 h. respective physician and carrier liability for the treatment or  
27 lack of treatment of covered persons;

28 i. the methods and timing of payments;

29 j. other administrative procedures, including, but not limited  
30 to, eligibility verification systems and claim documentation  
31 requirements for covered persons;

32 k. credentialing standards and procedures for the selection,  
33 retention and termination of participating physicians;

34 l. mechanisms for resolving disputes between the carrier and  
35 physicians, including, but not limited to, the appeals process for  
36 utilization management and credentialing determinations;

37 m. the health benefits plans sold or administered by the carrier  
38 in which the physicians are required to participate;

39 n. the formulation and application of reimbursement  
40 methodology;

41 o. the terms and conditions of physician contracts, including,  
42 but not limited to, all products clauses, and the duration and  
43 renewal provisions of the contract; and

44 p. the inclusion or alteration of a contractual term or condition,  
45 except when the inclusion or alteration is required by a federal or  
46 State regulation concerning that term or condition; however, the  
47 restriction shall not limit a physician's rights to jointly petition the  
48 federal or State government, as applicable, to change the regulation.

1       4. a. Upon a finding by the Attorney General, in consultation  
2 with the Commissioner of Banking and Insurance, that the carrier  
3 has substantial market power in its service area and that any of the  
4 terms or conditions of the contract with the carrier pose an actual or  
5 potential threat to the quality and availability of patient care among  
6 covered persons, two or more independent physicians who are  
7 practicing in the service area of a carrier may jointly negotiate with  
8 the carrier and engage in related joint activity, as provided in this  
9 act regarding fees and fee-related matters, including, but not limited  
10 to, any of the following:

11       (1) the amount of payment or the methodology for determining  
12 the payment for a health care service, including, but not limited to,  
13 cost of living increases;

14       (2) the conversion factor for a resource-based relative value  
15 scale or similar reimbursement methodology for health care  
16 services;

17       (3) the amount of any discount on the price of a health care  
18 service;

19       (4) the procedure code or other description of a health care  
20 service covered by a payment and the appropriate grouping of the  
21 procedure codes;

22       (5) the amount of a bonus related to the provision of health care  
23 services or a withholding from the payment due for a health care  
24 service; and

25       (6) the amount of any other component of the reimbursement  
26 methodology for a health care service.

27       b. The Department of Banking and Insurance shall have the  
28 authority to collect and investigate such information as it  
29 reasonably believes is necessary to determine, on an annual basis:

30       (1) the average number of covered lives and geographical  
31 distribution of covered lives per quarter per county for every carrier  
32 in the State; and

33       (2) the impact of the provisions of this section on average  
34 physician fees in the State.

35       The Department of Banking and Insurance shall provide this  
36 information to the Attorney General on an annual basis.

37

38       5. The exercise of joint negotiation rights by two or more  
39 independent physicians who are practicing in the service area of a  
40 carrier pursuant to this act shall conform to the following criteria:

41       a. the physicians may communicate with each other concerning  
42 any contractual term or condition to be negotiated with the carrier;

43       b. the physicians may communicate with the joint negotiation  
44 representative authorized to negotiate on their behalf with the  
45 carrier concerning any contractual term or condition;

46       c. the joint negotiation representative shall be the sole party  
47 authorized to negotiate with the carrier on behalf of the physicians  
48 as a group;

1 d. the physicians may, at the option of each physician, agree to  
2 be bound by the terms and conditions negotiated by the joint  
3 negotiation representative; and

4 e. when communicating or negotiating with a joint negotiation  
5 representative, a carrier may offer different contractual terms or  
6 conditions to, or may contract with, individual independent  
7 physicians.

8  
9 6. The provisions of this act shall not apply to a health benefits  
10 plan which is certified by the Commissioner of Human Services to  
11 the Attorney General as providing covered services primarily to  
12 persons who are eligible for medical assistance under P.L.1968,  
13 c.413 (C.30:4D-1 et seq.) or NJ FamilyCare under P.L.2005,  
14 c.156 (C.30:4J-10 et seq.).

15  
16 7. A person or entity proposing to act as a joint negotiation  
17 representative shall satisfy the following requirements:

18 a. Before entering into negotiations with a carrier on behalf of  
19 two or more independent physicians, the joint negotiation  
20 representative shall submit to the Attorney General, for his approval  
21 pursuant to section 8 of this act, on a form and in a manner  
22 prescribed by the Attorney General, a petition which identifies:

23 (1) the representative's name and business address;

24 (2) the name and business address of each physician who will be  
25 represented by the identified representative;

26 (3) the ratio of the physicians requesting joint representation to  
27 the total number of physicians who are practicing within the  
28 geographic service area of the carrier;

29 (4) the carrier with which the representative proposes to enter  
30 into negotiations on behalf of the identified physicians;

31 (5) the intended subject matter of the proposed negotiations with  
32 the identified carrier;

33 (6) the representative's plan of operation and procedures to  
34 ensure compliance with the provisions of this act;

35 (7) the anticipated effect of the proposed joint negotiations on  
36 the quality and availability of health care among covered persons;

37 (8) the anticipated benefits of a contract between the identified  
38 physicians and carrier;

39 (9) such other data, information and documentation as the  
40 petitioner desires to submit in support of the petition; and

41 (10) such other data, information and documents as the Attorney  
42 General deems necessary.

43 The joint negotiation representative, upon submitting the  
44 petition, shall pay a fee to the Attorney General in an amount, as  
45 determined by the Attorney General, which shall be reasonable and  
46 necessary to cover the costs associated with carrying out the  
47 provisions of this act.

1       b. After the joint negotiation representative and the carrier  
2 identified pursuant to subsection a. of this section have reached an  
3 agreement on the contractual terms or conditions that were the  
4 subject matter of their negotiations, the joint negotiation  
5 representative shall submit to the Attorney General, for his approval  
6 and in accordance with the provisions of section 8 of this act, a  
7 copy of the proposed contract between the physicians identified  
8 pursuant to subsection a. of this section and the carrier, as well as  
9 any plan of action which the joint negotiation representative and the  
10 carrier may formally agree to for the purpose of implementing the  
11 terms and conditions of the contract.

12       c. Within 14 days after either party notifies the other party of  
13 its decision to decline or terminate negotiations entered into  
14 pursuant to this act, or after the date that a joint negotiation  
15 representative requests that a carrier enter into such negotiations to  
16 which request the carrier fails to respond, the joint negotiation  
17 representative shall report to the Attorney General that the  
18 negotiations have ended, on a form and in a manner to be prescribed  
19 by the Attorney General. The joint negotiation representative may  
20 resume negotiations with the carrier no later than 60 days after  
21 reporting to the Attorney General that the negotiations have ended,  
22 on the basis of the petition submitted to the Attorney General  
23 pursuant to subsection a. of this section and approved by the  
24 Attorney General in accordance with the provisions of section 8 of  
25 this act. After that date, the joint negotiation representative shall be  
26 required to submit a new petition and pay an additional fee to the  
27 Attorney General pursuant to subsection a. of this section, in order  
28 to engage in negotiations with the carrier under this act.

29  
30       8. a. The Attorney General shall provide written approval or  
31 disapproval of a petition or a proposed contract furnished by a joint  
32 negotiation representative pursuant to section 7 of this act no later  
33 than 30 days after receipt of the petition or proposed contract, as  
34 applicable. If the Attorney General fails to provide written  
35 approval or disapproval within this time period, the joint  
36 negotiation representative may petition a court of competent  
37 jurisdiction for an order to require the Attorney General to take  
38 such action. If the Attorney General disapproves the petition or the  
39 proposed contract, he shall forward a written explanation of any  
40 deficiencies therein to the joint negotiation representative along  
41 with a statement of the specific remedial measures by which those  
42 deficiencies may be corrected.

43       A joint negotiation representative shall not engage in  
44 negotiations with a carrier over any contractual term or condition  
45 unless the petition furnished by the joint negotiation representative  
46 has been approved in writing by the Attorney General, nor shall a  
47 proposed contract between two or more independent physicians and

1 a carrier be implemented unless the Attorney General has approved  
2 the contract.

3 b. The Attorney General shall approve a petition or a proposed  
4 contract furnished by a joint negotiation representative pursuant to  
5 section 7 of this act if the Attorney General determines that the  
6 petition or proposed contract demonstrates that the benefits which  
7 are likely to result from the proposed joint negotiations over a  
8 contractual term or condition or the proposed contract, as  
9 applicable, outweigh the disadvantages attributable to a reduction in  
10 competition that may result from the proposed joint negotiations.  
11 In making his determination, the Attorney General shall consider  
12 physician distribution by specialty and its effect on competition in  
13 the geographic service area of the carrier.

14 c. The Attorney General's written approval of a petition which  
15 is furnished by a joint negotiation representative under section 7 of  
16 this act shall be effective for all subsequent negotiations between  
17 the joint negotiation representative and the identified carrier,  
18 subject to the provisions of subsection c. of section 7 of this act.

19 d. In the case of a petition submitted pursuant to subsection a.  
20 of section 7 of this act, the Attorney General shall notify the carrier  
21 of the petition and provide the carrier with the opportunity to  
22 submit written comments within a specified time frame that does  
23 not extend beyond the date by which the Attorney General is  
24 required to act on the petition.

25  
26 9. a. Within 30 days from the mailing by the Attorney General  
27 of a notice of disapproval of a petition submitted under section 7 of  
28 this act, the petitioners may make a written application to the  
29 Attorney General for a hearing.

30 b. Upon receipt of a timely written application for a hearing,  
31 the Attorney General shall schedule and conduct a hearing in  
32 accordance with the "Administrative Procedure Act," P.L.1968,  
33 c.410 (C.52:14B-1 et seq.). The hearing shall be held within 30  
34 days of the application unless the petitioner seeks an extension.

35 c. The sole parties with respect to any petition under section 7  
36 of this act shall be the petitioners, and notwithstanding any other  
37 provision of law to the contrary, the Attorney General shall not be  
38 required to treat any other person as a party and no other person  
39 shall be entitled to appeal the Attorney General's determination.

40  
41 10. All information, including documents and copies thereof,  
42 obtained by or disclosed to the Attorney General or any other  
43 person in a petition under section 7 of this act, shall be treated  
44 confidentially and shall be deemed proprietary and shall not be  
45 made public or otherwise disclosed by the Attorney General or any  
46 other person without the written consent of the petitioners to whom  
47 the information pertains.



1 11. A carrier and a joint negotiation representative shall  
2 negotiate in good faith regarding the terms and conditions of  
3 physician contracts pursuant to this act.  
4

5 12. a. The provisions of this act shall not be construed to:

6 (1) permit two or more physicians to jointly engage in a  
7 coordinated cessation, reduction or limitation of the health care  
8 services which they provide;

9 (2) permit two or more physicians to meet or communicate in  
10 order to jointly negotiate a requirement that at least one of the  
11 physicians, as a condition of participation with a carrier, be allowed  
12 to participate in all of the products offered by the carrier;

13 (3) permit two or more physicians to jointly negotiate with a  
14 carrier to exclude, limit or otherwise restrict a non-physician health  
15 care provider from participating in the carrier's health benefits plan  
16 based substantially on the fact that the health care provider is not a  
17 physician, unless that exclusion, limitation or restriction is  
18 otherwise permitted by law;

19 (4) prohibit or restrict activity by physicians that is sanctioned  
20 under federal or State law or subject such activity to the  
21 requirements of this act;

22 (5) affect governmental approval of, or otherwise restrict  
23 activity by, physicians that is not prohibited under federal antitrust  
24 law; or

25 (6) require approval of physician contract terms to the extent  
26 that the terms are exempt from State regulation under section 514(a)  
27 of the "Employee Retirement Income Security Act of 1974,"  
28 Pub.L.93-406 (29 U.S.C. s.1144(a)).

29 b. Prior to entering into negotiations with a carrier on behalf of  
30 two or more independent physicians over a contractual term or  
31 condition, a joint negotiation representative shall notify the  
32 physicians in writing of the provisions of this act and advise them  
33 as to their potential for legal action against physicians who violate  
34 federal antitrust law.  
35

36 13. The Attorney General, in consultation with the  
37 Commissioner of Banking and Insurance, shall report to the  
38 Governor and the Legislature, pursuant to section 2 of P.L.1991,  
39 c.164 (C.52:14-19.1) no later than four years after the effective date  
40 of this act on its implementation.

41 The report shall include the number of petitions submitted for  
42 approval to engage in joint negotiations and the outcome of the  
43 petitions and the negotiations, an assessment of the effect the joint  
44 negotiations provided for in this act has had in restoring the  
45 competitive balance in the market for health care services and in  
46 protecting access to quality patient care, an assessment of the  
47 impact this act has had on health insurance premiums in the State,  
48 and such other information that the Attorney General deems

1 appropriate. The report shall also include the Attorney General's  
2 recommendations as to whether the provisions of this act shall be  
3 expanded to include other types of health care professionals and  
4 facilities.

5  
6 14. The Attorney General, in consultation with the  
7 Commissioner of Banking and Insurance and pursuant to the  
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.), shall adopt rules and regulations to effectuate the purposes of  
10 this act.

11  
12 15. P.L.2001, c.71 (C.52:17B-196 et seq.) is repealed.

13  
14 16. This act shall take effect 90 days after enactment, but the  
15 Attorney General, in consultation with the Commissioner of  
16 Banking and Insurance, may take such anticipatory administrative  
17 action in advance of the effective date as shall be necessary to  
18 implement the act.

19  
20  
21 STATEMENT

22  
23 This bill provides physicians with the right to engage in joint  
24 negotiations over the terms and conditions of their contracts with  
25 health insurance carriers, that is, health, hospital and medical  
26 service corporations, commercial health insurers, and health  
27 maintenance organizations. The bill is based on legislation enacted  
28 in 2002 (P.L.2001, c.371) that authorized physicians and dentists to  
29 engage in joint negotiations with carriers, which legislation expired  
30 in 2008.

31 The bill permits two or more independent physicians who are  
32 practicing in the geographic service area of a carrier to jointly  
33 negotiate with the carrier and engage in related joint activity over  
34 the terms and conditions of a proposed contract. The negotiations  
35 would be carried out through a joint negotiation representative  
36 selected by the physicians to act on their behalf.

37 The terms and conditions that may be the subject of the  
38 negotiations include non-fee-related matters which may affect  
39 patient care, such as any of the following:

- 40
- 41 • the definition of medical necessity and other conditions of  
42 coverage;
  - 43 • utilization management criteria and procedures;
  - 44 • clinical practice guidelines;
  - 45 • preventive care and other medical management policies;
  - 46 • patient referral standards and procedures, including, but not  
47 limited to, those applicable to out-of-network referrals;
  - 48 • drug formularies and standards and procedures for  
prescribing off-formulary drugs;

- 1       • quality assurance programs;
- 2       • respective physician and carrier liability for the treatment or
- 3       lack of treatment of covered persons;
- 4       • the methods and timing of payments;
- 5       • other administrative procedures, including, but not limited
- 6       to, eligibility verification systems and claim documentation
- 7       requirements for covered persons;
- 8       • credentialing standards and procedures for the selection,
- 9       retention and termination of participating physicians;
- 10      • mechanisms for resolving disputes between the carrier and
- 11      physicians, including, but not limited to, the appeals process
- 12      for utilization management and credentialing determinations;
- 13      • the health benefits plans sold or administered by the carrier
- 14      in which the physicians are required to participate;
- 15      • the formulation and application of reimbursement
- 16      methodology;
- 17      • the terms and conditions of physician contracts, including,
- 18      but not limited to, all products clauses, and the duration and
- 19      renewal provisions of the contract; and
- 20      • the inclusion or alteration of a contractual term or condition,
- 21      except when the inclusion or alteration is required by a
- 22      federal or State regulation concerning that term or condition;
- 23      however, the restriction shall not limit a physician's rights to
- 24      jointly petition the federal or State government, as
- 25      applicable, to change the regulation.

26       In addition, the bill provides that a proposed contract concerning  
27 fees and fee-related matters may be subject to joint negotiations if  
28 the Attorney General, in consultation with the Commissioner of  
29 Banking and Insurance, finds that the carrier has substantial market  
30 power in its service area and that any of the terms or conditions of  
31 the contract with the carrier pose an actual or potential threat to the  
32 quality and availability of patient care among covered persons.  
33 These matters include, but are not limited to, any of the following:

- 34      • the amount of payment or the methodology for determining
- 35      the payment for a health care service, including, but not
- 36      limited to, cost of living increases;
- 37      • the conversion factor for a resource-based relative value
- 38      scale or similar reimbursement methodology for health care
- 39      services;
- 40      • the amount of any discount on the price of a health care
- 41      service;
- 42      • the procedure code or other description of a health care
- 43      service covered by a payment and the appropriate grouping
- 44      of the procedure codes;
- 45      • the amount of a bonus related to the provision of health care
- 46      services or a withholding from the payment due for a health
- 47      care service; and

- 1       • the amount of any other component of the reimbursement  
2           methodology for a health care service.

3       The bill requires that a person or entity proposing to act as a joint  
4 negotiation representative shall submit a petition to the Attorney  
5 General, for his approval. The petition shall identify the  
6 representative, the physicians who the representative will represent,  
7 the intended subject matter of the proposed negotiations and other  
8 information specified in the bill. Upon submitting the petition, the  
9 representative shall pay a fee to the Attorney General, in an amount  
10 determined by the Attorney General, which shall be reasonable and  
11 necessary to cover the costs associated with carrying out the  
12 provisions of this bill.

13       After the joint negotiation representative and the carrier have  
14 reached an agreement on the contractual terms or conditions that  
15 were the subject matter of their negotiations, the representative  
16 shall submit a copy of the proposed contract between the physicians  
17 and the carrier to the Attorney General, for his approval. The  
18 Attorney General shall provide written approval or disapproval of a  
19 petition or a proposed contract furnished by the representative no  
20 later than 30 days after receipt of the petition or proposed contract.

21       The bill provides that a joint negotiation representative shall not  
22 engage in negotiations with a carrier unless the representative's  
23 petition has been approved in writing by the Attorney General, and  
24 a proposed contract between physicians and a carrier negotiated  
25 under this bill shall not be implemented unless the Attorney General  
26 has approved the contract. The bill further provides that either  
27 party may decline to negotiate or terminate negotiations. In either  
28 event, the representative shall so notify the Attorney General.

29       The Attorney General shall approve a petition or a proposed  
30 contract if he determines that the petition or proposed contract  
31 demonstrates that the benefits which are likely to result from the  
32 proposed joint negotiations or contract, as applicable, outweigh the  
33 disadvantages attributable to a reduction in competition that may  
34 result from the proposed joint negotiations. In making his  
35 determination, the Attorney General shall consider physician  
36 distribution by specialty and its effect on competition in the  
37 geographic service area of the carrier.

38       The bill provides that its provisions shall not be construed to:

- 39       • permit two or more physicians to jointly engage in a  
40           coordinated cessation, reduction or limitation of the health  
41           care services which they provide;  
42       • permit two or more physicians to meet or communicate in  
43           order to jointly negotiate a requirement that at least one of  
44           the physicians, as a condition of participation with a carrier,  
45           be allowed to participate in all of the products offered by the  
46           carrier;  
47       • permit two or more physicians to jointly negotiate with a  
48           carrier to exclude, limit or otherwise restrict a non-physician

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- 1 or health care provider from participating in the carrier's  
2 health benefits plan based substantially on the fact that the  
3 health care provider is not a physician, unless that exclusion,  
4 limitation or restriction is otherwise permitted by law;
- 5 • prohibit or restrict activity by physicians that is sanctioned  
6 under federal or State law or subject such activity to the  
7 requirements of this bill;
  - 8 • affect governmental approval of, or otherwise restrict  
9 activity by, physicians that is not prohibited under federal  
10 antitrust law; or
  - 11 • require approval of physician contract terms to the extent  
12 that the terms are exempt from State regulation under  
13 ERISA.

14 The bill provides that its provisions shall not apply to a health  
15 benefits plan which is certified by the Commissioner of Human  
16 Services to the Attorney General as providing covered services  
17 exclusively or primarily to persons who are eligible for Medicaid or  
18 NJ FamilyCare.

19 The bill requires the Attorney General, in consultation with the  
20 Commissioner of Banking and Insurance, to report to the Governor  
21 and the Legislature no later than four years after its effective date  
22 on its implementation, and to include in that report an assessment of  
23 the impact that the bill has had on health insurance premiums in the  
24 State. The report shall also include the Attorney General's  
25 recommendations as to whether the provisions of the bill shall be  
26 expanded to include other types of health care professionals and  
27 facilities.

28 The bill repeals P.L.2001, c.71 (C.52:17B-196 et seq.), which  
29 expired in 2008.

30 The bill takes effect 90 days after enactment.