

Chapter 418

(House Bill 1429)

AN ACT concerning

~~State Ethics – Former State~~ Department of Health and Mental Hygiene – Former Officials and Employees – Employment

FOR the purpose of providing that ~~a former State official or employee~~ certain former officials or employees of the Department of Health and Mental Hygiene may not be considered to have participated significantly in a contract under certain circumstances for purposes of certain restrictions on employment; requiring the Department to submit a certain report by a certain date to certain committees of the General Assembly describing certain information regarding certain former officials or employees; and generally relating to employment of certain former State officials and employees of the Department of Health and Mental Hygiene.

~~BY repealing and reenacting, with amendments,
Article – State Government
Section 15–504
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

BY adding to
Article – Health – General
Section 15–147
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~Article – State Government~~

~~15–504.~~

~~(a) (1) This subsection does not apply to members of the General Assembly.~~

~~(2) Except as provided in paragraph (3) of this subsection, an official or employee may not, for contingent compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.~~

~~(3) Paragraph (2) of this subsection does not apply to assistance to or representation of a party:~~

~~(i) in a judicial or quasi-judicial proceeding, including a proceeding before an administrative law judge in the Office of Administrative Hearings, or a matter preliminary, incidental, or collateral to a judicial or quasi-judicial proceeding; or~~

~~(ii) in a matter before or involving the Workers' Compensation Commission, the Maryland Automobile Insurance Fund, or the Criminal Injuries Compensation Board.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, a member of the General Assembly may not, for compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.~~

~~(2) Paragraph (1) of this subsection does not apply to assistance to or representation of a party:~~

~~(i) in matters relating to the performance of ministerial acts by a governmental unit;~~

~~(ii) in matters involving the member's regular business, employment, or profession, in which contact with a governmental unit:~~

~~1. is an incidental part of the business, employment, or profession;~~

~~2. is made in the manner that is customary for persons in that business, employment, or profession; and~~

~~3. is not for contingent compensation;~~

~~(iii) in a judicial or quasi-judicial proceeding, including a proceeding before an administrative law judge in the Office of Administrative Hearings, or a matter preliminary, incidental, or collateral to a judicial or quasi-judicial proceeding;~~

~~(iv) in a matter before or involving the Workers' Compensation Commission, the Maryland Automobile Insurance Fund, or the Criminal Injuries Compensation Board; or~~

~~(v) in a matter in which the assistance or representation, other than for contingent compensation, was commenced by the member of the General Assembly before:~~

~~1. the member filed a certificate of candidacy for election to the General Assembly at a time when the member was not an incumbent; or~~

~~2. if the member was appointed to fill a vacancy, the date of appointment.~~

~~(c) (1) A member of the General Assembly may not assist or represent a person, including himself or herself, for compensation before a State or local governmental agency in any matter involving:~~

~~(i) procurement; or~~

~~(ii) the adoption of regulations.~~

~~(2) Paragraph (1) of this subsection does not apply to an administrative proceeding conducted in accordance with Title 10, Subtitle 2 (Administrative Procedure Act — Contested Cases) of this article.~~

~~(d) (1) Except for a former member of the General Assembly, who shall be subject to the restrictions provided under paragraph [(2)] (3) of this subsection, a former official or employee may not assist or represent a party, other than the State, in a case, contract, or other specific matter for compensation if:~~

~~(i) the matter involves State government; and~~

~~(ii) the former official or employee participated significantly in the matter as an official or employee.~~

~~(2) A FORMER OFFICIAL OR EMPLOYEE MAY NOT BE CONSIDERED TO HAVE PARTICIPATED SIGNIFICANTLY IN A CONTRACT UNDER PARAGRAPH (D)(1) OF THIS SUBSECTION, IF THE ETHICS COMMISSION DETERMINES THAT THE FORMER OFFICIAL OR EMPLOYEE:~~

~~(I) DID NOT DEVELOP A REQUEST FOR PROPOSALS RESULTING IN THE CONTRACT;~~

~~(II) DID NOT PARTICIPATE IN AN EVALUATION COMMITTEE OR OTHER STATE ENTITY CHARGED WITH SELECTING A CONTRACTOR FOR THE CONTRACT; AND~~

~~(III) PARTICIPATED ONLY BY PROVIDING SUPPORT OR OTHER ASSISTANCE AS PART OF THE TRANSITION PROCESS FROM A STATE-RUN OPERATION TO A PRIVATELY CONTRACTED OPERATION UNDER THE CONTRACT.~~

~~[(2)] (3) (i) Except as provided in subparagraph (ii) of this paragraph, until the conclusion of the next regular session that begins after the member leaves office, a former member of the General Assembly may not assist or represent another party for compensation in a matter that is the subject of legislative action.~~

~~(ii) The limitation under subparagraph (i) of this paragraph on representation by a former member of the General Assembly does not apply to the former member's representation of a municipal corporation, county, or State governmental entity.~~

~~(e) Notwithstanding subsection (a)(3) of this section or § 15-502 of this subtitle, a full-time official or employee in the Judicial Branch may not represent a party before a court or unit of the Judicial Branch except in the discharge of official duties.~~

Article – Health – General

15-147.

NOTWITHSTANDING § 15-504 OF THE STATE GOVERNMENT ARTICLE, A FORMER OFFICIAL OR EMPLOYEE MAY NOT BE CONSIDERED TO HAVE PARTICIPATED SIGNIFICANTLY IN A CONTRACT IF THE FORMER OFFICIAL OR EMPLOYEE:

(1) DID NOT DEVELOP A REQUEST FOR PROPOSALS RESULTING IN THE CONTRACT;

(2) DID NOT PARTICIPATE IN AN EVALUATION COMMITTEE OR OTHER STATE ENTITY CHARGED WITH SELECTING A CONTRACTOR FOR THE CONTRACT; AND

(3) PARTICIPATED ONLY BY PROVIDING SUPPORT OR OTHER ASSISTANCE AS DIRECTED BY A SENIOR MANAGER AFTER CONTRACT AWARD AS PART OF THE TRANSITION PROCESS FROM A STATE-RUN MEDICAID MANAGEMENT INFORMATION SYSTEM TO A PRIVATE CONTRACTED OPERATION.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 1, 2016, the Department of Health and Mental Hygiene, in accordance with § 2-1246 of the State Government Article, shall submit a report to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee that describes, to the extent known by the Department, the number, the ranges of levels of employment and pay grades at the time of separation from State employment, and the fields of work of individuals who have left State employment, as described under § 15-147 of the Health – General Article, as enacted by Section 1 of

this Act, for employment at a private entity operating the Maryland Medicaid Management Information System.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.