

SENATE BILL 44

C3, C4

9lr0073

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)**

Requested: October 15, 2018

Introduced and read first time: January 9, 2019

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 4, 2019

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Corporate Governance Annual Disclosure Act**

3 FOR the purpose of requiring certain insurers and insurance groups to submit to the
4 Maryland Insurance Commissioner a certain Corporate Governance Annual
5 Disclosure (CGAD) not later than a certain date each calendar year beginning in a
6 certain year; requiring certain insurers to submit a certain CGAD in a certain
7 manner to the commissioner of the lead state for a certain insurance group; requiring
8 that a CGAD contain a certain signature attesting to certain information; requiring
9 certain insurers to submit a CGAD to the Commissioner on request; authorizing
10 certain insurers and insurance groups to provide information regarding their
11 corporate governance structures at certain levels and to consider certain criteria in
12 determining for which level to provide the information; requiring certain insurers
13 and insurance groups to indicate certain information under certain circumstances;
14 authorizing the Commissioner to request additional information from a certain
15 insurer or insurance group under certain circumstances; requiring that a certain
16 review and any additional requests for information be made through the lead state
17 in a certain manner under certain circumstances; providing that an insurer that
18 includes certain information in another document submitted to the Commissioner
19 may not be required to duplicate the information in the CGAD and is required to
20 cross-reference in the CGAD the other document; requiring that certain insurers
21 and insurance groups have discretion over the responses to a CGAD; requiring that
22 the CGAD contain certain information; requiring that the insurer or insurance group
23 maintain certain documentation and supporting information and make the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 documentation and supporting information available to the Commissioner under
2 certain circumstances; providing for the confidentiality and privilege of certain
3 documents and information contained in and relating to a CGAD; authorizing the
4 sharing of certain documents and information relating to a CGAD under certain
5 circumstances; prohibiting the Commissioner from making certain documents,
6 materials, and information public except under certain circumstances; prohibiting
7 certain persons from being allowed or required to testify in certain actions; requiring
8 that certain persons be subject to certain confidentiality standards and
9 requirements; authorizing the Commissioner to retain certain consultants for
10 certain purposes; requiring that a third-party consultant verify to the
11 Commissioner, with notice to the insurer, certain information; requiring the
12 Commissioner to enter into a certain agreement with certain persons; requiring
13 certain corporations to be governed and regulated by certain provisions of this Act;
14 providing that certain provisions of this Act apply to managed care organizations
15 and health maintenance organizations; establishing a certain penalty; authorizing
16 the Commissioner to reduce a certain penalty under certain circumstances;
17 authorizing the Commissioner to adopt certain regulations; providing for the
18 application and construction of this Act; defining certain terms; establishing a
19 certain short title; making conforming changes; and generally relating to corporate
20 governance disclosures regarding insurers.

21 BY adding to
22 Article – Insurance
23 Section 4–501 through 4–509 to be under the new subtitle “Subtitle 5. Corporate
24 Governance Annual Disclosure Act”
25 Annotated Code of Maryland
26 (2017 Replacement Volume and 2018 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Insurance
29 Section 14–102(g)
30 Annotated Code of Maryland
31 (2017 Replacement Volume and 2018 Supplement)

32 BY repealing and reenacting, with amendments,
33 Article – Health – General
34 Section 15–102.6
35 Annotated Code of Maryland
36 (2015 Replacement Volume and 2018 Supplement)

37 BY adding to
38 Article – Health – General
39 Section 19–706(m)
40 Annotated Code of Maryland
41 (2015 Replacement Volume and 2018 Supplement)

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

3 **Article – Insurance**

4 **SUBTITLE 5. CORPORATE GOVERNANCE ANNUAL DISCLOSURE ACT.**

5 **4–501.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “CORPORATE GOVERNANCE ANNUAL DISCLOSURE” OR “CGAD”
9 MEANS A CONFIDENTIAL REPORT SUBMITTED BY AN INSURER OR THE INSURANCE
10 GROUP OF WHICH THE INSURER IS A MEMBER IN ACCORDANCE WITH THE
11 REQUIREMENTS OF THIS SUBTITLE.

12 (C) “INSURANCE GROUP” MEANS THOSE INSURERS AND AFFILIATES
13 INCLUDED WITHIN AN INSURANCE HOLDING COMPANY SYSTEM AS DEFINED IN
14 § 7–101 OF THIS ARTICLE.

15 (D) (1) “INSURER” INCLUDES:

16 (I) EACH PERSON ENGAGED AS INDEMNITOR, SURETY, OR
17 CONTRACTOR IN THE BUSINESS OF ENTERING INTO INSURANCE CONTRACTS;

18 (II) A NONPROFIT HEALTH SERVICE PLAN;

19 (III) A HEALTH MAINTENANCE ORGANIZATION;

20 (IV) A DENTAL PLAN ORGANIZATION; AND

21 (V) A MANAGED CARE ORGANIZATION.

22 (2) “INSURER” DOES NOT INCLUDE AN AGENCY, AN AUTHORITY, OR
23 AN INSTRUMENTALITY OF THE UNITED STATES, ITS POSSESSIONS AND
24 TERRITORIES, THE COMMONWEALTH OF PUERTO RICO, THE DISTRICT OF
25 COLUMBIA, A STATE, OR A POLITICAL SUBDIVISION OF A STATE.

26 (E) “NAIC” MEANS THE NATIONAL ASSOCIATION OF INSURANCE
27 COMMISSIONERS.

28 (F) “ORSA SUMMARY REPORT” HAS THE MEANING STATED IN § 32–101 OF
29 THIS ARTICLE.

1 **4-502.**

2 (A) THE REQUIREMENTS OF THIS SUBTITLE APPLY ONLY TO INSURERS
3 DOMICILED IN THIS STATE.

4 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THIS SUBTITLE MAY
5 NOT BE CONSTRUED TO REQUIRE OR IMPOSE CORPORATE GOVERNANCE
6 STANDARDS AND INTERNAL PROCEDURES BEYOND THOSE WHICH ARE REQUIRED
7 UNDER THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

8 (C) THIS SUBTITLE MAY NOT BE CONSTRUED TO LIMIT THE
9 COMMISSIONER'S AUTHORITY, OR THE RIGHTS OR OBLIGATIONS OF A THIRD-PARTY
10 UNDER TITLE 2, SUBTITLE 2 OF THIS ARTICLE.

11 **4-503.**

12 (A) (1) NOT LATER THAN JUNE 1 EACH CALENDAR YEAR BEGINNING IN
13 2020, AN INSURER OR THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER
14 AND FOR WHICH THE STATE IS THE LEAD STATE SHALL SUBMIT TO THE
15 COMMISSIONER A CORPORATE GOVERNANCE ANNUAL DISCLOSURE THAT IS IN THE
16 FORM AND CONTAINS THE INFORMATION REQUIRED BY REGULATION.

17 (2) IF AN INSURER IS A MEMBER OF AN INSURANCE GROUP AND THE
18 STATE IS NOT THE LEAD STATE FOR THE INSURANCE GROUP, AS DETERMINED BY
19 THE PROCEDURES SPECIFIED IN THE MOST RECENT FINANCIAL ANALYSIS
20 HANDBOOK ADOPTED BY THE NAIC, THE INSURER SHALL SUBMIT A CGAD TO THE
21 COMMISSIONER OF THE LEAD STATE FOR THE INSURANCE GROUP, IN ACCORDANCE
22 WITH THE LAWS OF THE LEAD STATE, ~~AS DETERMINED BY THE PROCEDURES~~
23 ~~SPECIFIED IN THE MOST RECENT FINANCIAL ANALYSIS HANDBOOK ADOPTED BY~~
24 ~~THE NAIC.~~

25 (B) A CGAD SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION SHALL
26 INCLUDE A SIGNATURE OF THE ~~INSURER OR THE~~ CHIEF EXECUTIVE OFFICER OR
27 CORPORATE SECRETARY OF THE INSURER OR THE INSURANCE GROUP OF WHICH
28 THE INSURER IS A MEMBER ATTESTING, TO THE BEST OF THAT INDIVIDUAL'S BELIEF
29 AND KNOWLEDGE, THAT:

30 (1) THE INSURER HAS IMPLEMENTED A CORPORATE GOVERNANCE
31 STRUCTURE, POLICIES, AND PRACTICES; AND

32 (2) A COPY OF THE CGAD HAS BEEN PROVIDED TO THE INSURER'S
33 BOARD OF DIRECTORS OR THE APPROPRIATE COMMITTEE OF THE BOARD OF
34 DIRECTORS.

1 **(C) ON REQUEST OF THE COMMISSIONER, AN INSURER THAT IS NOT**
2 **REQUIRED TO SUBMIT A CGAD UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL**
3 **SUBMIT A CGAD TO THE COMMISSIONER.**

4 **(D) (1) DEPENDING ON HOW AN INSURER OR THE INSURANCE GROUP OF**
5 **WHICH THE INSURER IS A MEMBER HAS STRUCTURED ITS CORPORATE GOVERNANCE**
6 **SYSTEM, THE INSURER OR INSURANCE GROUP SUBMITTING A CGAD TO THE**
7 **COMMISSIONER MAY PROVIDE INFORMATION REGARDING ITS CORPORATE**
8 **GOVERNANCE STRUCTURE AT:**

9 **(I) THE ULTIMATE CONTROLLING PARENT LEVEL;**

10 **(II) AN INTERMEDIATE HOLDING COMPANY LEVEL; OR**

11 **(III) THE INDIVIDUAL LEGAL ENTITY LEVEL.**

12 **(2) IN DETERMINING THE LEVEL FOR WHICH INFORMATION WILL BE**
13 **PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INSURER OR**
14 **INSURANCE GROUP MAY CONSIDER THE FOLLOWING CRITERIA:**

15 **(I) THE LEVEL AT WHICH THE INSURER'S OR INSURANCE**
16 **GROUP'S RISK APPETITE IS DETERMINED;**

17 **(II) THE LEVEL AT WHICH FACTORS, SUCH AS EARNINGS,**
18 **CAPITAL, LIQUIDITY, OPERATIONS, AND REPUTATION OF THE INSURER, ARE**
19 **OVERSEEN COLLECTIVELY, AND AT WHICH LEVEL THE SUPERVISION OF THOSE**
20 **FACTORS IS COORDINATED AND EXERCISED; OR**

21 **(III) THE LEVEL AT WHICH LEGAL LIABILITY FOR FAILURE OF**
22 **GENERAL CORPORATE GOVERNANCE DUTIES WOULD BE PLACED.**

23 **(3) IF THE INSURER OR INSURANCE GROUP DETERMINES THE LEVEL**
24 **OF REPORTING BASED ON THE CRITERIA LISTED UNDER PARAGRAPH (2) OF THIS**
25 **SUBSECTION, THE INSURER OR INSURANCE GROUP SHALL INDICATE WHICH OF THE**
26 **THREE CRITERIA WAS USED TO DETERMINE THE LEVEL OF REPORTING AND EXPLAIN**
27 **ANY SUBSEQUENT CHANGES IN THE LEVEL FOR WHICH INFORMATION IS PROVIDED.**

28 **(E) IF A CGAD IS SUBMITTED TO A LEAD STATE UNDER SUBSECTION (A)(2)**
29 **OF THIS SECTION, A REVIEW OF THE CGAD AND ANY ADDITIONAL REQUESTS FOR**
30 **INFORMATION SHALL BE MADE THROUGH THE LEAD STATE, AS DETERMINED BY THE**
31 **PROCEDURES SPECIFIED IN THE MOST RECENT FINANCIAL ANALYSIS HANDBOOK**
32 **ADOPTED BY THE NAIC.**

1 (F) AN INSURER THAT INCLUDES INFORMATION SUBSTANTIALLY SIMILAR
2 TO THE INFORMATION REQUIRED UNDER THIS SUBTITLE IN ANOTHER DOCUMENT
3 SUBMITTED TO THE COMMISSIONER, INCLUDING PROXY STATEMENTS FILED IN
4 CONJUNCTION WITH FORM B REQUIREMENTS, OR OTHER STATE OR FEDERAL
5 FILINGS PROVIDED TO THE ADMINISTRATION:

6 (1) MAY NOT BE REQUIRED TO DUPLICATE THE INFORMATION IN A
7 CGAD; AND

8 (2) SHALL CROSS-REFERENCE IN THE CGAD THE OTHER DOCUMENT
9 IN WHICH THE INFORMATION IS INCLUDED.

10 4-504.

11 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN INSURER
12 OR THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER SHALL HAVE
13 DISCRETION OVER THE RESPONSES TO A CGAD INQUIRY.

14 (2) THE CGAD SHALL CONTAIN THE MATERIAL INFORMATION
15 NECESSARY TO PERMIT THE COMMISSIONER TO DEVELOP AN UNDERSTANDING OF
16 THE CORPORATE GOVERNANCE STRUCTURE, POLICIES, AND PRACTICES OF THE
17 INSURER OR INSURANCE GROUP.

18 (B) THE COMMISSIONER MAY REQUEST FROM AN INSURER OR THE
19 INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER ADDITIONAL
20 INFORMATION THAT THE COMMISSIONER DETERMINES MATERIAL AND NECESSARY.

21 (C) THE INSURER OR THE INSURANCE GROUP OF WHICH THE INSURER IS A
22 MEMBER SHALL:

23 (1) MAINTAIN DOCUMENTATION AND SUPPORTING INFORMATION;
24 AND

25 (2) MAKE THE DOCUMENTATION AND SUPPORTING INFORMATION
26 AVAILABLE TO THE COMMISSIONER ON EXAMINATION OR ON REQUEST OF THE
27 COMMISSIONER.

28 4-505.

29 (A) ANY DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED
30 INFORMATION, INCLUDING A CGAD, RELATING TO AN INSURER AND IN THE
31 POSSESSION OR CONTROL OF THE COMMISSIONER THAT IS OBTAINED BY, CREATED
32 BY, OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON UNDER THIS
33 SUBTITLE:

1 **(1) IS CONFIDENTIAL AND PRIVILEGED;**

2 **(2) IS NOT SUBJECT TO THE PUBLIC INFORMATION ACT;**

3 **(3) IS NOT SUBJECT TO SUBPOENA; AND**

4 **(4) IS NOT SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN**
5 **ANY PRIVATE CIVIL ACTION.**

6 **(B) EXCEPT AS OTHERWISE PROVIDED BY THIS SUBTITLE, THE**
7 **COMMISSIONER MAY NOT MAKE PUBLIC ANY DOCUMENTS, MATERIALS, OR OTHER**
8 **CGAD-RELATED INFORMATION RELATING TO AN INSURER WITHOUT THE PRIOR**
9 **WRITTEN CONSENT OF THE INSURER.**

10 **(C) THE COMMISSIONER MAY USE ANY DOCUMENTS, MATERIALS, OR OTHER**
11 **CGAD-RELATED INFORMATION RELATING TO AN INSURER IN THE FURTHERANCE**
12 **OF ANY REGULATORY OR LEGAL ACTION BROUGHT AS A PART OF THE DUTIES OF THE**
13 **COMMISSIONER.**

14 **(D) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE WRITTEN**
15 **CONSENT OF AN INSURER BEFORE THE COMMISSIONER MAY SHARE OR RECEIVE**
16 **CONFIDENTIAL DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED**
17 **INFORMATION THAT ASSIST IN THE PERFORMANCE OF THE REGULATORY DUTIES OF**
18 **THE COMMISSIONER.**

19 **(E) THE COMMISSIONER AND ANY PERSON THAT RECEIVED CONFIDENTIAL**
20 **DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION, THROUGH**
21 **EXAMINATION OR OTHERWISE, WHILE ACTING UNDER THE AUTHORITY OF THE**
22 **COMMISSIONER, OR WITH WHOM THE DOCUMENTS, MATERIALS, OR OTHER**
23 **CGAD-RELATED INFORMATION ARE SHARED UNDER THIS SUBTITLE MAY NOT BE**
24 **ALLOWED OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING**
25 **THE CONFIDENTIAL DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED**
26 **INFORMATION.**

27 **(F) (1) TO ASSIST IN THE PERFORMANCE OF THE REGULATORY DUTIES**
28 **OF THE COMMISSIONER, THE COMMISSIONER MAY, ON REQUEST, SHARE**
29 **DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION, INCLUDING**
30 **CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS, OR OTHER**
31 **CGAD-RELATED INFORMATION AS PROVIDED UNDER SUBSECTION (A) OF THIS**
32 **SECTION WITH:**

1 **(I) OTHER STATE, FEDERAL, AND INTERNATIONAL FINANCIAL**
2 **REGULATORY AGENCIES, INCLUDING MEMBERS OF ANY SUPERVISORY COLLEGE AS**
3 **DEFINED IN § 2-209.1 OF THIS ARTICLE;**

4 **(II) THE NAIC; AND**

5 **(III) ANY THIRD-PARTY CONSULTANT THE COMMISSIONER**
6 **DESIGNATES.**

7 **(2) THE COMMISSIONER MAY SHARE DOCUMENTS, MATERIALS, OR**
8 **OTHER CGAD-RELATED INFORMATION UNDER PARAGRAPH (1) OF THIS**
9 **SUBSECTION IF THE RECIPIENT OF THE DOCUMENTS, MATERIALS, OR OTHER**
10 **CGAD-RELATED INFORMATION:**

11 **(I) AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY**
12 **AND PRIVILEGED STATUS OF THE DOCUMENTS, MATERIALS, OR OTHER**
13 **CGAD-RELATED INFORMATION; AND**

14 **(II) VERIFIES IN WRITING THAT THE RECIPIENT HAS THE LEGAL**
15 **AUTHORITY TO MAINTAIN CONFIDENTIALITY AND PRIVILEGED STATUS OF THE**
16 **DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION.**

17 **(G) (1) THE COMMISSIONER MAY RECEIVE DOCUMENTS, MATERIALS, OR**
18 **OTHER CGAD-RELATED INFORMATION FROM:**

19 **(I) OTHER STATE, FEDERAL, AND INTERNATIONAL FINANCIAL**
20 **REGULATORY AGENCIES, INCLUDING MEMBERS OF ANY SUPERVISORY COLLEGE AS**
21 **DEFINED IN § 2-209.1 OF THIS ARTICLE; AND**

22 **(II) THE NAIC.**

23 **(2) THE COMMISSIONER SHALL MAINTAIN AS CONFIDENTIAL AND**
24 **PRIVILEGED ANY DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED**
25 **INFORMATION RECEIVED UNDER PARAGRAPH (1) OF THIS SECTION THAT THE**
26 **COMMISSIONER RECEIVES WITH NOTICE OR THE UNDERSTANDING THAT THE**
27 **DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION ARE**
28 **CONFIDENTIAL AND PRIVILEGED UNDER THE LAWS OF THE JURISDICTION THAT IS**
29 **THE SOURCE OF THE DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED**
30 **INFORMATION.**

31 **(H) (1) THE SHARING OF INFORMATION AND DOCUMENTS BY THE**
32 **COMMISSIONER UNDER THIS SUBTITLE MAY NOT CONSTITUTE A DELEGATION OF**
33 **REGULATORY AUTHORITY OR RULEMAKING.**

1 **(2) THE COMMISSIONER IS SOLELY RESPONSIBLE FOR THE**
2 **ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF THE PROVISIONS OF THIS**
3 **SUBTITLE.**

4 **(I) A WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF**
5 **CONFIDENTIALITY AND PRIVILEGES IN ANY DOCUMENTS, MATERIALS, OR OTHER**
6 **CGAD-RELATED INFORMATION MAY NOT OCCUR AS A RESULT OF:**

7 **(1) THE DISCLOSURE OF THE DOCUMENTS, MATERIALS, OR OTHER**
8 **CGAD-RELATED INFORMATION TO THE COMMISSIONER UNDER THIS SECTION; OR**

9 **(2) THE SHARING OF THE DOCUMENTS, MATERIALS, OR OTHER**
10 **CGAD-RELATED INFORMATION UNDER THIS SUBTITLE.**

11 **4-506.**

12 **(A) (1) THE COMMISSIONER MAY RETAIN, AT AN INSURER'S EXPENSE,**
13 **THIRD-PARTY CONSULTANTS AS MAY BE REASONABLY NECESSARY TO ASSIST THE**
14 **COMMISSIONER IN:**

15 **(I) REVIEWING A CGAD AND DOCUMENTS, MATERIALS, OR**
16 **OTHER CGAD-RELATED INFORMATION; OR**

17 **(II) DETERMINING AN INSURER'S COMPLIANCE WITH THIS**
18 **SUBTITLE.**

19 **(2) THIRD-PARTY CONSULTANTS RETAINED UNDER PARAGRAPH (1)**
20 **OF THIS SUBSECTION MAY INCLUDE ATTORNEYS, ACTUARIES, ACCOUNTANTS, AND**
21 **ANY OTHER EXPERTS NOT OTHERWISE A PART OF THE COMMISSIONER'S STAFF.**

22 **(B) ANY PERSON RETAINED UNDER SUBSECTION (A) OF THIS SECTION**
23 **SHALL:**

24 **(1) BE UNDER THE DIRECTION AND CONTROL OF THE**
25 **COMMISSIONER; AND**

26 **(2) ACT IN A PURELY ADVISORY CAPACITY.**

27 **(C) THE NAIC AND ANY THIRD-PARTY CONSULTANT SHALL BE SUBJECT TO**
28 **THE SAME CONFIDENTIALITY STANDARDS AND REQUIREMENTS AS THE**
29 **COMMISSIONER.**

1 **(D) AS PART OF THE RETENTION PROCESS, A THIRD-PARTY CONSULTANT**
2 **SHALL VERIFY TO THE COMMISSIONER, WITH NOTICE TO THE INSURER, THAT THE**
3 **THIRD-PARTY CONSULTANT:**

4 **(1) IS FREE OF A CONFLICT OF INTEREST WITH THE INSURER; AND**

5 **(2) HAS INTERNAL PROCEDURES IN PLACE TO MONITOR COMPLIANCE**
6 **REGARDING ANY CONFLICT AND TO COMPLY WITH THE CONFIDENTIALITY**
7 **STANDARDS AND REQUIREMENTS UNDER THIS SUBTITLE.**

8 **(E) (1) THE COMMISSIONER SHALL ENTER INTO A WRITTEN AGREEMENT**
9 **WITH THE NAIC OR A THIRD-PARTY CONSULTANT GOVERNING SHARING AND USE**
10 **OF DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION**
11 **SUBMITTED TO THE COMMISSIONER UNDER THIS SUBTITLE.**

12 **(2) THE WRITTEN AGREEMENT UNDER PARAGRAPH (1) OF THIS**
13 **SUBSECTION SHALL:**

14 **(I) REQUIRE THE WRITTEN CONSENT OF AN INSURER BEFORE**
15 **MAKING PUBLIC DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED**
16 **INFORMATION SUBMITTED TO THE COMMISSIONER UNDER THIS SUBTITLE;**

17 **(II) SPECIFY PROCEDURES AND PROTOCOLS FOR MAINTAINING**
18 **THE CONFIDENTIALITY AND SECURITY OF DOCUMENTS, MATERIALS, OR OTHER**
19 **CGAD-RELATED INFORMATION SHARED WITH THE NAIC OR A THIRD-PARTY**
20 **CONSULTANT UNDER THIS SUBTITLE;**

21 **(III) SPECIFY PROCEDURES AND PROTOCOLS FOR THE SHARING**
22 **OF DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION BY THE**
23 **NAIC ONLY WITH OTHER STATE REGULATORS FROM STATES IN WHICH AN**
24 **INSURANCE GROUP HAS DOMICILED INSURERS;**

25 **(IV) SPECIFY THAT THE RECIPIENT OF ANY DOCUMENTS,**
26 **MATERIALS, OR OTHER CGAD-RELATED INFORMATION:**

27 **1. AGREES IN WRITING TO MAINTAIN THE**
28 **CONFIDENTIALITY AND PRIVILEGED STATUS OF THE DOCUMENTS, MATERIALS, OR**
29 **OTHER CGAD-RELATED INFORMATION; AND**

30 **2. HAS VERIFIED IN WRITING THE LEGAL AUTHORITY TO**
31 **MAINTAIN CONFIDENTIALITY;**

32 **(V) SPECIFY THAT:**

1 1. OWNERSHIP OF THE DOCUMENTS, MATERIALS, OR
2 OTHER CGAD-RELATED INFORMATION SHARED UNDER THIS SUBTITLE WITH THE
3 NAIC OR A THIRD-PARTY CONSULTANT REMAINS WITH THE COMMISSIONER; AND

4 2. THE NAIC'S OR THIRD-PARTY CONSULTANT'S USE OF
5 THE INFORMATION IS SUBJECT TO THE DIRECTION OF THE COMMISSIONER;

6 (VI) PROHIBIT THE NAIC AND ANY THIRD-PARTY CONSULTANT
7 FROM STORING DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED
8 INFORMATION SHARED UNDER THIS SUBTITLE IN A PERMANENT DATABASE AFTER
9 THE UNDERLYING ANALYSIS IS COMPLETED;

10 (VII) REQUIRE THE NAIC AND ANY THIRD-PARTY CONSULTANT
11 TO PROVIDE PROMPT NOTICE TO THE COMMISSIONER AND TO THE INSURER OR
12 INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER REGARDING ANY
13 SUBPOENA, REQUEST FOR DISCLOSURE, OR REQUEST FOR PRODUCTION OF THE
14 INSURER'S DOCUMENTS, MATERIALS, OR OTHER CGAD-RELATED INFORMATION;
15 AND

16 (VIII) REQUIRE THE NAIC AND ANY THIRD-PARTY CONSULTANT
17 TO CONSENT TO INTERVENTION BY AN INSURER IN ANY JUDICIAL OR
18 ADMINISTRATIVE ACTION IN WHICH THE NAIC OR THE THIRD-PARTY CONSULTANT
19 MAY BE REQUIRED TO DISCLOSE CONFIDENTIAL DOCUMENTS, MATERIALS, OR
20 OTHER CGAD-RELATED INFORMATION ABOUT THE INSURER SHARED WITH THE
21 NAIC OR THE THIRD-PARTY CONSULTANT UNDER THIS SUBTITLE.

22 4-507.

23 (A) SUBJECT TO § 2-210 OF THIS ARTICLE, AN INSURER THAT FAILS TO
24 TIMELY SUBMIT A CGAD TO THE COMMISSIONER AS REQUIRED BY THIS SUBTITLE
25 AND WITHOUT JUST CAUSE IS SUBJECT TO A PENALTY OF \$200 FOR EACH DAY THE
26 VIOLATION CONTINUES, UP TO A MAXIMUM OF \$25,000.

27 (B) THE COMMISSIONER MAY REDUCE A PENALTY IMPOSED ON AN INSURER
28 UNDER SUBSECTION (A) OF THIS SECTION IF THE INSURER DEMONSTRATES TO THE
29 COMMISSIONER THAT THE IMPOSITION OF THE PENALTY WOULD CONSTITUTE A
30 FINANCIAL HARDSHIP TO THE INSURER.

31 (C) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF THE
32 COMMISSIONER TO TAKE ANY OTHER ACTION AUTHORIZED BY THIS ARTICLE.

33 4-508.

1 **THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS**
 2 **SUBTITLE.**

3 **4-509.**

4 **THIS SUBTITLE MAY BE CITED AS THE CORPORATE GOVERNANCE ANNUAL**
 5 **DISCLOSURE ACT.**

6 14-102.

7 (g) A corporation without capital stock organized for the purpose of establishing,
 8 maintaining, and operating a nonprofit health service plan through which health care
 9 providers provide health care services to subscribers to the plan under contracts that entitle
 10 each subscriber to certain health care services shall be governed and regulated by:

11 (1) this subtitle;

12 (2) Title 2, Subtitle 2 of this article and §§ 1-206, 3-127, and 12-210 of this
 13 article;

14 (3) Title 2, Subtitle 5 of this article;

15 (4) §§ 4-113 [and], 4-114, AND **4-503** of this article;

16 (5) Title 5, Subtitles 1, 2, 3, 4, and 5 of this article;

17 (6) Title 7 of this article, except for § 7-706 and Subtitle 2 of Title 7;

18 (7) Title 9, Subtitles 1, 2, and 4 of this article;

19 (8) Title 10, Subtitle 1 of this article;

20 (9) Title 27 of this article; and

21 (10) any other provision of this article that:

22 (i) is expressly referred to in this subtitle;

23 (ii) expressly refers to this subtitle; or

24 (iii) expressly refers to nonprofit health service plans or persons
 25 subject to this subtitle.

26 **Article – Health – General**

27 15-102.6.

1 (a) (1) Subject to [subsection (b) of this section] **PARAGRAPH (2) OF THIS**
2 **SUBSECTION**, the provisions of Title 7 of the Insurance Article apply to managed care
3 organizations.

4 [(b)] (2) Before approving a transaction under § 7–306 of the Insurance Article,
5 the Insurance Commissioner shall consult with the Secretary.

6 [(c)] (3) The Insurance Commissioner:

7 [(1)] (I) Shall adopt regulations establishing a reporting materiality
8 threshold; and

9 [(2)] (II) May adopt regulations necessary to implement the provisions of
10 this [section] **SUBSECTION**.

11 [(d)] (4) The provisions of this [section] **SUBSECTION** may not apply to any
12 transaction preempted by federal law.

13 (B) **THE PROVISIONS OF TITLE 4, SUBTITLE 5 OF THE INSURANCE ARTICLE**
14 **APPLY TO MANAGED CARE ORGANIZATIONS.**

15 19–706.

16 (M) **THE PROVISIONS OF TITLE 4, SUBTITLE 5 OF THE INSURANCE ARTICLE**
17 **APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.