

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 4

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Service Plans” and substitute “Entities”; in line 4, after “Article;” insert “altering the purpose of certain provisions of law relating to nonprofit health service plans;”; in line 5, after the second “of” insert “certain”; in line 6, strike “service plans” and substitute “entities; altering the mission of a nonprofit health service plan; altering the manner in which a nonprofit health service plan must develop certain goals, objectives, and strategies; providing that a certain charter and the laws, rules, and regulations of the jurisdiction of domicile of a certain entity supercede and take precedence over certain requirements under certain circumstances; altering the standards the Maryland Insurance Commissioner must use to issue a certificate of authority; requiring the Commissioner to consider a certain entity’s inability to comply with certain requirements in determining whether to issue or renew the certificate of authority of a nonprofit health service plan; altering the applicability of certain statutory requirements for a board of directors of a nonprofit health service plan”; in line 7, after the first “a” insert “certain”; in the same line, strike “consistent with” and substitute “in furtherance of”; in line 8, after “plan;” insert “altering the manner of selecting board members of certain nonprofit health service plans; altering the actions for which board approval is required; requiring the Commissioner to adopt certain regulations;”; in line 16, strike “Insurance”; in line 25, strike “considerations are made” and substitute “nonprofit health entities have considered certain risks”; in line 26, after “term;” insert “authorizing certain directors of a certain nonprofit health service plan to serve for a certain additional term until a certain date;”; in line 27, after “of” insert “certain”; and in the same line, strike “service plans” and substitute “entities”.

On page 2, in line 8, strike “14-115(c)” and substitute “14-102(a), (c), (d), and (f), 14-110, 14-115(b), (c), and (d)(2) and (11)”; and after line 10, insert:

“BY repealing and reenacting, without amendments,

Article - Insurance

(Over)

Section 14-102(b) and (e) and 14-115(d)(1)
Annotated Code of Maryland
(2002 Replacement Volume and 2003 Supplement)”.

AMENDMENT NO. 2

On page 3, in line 13, strike “EXCEPT IN CONFORMITY WITH THIS SECTION,”.

On page 4, strike beginning with “TO” in line 22 down through the second “PLAN” in line 23; and in line 33, after “§ 14-115,” insert “§ 14-115.1,”.

On page 6, in line 16, strike “SERVICE PLAN” and substitute “ENTITY”; in line 17, after “THE” insert “NONPROFIT”; in the same line, strike “CARE”; and in line 27, strike “AN” and substitute “THE”.

On page 8, in lines 8 and 11, in each instance, strike “HEALTH CARE” and substitute “NONPROFIT HEALTH”.

AMENDMENT NO. 3

On page 2, after line 30, insert:

“14-102.

(a) The purpose of this subtitle is:

(1) to regulate the formation and operation of nonprofit health service plans in the State; and

(2) to promote the formation and existence of nonprofit health service plans in the State that:

(i) are committed to a nonprofit corporate structure;

(ii) seek to provide individuals, businesses, and other groups with affordable and accessible health insurance; and

(iii) recognize a responsibility to contribute to the improvement of the overall health status of [Maryland residents] THE RESIDENTS OF THE JURISDICTIONS IN WHICH THE NONPROFIT HEALTH SERVICE PLANS OPERATE.

(b) A nonprofit health service plan that complies with the provisions of this subtitle is declared to be a public benefit corporation that is exempt from taxation as provided by law.

(c) The mission of a nonprofit health service plan shall be, IN ACCORDANCE WITH THE CHARTER OF THE NONPROFIT HEALTH SERVICE PLAN, to:

(1) provide affordable and accessible health insurance to the plan's insureds and those persons insured or issued health benefit plans by affiliates or subsidiaries of the plan;

(2) assist and support public and private health care initiatives for individuals without health insurance; and

(3) promote the integration of a [statewide] health care system that meets the health care needs of all [Maryland residents] THE RESIDENTS OF THE JURISDICTIONS IN WHICH THE NONPROFIT HEALTH SERVICE PLAN OPERATES.

(d) A nonprofit health service plan:

(1) shall develop goals, objectives, and strategies for carrying out, IN ACCORDANCE WITH THE CHARTER OF THE NONPROFIT HEALTH SERVICE PLAN, its statutory mission;

(2) beginning on December 1, 2003, and continuing through June 30, 2005, shall report quarterly, for the preceding quarter, to the Joint Nonprofit Health Service Plan Oversight Committee on the nonprofit health service plan's compliance with the provisions of this subtitle; and

(3) shall provide to the Joint Nonprofit Health Service Plan Oversight Committee any other information necessary for the Committee to meet the goals outlined under § 2-10A-08 of the State Government Article.

(e) On or before December 1, 2005, and annually thereafter, the Commissioner shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate

(Over)

Finance Committee and the House Health and Government Operations Committee, on the compliance of a nonprofit health service plan subject to § 14-115(d) of this subtitle with the provisions of this subtitle.

(f) (1) [This] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS section applies to:

[(1)] (I) a nonprofit health service plan that is issued a certificate of authority in the State, whether or not organized under the laws of the State; and

[(2)] (II) an insurer or a health maintenance organization, whether or not organized as a nonprofit corporation, that is wholly owned or controlled by a nonprofit health service plan that:

1. is issued a certificate of authority in the State; AND
2. DOES BUSINESS IN THE STATE.

(2) TO THE EXTENT THAT THE LEGISLATIVELY ENACTED CHARTER OF AN ENTITY SUBJECT TO THIS SECTION, OR THE LAWS OR ADMINISTRATIVE RULES OR REGULATIONS OF THE JURISDICTION OF DOMICILE OF AN ENTITY SUBJECT TO THIS SECTION, PROHIBIT THE ENTITY FROM COMPLYING WITH A REQUIREMENT OF SUBSECTION (C) OF THIS SECTION, THE LEGISLATIVELY ENACTED CHARTER, LAWS, AND ADMINISTRATIVE RULES AND REGULATIONS OF THE JURISDICTION OF DOMICILE SHALL SUPERCEDE AND TAKE PRECEDENCE OVER THE REQUIREMENT OF SUBSECTION (C) OF THIS SECTION.

14-110.

(a) The Commissioner shall issue a certificate of authority to an applicant if:

- (1) the applicant has paid the applicable fee required by § 2-112 of this article;
- and
- (2) the Commissioner is satisfied:

(i) that the applicant has been organized in good faith for the purpose of establishing, maintaining, and operating a nonprofit health service plan that:

1. is committed to a nonprofit corporate structure;
2. in accordance with the charter of the nonprofit health service plan, seeks to provide affordable and accessible health insurance; and
3. IN ACCORDANCE WITH THE CHARTER OF THE NONPROFIT HEALTH SERVICE PLAN, recognizes a responsibility to contribute to the improvement of the overall health status of [Maryland residents] THE RESIDENTS OF THE JURISDICTIONS IN WHICH IT OPERATES;

(ii) that:

1. each contract executed or proposed to be executed by the applicant and a health care provider to furnish health care services to subscribers to the nonprofit health service plan, obligates or, when executed, will obligate each health care provider party to the contract to render the health care services to which each subscriber is entitled under the terms and conditions of the various contracts issued or proposed to be issued by the applicant to subscribers to the plan; and
2. each subscriber is entitled to reimbursement for podiatric, chiropractic, psychological, or optometric services, regardless of whether the service is performed by a licensed physician, licensed podiatrist, licensed chiropractor, licensed psychologist, or licensed optometrist;

(iii) that:

1. each contract issued or proposed to be issued to subscribers to the plan is in a form approved by the Commissioner; and
2. the rates charged or proposed to be charged for each form of each contract are fair and reasonable;

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(iv) that the applicant has a surplus, as defined in § 14-117 of this subtitle, of the greater of:

1. \$100,000; and
2. an amount equal to that required under § 14-117 of this subtitle; and

(v) that, except for a nonprofit health service plan that insures between 1 and 10,000 covered lives in the State, the nonprofit health service plan's corporate headquarters is located in the State.

(b) If the Commissioner determines that a nonprofit health [services] SERVICE plan does not continue to satisfy the requirements of this subtitle, the Commissioner may disapprove the renewal of the certificate of authority of the nonprofit health service plan.

(C) THE COMMISSIONER SHALL CONSIDER AN ENTITY'S INABILITY TO COMPLY WITH THE REQUIREMENTS OF § 14-102(C) OF THIS SUBTITLE AS A RESULT OF A CONFLICT WITH THE LEGISLATIVELY ENACTED CHARTER OF THE ENTITY OR THE LAWS OR ADMINISTRATIVE RULES OR REGULATIONS OF THE JURISDICTION OF DOMICILE OF THE ENTITY IN DETERMINING WHETHER TO ISSUE OR RENEW A CERTIFICATE OF AUTHORITY UNDER THIS SECTION.”;

and after line 31, insert:

“(b) This section applies to a nonprofit health service plan that is:

- (1) issued a certificate of authority in the State[, whether or not]; AND
- (2) organized under the laws of [this] THE State.”.

On page 4, after line 4, insert:

“(d) (1) This subsection applies to a corporation that is:

(i) issued a certificate of authority as a nonprofit health service plan; and
(ii) the sole member of a corporation issued a certificate of authority as a nonprofit health service plan.

(2) The board shall be composed of no more than 23 members, including:

(i) one nonvoting member, who is not a member of the Maryland General Assembly, appointed by and serving at the pleasure of the President of the Senate of Maryland;

(ii) one nonvoting member, who is not a member of the Maryland General Assembly, appointed by and serving at the pleasure of the Speaker of the House of Delegates; and

(iii) 21 members selected by the board, IN ACCORDANCE WITH THE BYLAWS OF THE CORPORATION, including two consumer members, who satisfy the requirements of paragraphs (13), (14), and (15) of this subsection.

(11) (i) [Board approval is required for] THE BOARD SHALL APPROVE IN ADVANCE any action by the nonprofit health service plan, a corporation for which the plan is the sole member, or any affiliate or subsidiary of the nonprofit health service plan to:

1. [modify benefit levels] MATERIALLY MODIFY OPTIONS AVAILABLE IN BENEFIT PLANS MARKETED IN THE STATE;

2. materially modify MARYLAND provider networks or MARYLAND provider reimbursement LEVELS;

3. MATERIALLY modify underwriting guidelines FOR PRODUCTS MARKETED IN THE STATE;

4. MATERIALLY modify rates or rating plans THAT ARE REQUIRED TO BE APPROVED BY THE COMMISSIONER;

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5. ADD A PRODUCT TO OR withdraw a product FROM THE MARYLAND MARKET, [or] withdraw from a line or type of [business] BUSINESS, or WITHDRAW FROM A geographic region IN THE STATE; [or]

6. MATERIALLY MODIFY MARKETING GOALS AND OBJECTIVES IN THE STATE; OR

[6.] 7. MATERIALLY impact the availability or affordability of health care in the State.

(II) THE COMMISSIONER SHALL ADOPT REGULATIONS THAT DEFINE “MATERIAL” FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[(ii)] (III) A decision by the board to convert to a for profit entity under Title 6.5 of the State Government Article may be rejected by any three members of the board.

[(iii)] (IV) The board may delegate approval for the actions listed in subparagraph (i) of this paragraph to a standing committee of the board.”.

AMENDMENT NO. 4

On page 3, in line 9, strike “CONSISTENT WITH THE MISSION OF” and substitute “REASONABLY BELIEVED TO BE IN FURTHERANCE OF THE MISSION OF THE CORPORATION AS”.

AMENDMENT NO. 5

On page 8, after line 14, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) notwithstanding the term limitations established under § 14-115(e)(6) of the Insurance Article, an individual who is a Class I director of a board of a domestic nonprofit health service plan that is subject to § 14-115 of the Insurance Article and who was appointed to the board prior to December 31, 2003 and subsequently reappointed to the board for a 1-year term on January 1, 2004 as the representative of a foreign nonprofit health service plan of which the domestic nonprofit health service plan is the sole member, may serve on the board of the domestic nonprofit

health service plan for an additional 1-year term until December 31, 2005;

(b) any replacement of a Class I director described in subsection (a) of this section, and any other individual who is elected to the board of a domestic nonprofit health service plan that is subject to § 14-115 of the Insurance Article, shall be subject to the term limitations established under § 14-115(e)(6) of the Insurance Article; and

(c) the provisions of subsection (a) of this section shall be limited to and affect no more than two of the Class I directors described in subsection (a) of this section.”;

and in line 15, strike “2.” and substitute “3.”.