

WHEREAS, ERISA plan participants, their dependents, and their treating physicians believe that they have been denied coverage for medically necessary procedures because ERISA's remedy provisions have been narrowly interpreted and ERISA's preemption provisions have been broadly interpreted, thereby creating substantial economic incentives, with few disincentives for plan administrators to deny medically necessary benefits legitimately covered under ERISA plans; and

WHEREAS, The time has now come for the states to aggressively seek changes in ERISA to give them more flexibility in regulating health plans at the state level, to increase access to health care, and to lower health care costs; now, therefore, be it

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That this General Assembly hereby requests the U. S. Congress to amend the Employment Retirement Income Security Act of 1974 (ERISA) to authorize each state to monitor and to regulate self-funded employer-based health plans in the interests of providing greater consumer protection and effecting significant health care reforms at the state level through the offices of the various insurance commissioners and states' attorneys general. Additionally, the United States Department of Labor should cooperatively refer complaints to the offices of the various insurance commissioners and states' attorneys general; and be it further

RESOLVED, That § 502(a)(1)(B) of ERISA, which currently reads: "(B) to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan;" be amended to read: "(B) to recover benefits due to him under the terms of his plan, to recover from the fiduciary compensatory damages caused by the fiduciary's failure to pay benefits due under the terms of the plan, to enforce his rights under the terms of the plan, or to timely authorize assurance of payment and clarify his rights to future benefits under the terms of the plans;" and be it further

RESOLVED, That this General Assembly most fervently urges and encourages each state legislative body in the nation to enact this resolution, or one similar in context and form, as a show of solidarity in petitioning the federal government for greater state authority and responsibility in regulating self-funded employer-based health plans; and be it further

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the Honorable Parris N. Glendening, Governor of Maryland; The Honorable Thomas V. Mike Miller, Jr., President of the Senate of Maryland; and the Honorable Casper R. Taylor, Jr., Speaker of the House of Delegates; and be it further

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the National Conference of State Legislatures, 444 North Capitol Street, N.W., Suite 515, Washington, D.C. 20001; and be it further

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the President of the United States; the Secretary of the United States Department of Labor; the Speaker and the Clerk of the United States House of