Laws

of the

State of Maryland

At the Session of the General Assembly Begun and Held in the
City of Annapolis on the Ninth Day of January 2019
and Ending on the Eighth Day of April 2019

Bills vetoed by the Governor appear after the Laws

VOLUME III

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Chapter 308

(House Bill 251)

AN ACT concerning

Department of Aging – Grants for Aging–in–Place Programs
(Nonprofits for our Aging Neighbors Act – "NANA")

FOR the purpose of authorizing the Department of Aging to make grants to certain nonprofit organizations and area agencies on aging to expand and establish certain aging–in–place programs for seniors; authorizing certain nonprofit organizations and area agencies on aging to apply to the Department for a certain State grant; requiring the Department to publicize the availability of certain State grants to eligible organizations at least a certain time period before the applications are due; establishing a certain eligibility requirement for a certain nonprofit organization or area agency on aging to receive a certain State grant; providing that the funding for certain State grants shall be as provided by the Governor in the State budget; requiring the Department to notify a certain area agency on aging within a certain period of time after a grant is awarded to a nonprofit within the agency's jurisdiction; authorizing the Department to adopt certain regulations; defining a certain term; and generally relating to State grants to nonprofit organizations for aging–in–place programs.

BY adding to
Article – Human Services
Section 10–1201 to be under the new subtitle "Subtitle 12. Miscellaneous Grant Programs"
Annotated Code of Maryland
(2007 Volume and 2018 Supplement)

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

Article – Human Services

SUBTITLE 12. MISCELLANEOUS GRANT PROGRAMS.

10–1201.

(A) IN THIS SECTION, "AGING–IN–PLACE PROGRAM" MEANS A PROGRAM OR SERVICE THAT ENABLES AN INDIVIDUAL TO LIVE IN THE INDIVIDUAL'S OWN HOME AND COMMUNITY SAFELY, INDEPENDENTLY, AND COMFORTABLY, REGARDLESS OF AGE, INCOME, OR ABILITY LEVEL.

(B) THE DEPARTMENT MAY MAKE GRANTS TO NONPROFIT ORGANIZATIONS AND AREA AGENCIES ON AGING TO EXPAND AND ESTABLISH AGING–IN–PLACE PROGRAMS FOR SENIORS.

(C) ANY NONPROFIT ORGANIZATION OR AREA AGENCY ON AGING MAY APPLY TO THE DEPARTMENT FOR A STATE GRANT TO BE APPLIED TOWARD THE COST OF EXPANDING OR ESTABLISHING AN AGING–IN–PLACE PROGRAM THAT PROVIDES TO SENIORS:

(1) ASSISTANCE WITH THE COSTS OF IN–HOME PERSONAL CARE SERVICES FOR ACTIVITIES OF DAILY LIVING, INCLUDING BATHING, PERSONAL HYGIENE AND GROOMING, DRESSING, TOILETING, FUNCTIONAL MOBILITY, FOOD PREPARATION, LAUNDRY, AND HOUSE CLEANING;

(2) PSYCHOLOGICAL, ECONOMIC, OR FUNCTIONAL ASSISTANCE TO ENABLE SUCCESSFUL HEALTH MANAGEMENT, ACCESS TO MEDICAL CARE, OR COMPLIANCE WITH TREATMENT RECOMMENDATIONS;

(3) AWARENESS OF AND ACCESS TO RESOURCES, SERVICES, AND BENEFITS;

(4) SUPPORT SERVICES AND CARE COORDINATION;

(5) AFFORDABLE TRANSPORTATION; OR

(6) ASSISTANCE MAKING IN–HOME MODIFICATIONS OR REPAIRS TO IMPROVE SAFETY, MOBILITY, AND ACCESSIBILITY.

(D) TO BE ELIGIBLE FOR A STATE GRANT TO EXPAND AN EXISTING AGING–IN–PLACE PROGRAM UNDER THIS SECTION, A NONPROFIT ORGANIZATION OR AREA AGENCY ON AGING SHALL DEMONSTRATE AN EQUAL MATCH FOR FUNDS REQUESTED.

(E) THE DEPARTMENT SHALL PUBLICIZE THE AVAILABILITY OF GRANT OPPORTUNITIES UNDER THE AGING–IN–PLACE PROGRAM TO ELIGIBLE ORGANIZATIONS AT LEAST 6 WEEKS BEFORE GRANT APPLICATIONS ARE DUE.

~~(E)~~ (F) THE AMOUNT OF THE STATE GRANT FOR AN AGING–IN–PLACE PROGRAM SHALL BE DETERMINED AFTER CONSIDERATION OF:

(1) ALL ELIGIBLE APPLICANTS;

(2) THE TOTAL AMOUNT OF STATE FUNDS AVAILABLE FOR GRANTS; AND

(3) THE PRIORITIES OF AREA NEED AS MAY BE ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH AREA AGENCIES ON AGING AND IN ALIGNMENT WITH AREA PLANS ON AGING.

~~(F)~~ (G) FUNDING FOR THE STATE GRANTS UNDER THIS SECTION SHALL BE AS PROVIDED BY THE GOVERNOR IN THE ANNUAL STATE BUDGET.

(H) THE DEPARTMENT SHALL NOTIFY AN AREA AGENCY ON AGING WITHIN 2 WEEKS AFTER A GRANT AWARD TO A NONPROFIT LOCATED WITHIN THE JURISDICTION OF THE AREA AGENCY ON AGING.

~~(G)~~ (I) THE DEPARTMENT MAY ADOPT REGULATIONS FOR RECEIVING AND CONSIDERING APPLICATIONS AND FOR DISBURSING FUNDS TO APPLICANTS.

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

Approved by the Governor, April 30, 2019.

Chapter 309

(Senate Bill 279)

AN ACT concerning

Department of Aging – Grants for Aging–in–Place Programs
(Nonprofits for our Aging Neighbors Act – "NANA")

FOR the purpose of authorizing the Department of Aging to make grants to certain nonprofit organizations and area agencies on aging to expand and establish certain aging–in–place programs for seniors; authorizing certain nonprofit organizations and area agencies on aging to apply to the Department for a certain State grant; requiring the Department to publicize the availability of certain State grants to eligible organizations at least a certain time period before the applications are due; establishing a certain eligibility requirement for a certain nonprofit organization or area agency on aging to receive a certain State grant; providing that the funding for certain State grants shall be as provided by the Governor in the State budget; requiring the Department to notify a certain area agency on aging within a certain period of time after a grant is awarded to a nonprofit within the agency's jurisdiction; authorizing the Department to adopt certain regulations; defining a certain term; and generally relating to State grants to nonprofit organizations for aging–in–place programs.

BY adding to
Article – Human Services
Section 10–1201 to be under the new subtitle "Subtitle 12. Miscellaneous Grant Programs"
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(2007 Volume and 2018 Supplement)

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Article – Human Services

SUBTITLE 12. MISCELLANEOUS GRANT PROGRAMS.

10–1201.

(A) IN THIS SECTION, "AGING–IN–PLACE PROGRAM" MEANS A PROGRAM OR SERVICE THAT ENABLES AN INDIVIDUAL TO LIVE IN THE INDIVIDUAL'S OWN HOME AND COMMUNITY SAFELY, INDEPENDENTLY, AND COMFORTABLY, REGARDLESS OF AGE, INCOME, OR ABILITY LEVEL.

(B) THE DEPARTMENT MAY MAKE GRANTS TO NONPROFIT ORGANIZATIONS AND AREA AGENCIES ON AGING TO EXPAND AND ESTABLISH AGING–IN–PLACE PROGRAMS FOR SENIORS.

(C) ANY NONPROFIT ORGANIZATION OR AREA AGENCY ON AGING MAY APPLY TO THE DEPARTMENT FOR A STATE GRANT TO BE APPLIED TOWARD THE COST OF EXPANDING OR ESTABLISHING AN AGING–IN–PLACE PROGRAM THAT PROVIDES TO SENIORS:

(1) ASSISTANCE WITH THE COSTS OF IN–HOME PERSONAL CARE SERVICES FOR ACTIVITIES OF DAILY LIVING, INCLUDING BATHING, PERSONAL HYGIENE AND GROOMING, DRESSING, TOILETING, FUNCTIONAL MOBILITY, FOOD PREPARATION, LAUNDRY, AND HOUSE CLEANING;

(2) PSYCHOLOGICAL, ECONOMIC, OR FUNCTIONAL ASSISTANCE TO ENABLE SUCCESSFUL HEALTH MANAGEMENT, ACCESS TO MEDICAL CARE, OR COMPLIANCE WITH TREATMENT RECOMMENDATIONS;

(3) AWARENESS OF AND ACCESS TO RESOURCES, SERVICES, AND BENEFITS;

(4) SUPPORT SERVICES AND CARE COORDINATION;

(5) AFFORDABLE TRANSPORTATION; OR

(6) ASSISTANCE MAKING IN–HOME MODIFICATIONS OR REPAIRS TO IMPROVE SAFETY, MOBILITY, AND ACCESSIBILITY.

(D) TO BE ELIGIBLE FOR A STATE GRANT TO EXPAND AN EXISTING AGING–IN–PLACE PROGRAM UNDER THIS SECTION, A NONPROFIT ORGANIZATION OR AREA AGENCY ON AGING SHALL DEMONSTRATE AN EQUAL MATCH FOR FUNDS REQUESTED.

(E) THE DEPARTMENT SHALL PUBLICIZE THE AVAILABILITY OF GRANT OPPORTUNITIES UNDER THE AGING–IN–PLACE PROGRAM TO ELIGIBLE ORGANIZATIONS AT LEAST 6 WEEKS BEFORE GRANT APPLICATIONS ARE DUE.

~~(E)~~ (F) THE AMOUNT OF THE STATE GRANT FOR AN AGING–IN–PLACE PROGRAM SHALL BE DETERMINED AFTER CONSIDERATION OF:

(1) ALL ELIGIBLE APPLICANTS;

(2) THE TOTAL AMOUNT OF STATE FUNDS AVAILABLE FOR GRANTS; AND

(3) THE PRIORITIES OF AREA NEED AS MAY BE ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH AREA AGENCIES ON AGING AND IN ALIGNMENT WITH AREA PLANS ON AGING.

~~(F)~~ (G) FUNDING FOR THE STATE GRANTS UNDER THIS SECTION SHALL BE AS PROVIDED BY THE GOVERNOR IN THE ANNUAL STATE BUDGET.

(H) THE DEPARTMENT SHALL NOTIFY AN AREA AGENCY ON AGING WITHIN 2 WEEKS AFTER A GRANT AWARD TO A NONPROFIT LOCATED WITHIN THE JURISDICTION OF THE AREA AGENCY ON AGING.

~~(G)~~ (I) THE DEPARTMENT MAY ADOPT REGULATIONS FOR RECEIVING AND CONSIDERING APPLICATIONS AND FOR DISBURSING FUNDS TO APPLICANTS.

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

Approved by the Governor, April 30, 2019.

Chapter 310

(House Bill 417)

AN ACT concerning

Water Pollution Control – ~~Public~~ Notification of Sewer Overflows and Treatment Plant Bypasses – Alteration

FOR the purpose of repealing a requirement that a certain report of a sewer overflow or treatment plant bypass provided to the Department of the Environment by an owner or operator of certain sewer systems or wastewater treatment plants be made by telephone; specifying the content of the procedures that the Department of the Environment, in cooperation with the Maryland Department of Health, local health departments, and local environmental health directors, is required to develop for an owner or operator of certain sewer systems or wastewater treatment plants to provide public notification of a sewer overflow or treatment plant bypass; applying the public notification requirement to treatment plant bypasses; ~~authorizing the owner or operator of certain sewer systems or wastewater treatment plants to provide the public notification in a certain manner under certain circumstances;~~ making a stylistic change; making a conforming change; and generally relating to sewer overflows and treatment plant bypasses.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–331.1
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Environment

9–331.1.

(a) (1) The owner or operator of any sanitary sewer system, combined sewer system, or wastewater treatment plant shall report to the Department any sewer overflow or treatment plant bypass that results in the direct or potential discharge of raw or diluted sewage into the surface waters or groundwaters of the State.

(2) The report shall be made ~~by telephone~~ as soon as practicable but no later than 24 hours after the time that the operator or owner became aware of the event.

(3) Within 5 calendar days after ~~the telephone~~ notification of the event, the owner or operator shall provide the Department with a written report regarding the incident that includes any information required by the Department.

(b) **(1) [**The**] SUBJECT TO ~~PARAGRAPHS~~ PARAGRAPH (2) ~~AND (3)~~ OF THIS SUBSECTION, THE** Department, in cooperation with the Maryland Department of Health,

the local health departments, and local environmental health directors, shall develop procedures for requiring the owner or operator of any sanitary sewer system, combined sewer system, or wastewater treatment plant to provide public notification of a **[**sewage**]** **SEWER** overflow **OR TREATMENT PLANT BYPASS**.

(2) THE PROCEDURES DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

~~**(I) BE APPLIED UNIFORMLY THROUGHOUT THE STATE;**~~

~~**(II)**~~ **(I) REQUIRE THAT THE NOTIFICATION BE POSTED** ~~**IN SPANISH AND ENGLISH**~~**:**

1. IN SPANISH AND ENGLISH AT THE LOCATION OF THE SEWER OVERFLOW OR TREATMENT PLANT BYPASS;

~~**1.**~~ **2. ON THE WEBSITE OF THE DEPARTMENT, THE MARYLAND DEPARTMENT OF HEALTH, AND THE APPROPRIATE LOCAL HEALTH DEPARTMENT; AND**

~~**2.**~~ **3. ON ANY SOCIAL MEDIA WEBSITE ON WHICH THE** ~~**DEPARTMENT, MARYLAND DEPARTMENT OF HEALTH, OR**~~ **APPROPRIATE LOCAL HEALTH DEPARTMENT REGULARLY POSTS INFORMATION; AND**

~~**3. AT THE LOCATION OF THE SEWER OVERFLOW OR TREATMENT PLANT BYPASS; AND**~~

~~**(III)**~~ **(II) REQUIRE NOTIFICATION WITHIN A REASONABLE TIME TO:**

1. APPROPRIATE DOWNSTREAM JURISDICTIONS;

2. APPROPRIATE COUNTY GOVERNMENTS;

3. STATE PARKS IMPACTED BY THE SEWER OVERFLOW OR TREATMENT PLANT BYPASS;

4. THE DEPARTMENT OF NATURAL RESOURCES; AND

5. ANY OTHER LOCAL, STATE, OR FEDERAL LAND MANAGER IMPACTED BY THE SEWER OVERFLOW OR TREATMENT PLANT BYPASS.

~~**(3) IN LIEU OF THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OWNER OR OPERATOR OF ANY SANITARY SEWER SYSTEM,**~~

~~COMBINED SEWER SYSTEM, OR WASTEWATER TREATMENT PLANT MAY PROVIDE NOTICE OF A SEWER OVERFLOW OR TREATMENT PLANT BYPASS IN ITS QUARTERLY OR ANNUAL REPORT, REPORT OF INCIDENTS INCLUDED WITH WATER BILLS, OR INFORMATION ABOUT INCIDENTS AVAILABLE ON AN APPROPRIATE WEBSITE IF:~~

~~(I) THE TOTAL VOLUME OF THE SEWER OVERFLOW OR TREATMENT PLANT BYPASS AT THE TIME OF COMPLETED REPAIR IS LESS THAN 5,000 GALLONS; AND~~

~~(II) THE MARYLAND DEPARTMENT OF HEALTH, APPROPRIATE LOCAL HEALTH DEPARTMENT, OR APPROPRIATE ENVIRONMENTAL HEALTH DIRECTOR OR THE ENVIRONMENTAL HEALTH DIRECTOR'S DESIGNEE DETERMINES THAT:~~

~~1. THE OVERFLOW DID NOT ENTER:~~

~~A. SHELLFISH HARVESTING WATERS;~~

~~B. WATERS PROTECTED AS DRINKING WATER SOURCES;~~

~~C. WATERS USED AS PUBLIC BATHING BEACHES WHERE PEOPLE MAY SWIM; OR~~

~~D. WATERS USED FOR PUBLIC RECREATION WHERE PEOPLE MAY BOAT, FISH, OR SWIM; AND~~

~~2. THERE IS NOT A RISK TO PUBLIC HEALTH.~~

(c) (1) The Maryland Department of Health and the local health departments shall make all decisions and determinations as to public health issues resulting from sewer overflows or treatment bypasses.

(2) The owner or operator of any sanitary sewer system, combined sewer system, or wastewater treatment plant is not responsible for making public health determinations regarding sewer overflow or treatment plant bypasses.

(d) The Department shall adopt regulations to implement the requirements of this section.

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

Approved by the Governor, April 30, 2019.

Chapter 311

(House Bill 1405)

AN ACT concerning

Howard County – Transfer Tax – Collection by Director of Finance

Ho. Co. 30–19

FOR the purpose of requiring the Director of Finance of Howard County, instead of the Clerk of the Circuit Court of Howard County, to collect the county tax on the recordation of an instrument of writing that conveys title to real property; repealing a requirement that the Clerk of the Circuit Court pay to the Director of Finance the proceeds of the transfer tax in a certain manner; making clarifying and conforming changes; and generally relating to the collection of the transfer tax in Howard County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Howard County
Section 20.301 and 20.304
Article 14 – Public Local Laws of Maryland
(1977 Edition and August 2008 Supplement, as amended)

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

Article 14 – Howard County

20.301.

The tax imposed by this section shall be levied at the rate of one percent of the actual consideration paid or to be paid for the conveyance of title and shall be collected by the **[**clerk of the circuit court prior to his accepting any such**]** **DIRECTOR OF FINANCE BEFORE THE CLERK OF THE CIRCUIT COURT MAY ACCEPT AN** instrument **OF WRITING** for recordation.

20.304.

[The clerk of the circuit court shall pay over to the director of finance from time to time, under such procedures as the director of finance may specify, the proceeds of this tax.**]** The director of finance shall **[**hold such**]** **COLLECT AND DISTRIBUTE TRANSFER TAX** proceeds in the following manner: 25% in a special fund known as "The School Site Acquisition and Construction Fund," and disbursements from this fund shall be made only for the purposes set forth in section 9.102 of the Howard County Code; 25% in a special

fund known as "The Park Land Watershed Facilities Fund," and disbursements from this fund shall be made only for the purposes set forth in section 19.100 of the Howard County Code; and the remainder in the general fund of the county, with the stipulation that the county council shall budget this remainder as follows: 50% plus the interest thereon for the Howard County Agricultural Land Preservation Fund; 25% for community improvement and housing programs primarily serving low income individuals and families and the homeless and for urban renewal; and 25% for the acquisition or leasing of land for new fire house sites and training facilities and the construction and maintenance of fire house and training facilities, the acquisition and maintenance of fire equipment, and supplementation of financial needs of fire companies.

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

Approved by the Governor, April 30, 2019.

Chapter 312

(Senate Bill 852)

AN ACT concerning

Department of Labor, Licensing, and Regulation – Veterans and Military Service Members and Spouses – Occupational Licenses

FOR the purpose of altering the definition of "military spouse" to include the surviving spouse of a service member who dies at any time before an application for a license; altering the definition of "veteran" to include former service members who have been discharged for more than 1 year before an application for a license; requiring units of the Department of Labor, Licensing, and Regulation to ~~establish the period of time during which each unit must approve or disapprove an application for an expedited temporary license for certain applicants; requiring certain units to approve or disapprove an application for an expedited temporary license during a certain time period established by the Department;~~ issue a certain license to certain applicants within a certain period of time; repealing references to the issuance of a temporary license to certain applicants; requiring the Department to publish certain information prominently on its website; requiring each unit to publish prominently on its website the time period during which the unit must ~~approve or disapprove an application for~~ issue ~~a temporary~~ an expedited license for certain applicants; and generally relating to occupational licenses for veterans and military service members and their spouses.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 2.5–101(a)

Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 2.5–101(c) and (f), 2.5–105, and 2.5–107
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

2.5–101.

(a) In this title the following words have the meanings indicated.

(c) (1) "Military spouse" means the spouse of a service member or veteran.

(2) "Military spouse" includes a surviving spouse of:

(i) a veteran; or

(ii) a service member who died **[**within 1 year**]** before the date on which the application for a license is submitted.

(f) **[**(1)**]** "Veteran" means a former service member who was discharged from active duty under circumstances other than dishonorable **[**within 1 year**]** before the date on which the application for a license is submitted.

[(2) "Veteran" does not include an individual who has completed active duty and has been discharged for more than 1 year before the application for a license is submitted.**]**

2.5–105.

(a) **(1)** Each unit shall issue an expedited ~~temporary~~ license to a service member, veteran, or military spouse who meets the requirements of this section.

(2) ~~**THE DEPARTMENT SHALL ESTABLISH A TIME PERIOD FOR APPROVAL OR DISAPPROVAL OF AN APPLICATION FOR AN EXPEDITED TEMPORARY LICENSE AND SHALL ISSUE EACH EXPEDITED TEMPORARY LICENSE WITHIN THAT TIME PERIOD**~~ **IF A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE MEETS THE REQUIREMENTS FOR LICENSURE, A UNIT SHALL ISSUE THE LICENSE WITHIN 60 DAYS AFTER RECEIVING A COMPLETED APPLICATION.**

~~(b) A temporary license issued under this section is valid until the earlier of:~~

~~(1) 6 months after the date of issuance; or~~

~~(2) the date on which a license is granted or a notice to deny a license is issued by the unit.~~

~~(c)~~ **(B)** An application for a ~~temporary~~ license shall include the following, in the form and manner required by the unit:

(1) proof that the applicant is a service member, veteran, or military spouse;

(2) proof that the applicant holds a valid license in good standing issued in another state;

(3) if the applicant is a service member or veteran, proof that the applicant is assigned to a duty station in the State or has established legal residence in the State;

(4) if the applicant is a military spouse, proof that the applicant's spouse is assigned to a duty station in the State or has established legal residence in the State;

(5) if a criminal background check is required by the unit for licensure, proof of application for a criminal background check;

(6) proof that the applicant has submitted the full application for licensure; and

(7) payment of any application fee required by the unit.

~~(d)~~ **(C)** Before issuing a ~~temporary~~ license under this section, the unit shall determine that the requirements for licensure in the other state are substantially equivalent to, or exceed the requirements for, licensure in this State.

2.5–107.

(A) THE DEPARTMENT SHALL PUBLISH PROMINENTLY ON ITS WEBSITE:

(1) THE PROCESS FOR OBTAINING A ~~TEMPORARY~~ LICENSE ~~AND A PERMANENT LICENSE~~ FROM ANY UNIT UNDER § 2.5–105 OF THIS TITLE;

(2) THE TIME PERIOD DURING WHICH A UNIT IS REQUIRED TO ~~APPROVE OR DISAPPROVE AN APPLICATION FOR~~ ISSUE AN EXPEDITED ~~TEMPORARY~~ LICENSE ~~ESTABLISHED BY THE DEPARTMENT~~ UNDER § 2.5–105(A) OF THIS TITLE; AND

(3) A LIST OF THE NAMES OF EACH UNIT THAT ISSUES A ~~TEMPORARY~~ LICENSE UNDER THIS TITLE AND A DIRECT LINK TO EACH UNIT'S WEBSITE.

(B) Each unit shall publish prominently on its **[**Web site**]** **WEBSITE**:

(1) the process for obtaining a ~~temporary~~ license under § 2.5–105 of this title and, if applicable, § 2.5–106 of this title; ~~**[**~~and~~**]**~~

~~(2) the process for applying for a permanent license from the unit; AND~~

~~(3)~~ **(2) THE TIME PERIOD DURING WHICH A UNIT IS REQUIRED TO ~~APPROVE OR DISAPPROVE AN APPLICATION FOR~~ ISSUE AN EXPEDITED ~~TEMPORARY~~ LICENSE ~~ESTABLISHED BY THE DEPARTMENT~~ UNDER § 2.5–105(A) OF THIS TITLE**.

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

Approved by the Governor, April 30, 2019.

Chapter 313

(Senate Bill 879)

AN ACT concerning

Primary and Secondary Education – Black History Month – Harriet Tubman and Frederick Douglass

FOR the purpose of requiring certain public schools to devote a certain part of ~~the~~ *at least one* day to exercises that relate to Black History Month with an emphasis on certain individuals and the contributions they made in the fight against slavery; and generally relating to Black History Month and Harriet Tubman and Frederick Douglass.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–103(c)(3)
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

Preamble

WHEREAS, Both Harriet Tubman and Frederick Douglass were abolitionists and political activists in the late 1800's whose contributions were instrumental in the fight against slavery; and

WHEREAS, Both Tubman and Douglass have roots in Maryland, Tubman having been born a slave in Dorchester County, Maryland and Douglass having escaped from slavery in Talbot County, Maryland; and

WHEREAS, Tubman's efforts in the operation of the Underground Railroad resulted in 13 missions that rescued and freed approximately 70 enslaved individuals including family, friends, and others; and

WHEREAS, Douglass was a well–known orator, writer, and statesman who published multiple autobiographies that were influential in promoting the cause of abolition; and

WHEREAS, The State of Maryland celebrates Black History Month in the month of February every year; now, therefore,

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

Article – Education

7–103.

(c) (3) The public schools shall devote a part of ~~the~~ ***AT LEAST ONE*** day to appropriate exercises for ***EACH OF*** the following **[**days**]**:

(i) Washington's Birthday;

(ii) Lincoln's Birthday;

(iii) Veterans' Day;

(iv) Columbus Day;

(v) Arbor Day; **[**and**]**

(VI) BLACK HISTORY MONTH, WITH AN EMPHASIS ON HARRIET TUBMAN AND FREDERICK DOUGLASS AND THE CONTRIBUTIONS THEY MADE IN THE FIGHT AGAINST SLAVERY; AND

[(vi)**] (VII)** Any other day of national significance.

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

Approved by the Governor, April 30, 2019.

Chapter 314

(Senate Bill 310)

AN ACT concerning

Baltimore City – Unpackaged Cigarettes – Prohibition on Sale

FOR the purpose of prohibiting a certain person from selling an unpackaged cigarette; authorizing an enforcement officer of the Tobacco Use Prevention and Cessation Program in the Baltimore City Health Department to enforce this Act in a certain manner; requiring an enforcement officer to report a violation of this Act to a State's Attorney; providing that issuance of a citation for violation of a certain provision of law precludes prosecution under this Act for a violation arising out of the same incident; providing for the application of this Act; defining a certain term; and generally relating to the sale of unpackaged cigarettes in Baltimore City.

BY adding to
Article – Business Regulation
Section 16–308.2
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

16–308.2.

(A) IN THIS SECTION, "UNPACKAGED CIGARETTE" MEANS ANY CIGARETTE NOT CONTAINED IN A SEALED PACKAGE OF 20 OR MORE CIGARETTES THAT ARE DESIGNED AND INTENDED TO BE SOLD AS A UNIT.

(B) THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

(C) A PERSON WHO HOLDS A COUNTY LICENSE MAY NOT SELL AN UNPACKAGED CIGARETTE.

(D) (1) AN ENFORCEMENT OFFICER OF THE TOBACCO USE PREVENTION AND CESSATION PROGRAM IN THE BALTIMORE CITY HEALTH DEPARTMENT MAY ENFORCE THIS SECTION BY ENTERING AND INSPECTING, AT A REASONABLE TIME, THE PREMISES OF A COUNTY LICENSE HOLDER.

(2) AN ENFORCEMENT OFFICER SHALL REPORT A VIOLATION OF THIS SECTION TO A STATE'S ATTORNEY.

(E) ISSUANCE OF A CITATION BY THE COMPTROLLER FOR A VIOLATION OF § 16–215 OF THIS TITLE PRECLUDES A PROSECUTION FOR A VIOLATION UNDER THIS SECTION ARISING OUT OF THE SAME INCIDENT.

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

Approved by the Governor, April 30, 2019.

Chapter 315

(House Bill 284)

AN ACT concerning

Procurement – Small Businesses and Minority Businesses – Qualification and Certification
(Small and Minority Business Certification Streamlining Act of 2019)

FOR the purpose of requiring the Secretary of General Services, the Secretary of Transportation, the Chancellor of the University System of Maryland, and the President of Morgan State University to adopt certain regulations, on or before a certain date, to require the qualification of a business as a small business ~~in a certain manner if the business has obtained a certain federal certification~~ *under certain circumstances*; altering a requirement that certain regulations promote and facilitate certification of minority business enterprises that have received a certain federal certification; requiring the Board of Public Works to adopt regulations that provide for the certification of a business as a minority business enterprise if the business has obtained a certain federal certification and meets certain eligibility requirements; and generally relating to procurement by small businesses and minority businesses.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–203 and 14–303
Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

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

Article – State Finance and Procurement

14–203.

(a) By regulation, the Secretary of General Services, the Secretary of Transportation, the Chancellor of the University System of Maryland, and the President of Morgan State University each shall specify the criteria that a business must meet to qualify as a small business.

(b) (1) The criteria for qualification as a small business may vary among industries to reflect their particular characteristics.

(2) Regulations adopted under this section shall include, for each class of business, the maximum number of employees a business may have to qualify as a small business.

(C) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL REQUIRE THE QUALIFICATION OF A BUSINESS AS A SMALL BUSINESS:

~~**(1) IF THE BUSINESS HAS OBTAINED CERTIFICATION AS A SMALL BUSINESS UNDER A FEDERAL SMALL BUSINESS CERTIFICATION PROGRAM; AND**~~

~~**(2) WITHOUT FILING ANY ADDITIONAL PAPERWORK OTHER THAN EVIDENCE OF THE FEDERAL CERTIFICATION**~~ ***FOR THE EXCLUSIVE PURPOSE OF PURSUING OUT–OF–STATE CONTRACTS, IF THE BUSINESS HAS:***

(1) 250 OR FEWER EMPLOYEES; OR

***(2) AVERAGE ANNUAL GROSS RECEIPTS OF $10,000,000 OR LESS AVERAGED OVER ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS*.**

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of information regarding any waivers requested in accordance with § 14–302(a)(9)(i) of this subtitle and subsection (b)(12) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(iii) The Board shall keep a record of the aggregate number and the identity of minority business enterprises that receive certification under the process established by the Board under subsection (b)(1) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions:

(i) designating one State agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements, including provisions that promote and facilitate the submission of some or all of the certification application through an electronic process;

(ii) for the purpose of certification under this subtitle, that promote and facilitate certification of minority business enterprises that have received certification from **[**the U.S. Small Business Administration**]** **A FEDERAL** or a county **PROGRAM** that uses a certification process substantially similar to the process established in accordance with item (i) of this item**, INCLUDING A PROVISION THAT PROVIDES FOR CERTIFICATION OF A BUSINESS AS A MINORITY BUSINESS ENTERPRISE IF THE BUSINESS:**

1. HAS OBTAINED CERTIFICATION UNDER THE FEDERAL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM; AND

2. MEETS THE ELIGIBILITY REQUIREMENTS OF THE MINORITY BUSINESS ENTERPRISE PROGRAM;

(iii) requiring the agency designated to certify minority business enterprises to complete the agency's review of an application for certification and notify the applicant of the agency's decision within 90 days of receipt of a complete application that includes all of the information necessary for the agency to make a decision; and

(iv) authorizing the agency designated to certify minority business enterprises to extend the notification requirement established under item (iii) of this item once, for no more than an additional 60 days, if the agency provides the applicant with a written notice and explanation;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on the factors set forth in § 14–302(a)(3)(ii) of this subtitle;

(3) a requirement that bidders or offerors complete a document setting forth the percentage of the total dollar amount of the contract that the bidder or offeror agrees will be performed by certified minority business enterprises;

(4) a requirement that within 10 days after notice from the prime contractor of the State's intent to award a contract, each minority business enterprise serving as a subcontractor on the contract complete a document setting forth the percentage and type of work assigned to the subcontractor under the contract and submit copies of the completed form to both the procurement officer and the contractor;

(5) a requirement that the solicitation documents completed and submitted by the bidder or offeror in connection with its minority business enterprise participation commitment must be attached to and made a part of the contract;

(6) (i) a requirement that all contracts containing minority business enterprise participation goals shall contain a liquidated damages provision that applies in the event that the contractor fails to comply in good faith with the provisions of this subtitle or the pertinent terms of the applicable contract; and

(ii) a provision that prohibits a unit from assessing liquidated damages for an indefinite delivery contract or an indefinite performance contract if a unit fails to request the performance or delivery of a task for which:

1. a minority business enterprise subcontractor was named on the participation schedule; or

2. a minority business enterprise subcontractor was named on the participation schedule and qualified based on the subcontractor's existing North American Industry Classification System code;

(7) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(8) provisions to ensure the uniformity of requests for bids on subcontracts;

(9) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(10) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(11) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(12) consistent with § 14–302(a)(9) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(13) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(14) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(15) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(16) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(17) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(18) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors;

(19) provisions establishing standards to require a minority business enterprise to perform a commercially useful function on a contract;

(20) a requirement that each unit work with the Governor's Office of Small, Minority, and Women Business Affairs to designate certain procurements as being excluded from the requirements of § 14–302(a) of this subtitle; and

(21) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of General Services, the Secretary of Transportation, the Chancellor of the University System of Maryland, and the President of Morgan State University shall adopt the regulations required under this Act on or before ~~June 1, 2020~~ *December 31, 2019.*

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 316

(Senate Bill 983)

AN ACT concerning

Procurement – Small Businesses and Minority Businesses – Qualification and Certification
(Small and Minority Business Certification Streamlining Act of 2019)

FOR the purpose of requiring the Secretary of General Services, the Secretary of Transportation, the Chancellor of the University System of Maryland, and the President of Morgan State University to adopt certain regulations, on or before a certain date, to require the qualification of a business as a small business ~~in a certain manner if the business has obtained a certain federal certification~~ under certain circumstances; altering a requirement that certain regulations promote and facilitate certification of minority business enterprises that have received a certain federal certification; requiring the Board of Public Works to adopt regulations that provide for the certification of a business as a minority business enterprise if the business has obtained a certain federal certification and meets certain eligibility requirements; and generally relating to procurement by small businesses and minority businesses.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–203 and 14–303
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Finance and Procurement

14–203.

(a) By regulation, the Secretary of General Services, the Secretary of Transportation, the Chancellor of the University System of Maryland, and the President of Morgan State University each shall specify the criteria that a business must meet to qualify as a small business.

(b) (1) The criteria for qualification as a small business may vary among industries to reflect their particular characteristics.

(2) Regulations adopted under this section shall include, for each class of business, the maximum number of employees a business may have to qualify as a small business.

(C) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL REQUIRE THE QUALIFICATION OF A BUSINESS AS A SMALL BUSINESS:

~~**(1) IF THE BUSINESS HAS OBTAINED CERTIFICATION AS A SMALL BUSINESS UNDER A FEDERAL SMALL BUSINESS CERTIFICATION PROGRAM; AND**~~

~~**(2) WITHOUT FILING ANY ADDITIONAL PAPERWORK OTHER THAN EVIDENCE OF THE FEDERAL CERTIFICATION**~~ **FOR THE EXCLUSIVE PURPOSE OF PURSUING OUT–OF–STATE CONTRACTS, IF THE BUSINESS HAS:**

(1) 250 OR FEWER EMPLOYEES; OR

(2) AVERAGE ANNUAL GROSS RECEIPTS OF $10,000,000 OR LESS AVERAGED OVER ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS.

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of information regarding any waivers requested in accordance with § 14–302(a)(9)(i) of this subtitle and subsection (b)(12) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(iii) The Board shall keep a record of the aggregate number and the identity of minority business enterprises that receive certification under the process established by the Board under subsection (b)(1) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions:

(i) designating one State agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements, including provisions that promote and facilitate the submission of some or all of the certification application through an electronic process;

(ii) for the purpose of certification under this subtitle, that promote and facilitate certification of minority business enterprises that have received certification from **[**the U.S. Small Business Administration**]** **A FEDERAL** or a county **PROGRAM** that uses a certification process substantially similar to the process established in accordance with item (i) of this item**, INCLUDING A PROVISION THAT PROVIDES FOR CERTIFICATION OF A BUSINESS AS A MINORITY BUSINESS ENTERPRISE IF THE BUSINESS:**

1. HAS OBTAINED CERTIFICATION UNDER THE FEDERAL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM; AND

2. MEETS THE ELIGIBILITY REQUIREMENTS OF THE MINORITY BUSINESS ENTERPRISE PROGRAM;

(iii) requiring the agency designated to certify minority business enterprises to complete the agency's review of an application for certification and notify the applicant of the agency's decision within 90 days of receipt of a complete application that includes all of the information necessary for the agency to make a decision; and

(iv) authorizing the agency designated to certify minority business enterprises to extend the notification requirement established under item (iii) of this item once, for no more than an additional 60 days, if the agency provides the applicant with a written notice and explanation;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on the factors set forth in § 14–302(a)(3)(ii) of this subtitle;

(3) a requirement that bidders or offerors complete a document setting forth the percentage of the total dollar amount of the contract that the bidder or offeror agrees will be performed by certified minority business enterprises;

(4) a requirement that within 10 days after notice from the prime contractor of the State's intent to award a contract, each minority business enterprise serving as a subcontractor on the contract complete a document setting forth the percentage and type of work assigned to the subcontractor under the contract and submit copies of the completed form to both the procurement officer and the contractor;

(5) a requirement that the solicitation documents completed and submitted by the bidder or offeror in connection with its minority business enterprise participation commitment must be attached to and made a part of the contract;

(6) (i) a requirement that all contracts containing minority business enterprise participation goals shall contain a liquidated damages provision that applies in the event that the contractor fails to comply in good faith with the provisions of this subtitle or the pertinent terms of the applicable contract; and

(ii) a provision that prohibits a unit from assessing liquidated damages for an indefinite delivery contract or an indefinite performance contract if a unit fails to request the performance or delivery of a task for which:

1. a minority business enterprise subcontractor was named on the participation schedule; or

2. a minority business enterprise subcontractor was named on the participation schedule and qualified based on the subcontractor's existing North American Industry Classification System code;

(7) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(8) provisions to ensure the uniformity of requests for bids on subcontracts;

(9) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(10) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(11) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(12) consistent with § 14–302(a)(9) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(13) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(14) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(15) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(16) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(17) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(18) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors;

(19) provisions establishing standards to require a minority business enterprise to perform a commercially useful function on a contract;

(20) a requirement that each unit work with the Governor's Office of Small, Minority, and Women Business Affairs to designate certain procurements as being excluded from the requirements of § 14–302(a) of this subtitle; and

(21) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of General Services, the Secretary of Transportation, the Chancellor of the University System of Maryland, and the President of Morgan State University shall adopt the regulations required under this Act on or before December 31, 2019.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 317

(House Bill 1010)

AN ACT concerning

Brewery Modernization Act of 2019

FOR the purpose of authorizing a holder of a Class 5 brewery license, under certain circumstances, to serve samples of beer and sell beer for off–premises consumption at the location described in the license; authorizing the holder to brew and bottle malt beverages at a location listed on an individual storage permit; ~~requiring a local licensing board to grant an on–site consumption permit to an applicant that holds a Class 5 brewery license or a Class D beer license or its equivalent;~~ authorizing a local licensing board to conditionally grant an applicant an on–site consumption permit or a Class D beer license that will become effective after the applicant meets certain requirements; specifying that a Class D beer license entitles the holder to sell beer that is fermented and brewed at a certain location; altering the amount of beer that a holder of a Class 5 brewery license may sell annually for on–premises consumption; repealing certain provisions of law that allow a holder of a Class 5 brewery license to sell a certain amount of beer under certain circumstances; ~~repealing certain provisions of law concerning hours of sale and specifying the hours of sale for any holder of a Class 5 brewery license with an on–site consumption permit and a Class D license or equivalent license;~~ specifying that certain hours of sale do not apply to transferees of certain licenses; authorizing a holder of a Class 7 micro–brewery license to hold an additional Class 7 micro–brewery license under certain circumstances; altering the amount of malt beverages that a holder of a Class 7 micro–brewery license may brew, bottle, or contract for each calendar year; authorizing a holder of a Class 7 micro–brewery license to be granted a Class 7 limited beer wholesaler's license; altering the amount of beer a Class 7 micro–brewery license holder may sell at retail each calendar year; altering the location where a holder of a Class 8 farm brewery license may store beer produced by the license holder; authorizing a holder of a Class 8 farm brewery license to store, brew, and bottle beer in a certain facility; authorizing a holder of a Class 8 farm brewery license to exercise certain privileges, sponsor certain activities, and store certain products at a certain location; altering the hours during which a holder of a Class 8 farm brewery license may exercise the privileges of the license; altering the amount of beer that the holder of a Class 5 manufacturer's license or a Class 7 micro–brewery license may distribute under a Class 7 limited beer wholesaler's license; requiring, instead of authorizing, the Comptroller to include certain information in a certain report; requiring the Comptroller to report to certain entities certain information regarding beer production; requiring certain license holders to

report certain information to the Comptroller; requiring the Comptroller to include certain information in a certain annual report; and generally relating to Class 5 brewery licenses, Class 7 micro–brewery licenses, ~~and~~ Class 8 farm brewery licenses, and Class 7 limited beer wholesaler's licenses.

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 2–207, 2–209, ~~and~~ 2–210, *2–308(b) and (c),* and 2–311(b)(3)
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 2–208(a)
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY adding to
Article – Alcoholic Beverages
Section 2–208(i)
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

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

Article – Alcoholic Beverages

2–207.

(a) In this section, "affiliate" means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a holder of a Class 5 brewery license.

(b) There is a Class 5 brewery license.

(c) A license holder may:

(1) establish and operate a plant for brewing and bottling malt beverages at the location described in the license;

(2) import beer from a holder of a nonresident dealer's permit;

(3) contract to brew and bottle beer with and on behalf of the holder of a Class 2 rectifying license, Class 5 brewery license, Class 7 micro–brewery license, Class 8 farm brewery license, or a nonresident dealer's permit;

(4) sell and deliver beer to:

(i) a holder of a wholesaler's license that is authorized to acquire beer; or

(ii) a person outside of the State that is authorized to acquire beer;

(5) subject to subsection (i) of this section, serve, **AT THE LOCATION DESCRIBED IN THE LICENSE AND** at no charge, samples of beer, consisting of a total of not more than 18 ounces of beer per visit, to an individual who:

(i) has attained the legal drinking age; and

(ii) is participating in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the brewery;

(6) subject to subsections (d) and (i) of this section, sell beer for off–premises consumption **AT THE LOCATION DESCRIBED IN THE LICENSE,** at retail in a container other than a keg to an individual **[**participating in a guided tour of the brewery or attending a scheduled promotional event or other organized activity at the brewery; and**]** **WHO HAS ATTAINED LEGAL DRINKING AGE;**

(7) subject to subsection (f) of this section, sell beer at the location described in the license for on–premises consumption**; AND**

(8) BREW AND BOTTLE MALT BEVERAGES AT A LOCATION LISTED ON A PERMIT ISSUED TO THE ~~LICENSED~~ LICENSE HOLDER IN ACCORDANCE WITH § 2–113 OF THIS TITLE.

(d) An individual may purchase beer under subsection (c)(6) of this section if the individual:

(1) purchases not more than 288 ounces of beer per visit; and

(2) has attained the legal drinking age.

(e) The annual license fee is $1,500.

(f) (1) **(I)** A local licensing board **[**may**]** ~~SHALL~~ grant an on–site consumption permit to an applicant that holds a Class 5 brewery license and, subject to paragraph **[**(6)**]** **(5)** of this subsection, a Class D beer license.

(II) ON REQUEST, A LOCAL LICENSING BOARD MAY GRANT AN APPLICANT A CONDITIONAL ON–SITE CONSUMPTION PERMIT OR A CONDITIONAL CLASS D BEER LICENSE.

(III) THE CONDITIONAL PERMIT OR CONDITIONAL LICENSE SHALL BECOME EFFECTIVE AFTER THE APPLICANT:

1. FILES A COMPLETED BREWER'S NOTICE FORM WITH THE U.S. DEPARTMENT OF TREASURY;

2. OBTAINS A CLASS 5 BREWERY LICENSE; AND

3. FULFILLS ANY OTHER OBLIGATION REQUIRED BY LAW THAT THE LOCAL LICENSING BOARD IDENTIFIES.

(2) Subject to the maximum volume limit under paragraph (4) of this subsection, a Class D beer license or an equivalent license under paragraph **[**(6)**]** **(5)** of this subsection entitles the holder to sell to an individual who has attained the legal drinking age, for on–premises consumption at the brewery:

(i) beer:

1. of which the holder of the Class 5 license is the brand owner; and

2. that is fermented and brewed entirely **[**at the brewery of the license holder**]** **BY THE LICENSE HOLDER AT A LOCATION AUTHORIZED BY THIS SECTION**;

(ii) beer that is fermented and brewed entirely at the brewery under contract with a brand owner who does not possess a Class 5 license; and

(iii) subject to paragraph (3) of this subsection, beer brewed at a location other than the Class 5 brewery if:

1. the brand owner of the beer is the holder of the Class 5 license or an affiliate of the holder of the Class 5 license;

2. the number of barrels of the beer sold for on–premises consumption under the Class D beer license or an equivalent license or an on–site consumption permit in a calendar year does not exceed the greater of:

A. 25% of the total number of barrels of beer sold for on–premises consumption under the Class D license or an equivalent license or an on–site consumption permit in that calendar year; or

B. 1.2% of total finished production under the Class 5 brewery license; and

3. A. the license holder contracts with or on behalf of a holder of a manufacturer's license or nonresident dealer's permit; or

B. the beer is manufactured by an affiliate of the license holder.

(3) (i) This paragraph applies to a Class 5 brewery with more than 1,000,000 barrels of finished production annually, alone or in combination with its affiliates.

(ii) Beer that is delivered to the Class 5 brewery in finished form may be sold for on–premises consumption under paragraph (2)(iii)2 of this subsection only if it is purchased from a licensed wholesaler.

(4) **[**Except as provided in paragraph (5) of this subsection, the**]** **THE** total amount of beer sold each year for on–premises consumption under this subsection may not exceed **[**2,000**]** **5,000** barrels.

(5) **[**(i) If, in a single year, the license holder reaches 80% of the volume authorized to be sold for on–premises consumption under paragraph (4) of this subsection, the license holder may file a request with the Comptroller for permission to sell up to an additional 1,000 barrels for on–premises consumption in that year.

(ii) The maximum volume that a license holder may sell for on–premises consumption in a single year is 3,000 barrels.

(iii) Any beer that the license holder sells for on–premises consumption in excess of the 2,000–barrel limit under paragraph (4) of this subsection shall be purchased from a licensed wholesaler.

(6)**]** Before a local licensing board that does not issue a Class D beer license may grant an on–site consumption permit, the local licensing board shall:

(i) establish an equivalent license; and

(ii) require the applicant to obtain that equivalent license.

[(7)**]** **(6)** A local licensing board may charge a fee for granting an on–site consumption permit.

[(8)**]** **(7)** A local licensing board shall require the holder of an on–site consumption permit or a Class D beer license or an equivalent license under paragraph **[**(6)**]** **(5)** of this subsection to:

(i) comply with the alcohol awareness requirements under § 4–505 of this article; and

(ii) abide by all applicable trade practice restrictions.

(g) (1) The Comptroller may issue a brewery promotional event permit to a holder of a Class 5 brewery license.

(2) Subject to subsection (i) of this section, the permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may, with respect to individuals who have attained the legal drinking age:

(i) provide samples consisting of a total of not more than 18 fluid ounces to a consumer; and

(ii) sell beer to individuals who participate in the event.

(3) Subject to subsection (i) of this section, the beer at the event shall be sold by the glass for on–premises consumption only.

(4) To obtain a permit, an applicant, at least 15 days before the event, shall file with the Comptroller an application that the Comptroller provides.

(5) A holder of a Class 5 brewery license may not be issued more than 12 permits in a calendar year.

(6) A single promotional event may not exceed 3 consecutive days.

(7) The permit fee is $25 per event.

(h) (1) This subsection does not apply to:

(i) ~~[~~the holder of a Class 5 brewery license that held an on–site consumption permit and a Class D license or an equivalent license on or before April 1, 2017 **AND ANY TRANSFEREE OF THOSE LICENSES**;

(ii) an individual who held a minority interest in an on–site consumption permit and a Class D license or an equivalent license on or before April 1, 2017, and then obtains by transfer a majority interest in the same license or permit;

(iii) a location in the State for which a completed brewer's notice form was filed with the U. S. Department of Treasury on or before April 1, 2017;

(iv)~~]~~ a promotional event conducted under subsection (g) of this section; and

~~[~~(v)~~]~~ ~~(III)~~ a guided tour during which:

1. samples of beer are served under subsection (c)(5) of this section; or

2. beer is sold for off–premises consumption under subsection (c)(6) of this section.

~~[~~(2) This subsection applies to:

(i) a holder of a Class 5 brewery license who:

1. after April 1, 2017, obtains an on–site consumption permit and a Class D beer license or equivalent license for on–premises consumption; or

2. not holding a minority interest in an on–site consumption permit and a Class D license or an equivalent license on or before April 1, 2017, obtains a majority interest by transfer in an on–site consumption permit and a Class D license or an equivalent license; and

(ii) notwithstanding paragraph (1)(iii) of this subsection, a manufacturer of beer with more than 1,000,000 barrels of finished production annually alone or in combination with its affiliates.

(3) Notwithstanding any provision in Division II of this article, the sales and serving privileges of an on–site consumption permit and a Class D license or an equivalent license may be exercised only from 10 a.m. to 10 p.m. Monday through Sunday.~~]~~

~~(2) A HOLDER OF A CLASS 5 BREWERY LICENSE WITH AN ON–SITE CONSUMPTION PERMIT AND A CLASS D LICENSE OR AN EQUIVALENT LICENSE MAY SERVE OR SELL BEER FOR ON–PREMISES CONSUMPTION DURING THE HOURS SPECIFIED IN THE LICENSE AT THE LOCATION DESCRIBED IN THE CLASS D LICENSE.~~

(i) All beer offered, served, or sold to a consumer under subsection (c)(5) or (6) or (g) of this section shall be:

(1) fermented and brewed entirely at the Class 5 brewery; or

(2) beer of which the license holder or an affiliate of the license holder is the brand owner.

(j) (1) (i) The Comptroller may issue a refillable container permit for draft beer under § 4–1104 or Subtitle 11 of the various titles in Division II of this article to a holder of a Class 5 brewery license:

1. on completion of an application form that the Comptroller provides; and

2. at no cost to the holder of the Class 5 brewery license.

(ii) A refillable container permit may be renewed each year concurrently with the renewal of the Class 5 brewery license.

(2) The hours of sale for a refillable container permit issued under this subsection are the same as the hours when a guided tour, a promotional event, or other organized activity at the licensed premises authorized under subsection (c) of this section may be conducted.

(k) (1) On or before October 1 each year, the Comptroller shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the following, identified by jurisdiction and Class 5 license holder:

(i) the total beer production of the license holder in the preceding fiscal year; **AND**

(ii) the total sales of the license holder for on–site consumption under an on–site consumption permit, a Class D beer license, or an equivalent license in the preceding fiscal year**[**;

(iii) whether the license holder has requested permission to sell additional beer under subsection (f)(5)(i) of this section, and whether the Comptroller granted that permission, for the preceding fiscal year; and

(iv) the total sales of the license holder of additional beer under subsection (f)(5)(i) of this section in the preceding fiscal year**]**.

(2) Each holder of a Class 5 license shall report to the Comptroller the information needed to prepare the annual report under this subsection.

(3) The Comptroller ~~may~~ **SHALL** include the information reported under this subsection in the annual report submitted under § 1–306 of this article.

2–208.

(a) There is a Class 6 pub–brewery license.

(I) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE COMPTROLLER SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE TOTAL BEER PRODUCTION OF EACH CLASS 6 LICENSE HOLDER IN THE PRECEDING FISCAL YEAR, IDENTIFIED BY JURISDICTION AND LICENSE HOLDER.

(2) EACH HOLDER OF A CLASS 6 LICENSE SHALL REPORT TO THE COMPTROLLER THE INFORMATION NEEDED TO PREPARE THE ANNUAL REPORT REQUIRED UNDER THIS SUBSECTION.

(3) THE COMPTROLLER SHALL INCLUDE THE INFORMATION REPORTED UNDER THIS SUBSECTION IN THE ANNUAL REPORT SUBMITTED UNDER § 1–306 OF THIS ARTICLE.

2–209.

(a) There is a Class 7 micro–brewery license.

(b) Except as provided in Division II of this article, the license may be issued only to the holder of a Class B beer, wine, and liquor (on–sale) license that is issued for use on the premises of a restaurant.

(c) A license holder may:

(1) brew and bottle malt beverages at the location described in the license;

(2) obtain a Class 2 rectifying license for a premises located within 1 mile of the existing Class 7 micro–brewery location to bottle malt beverages brewed at the micro–brewery location only;

(3) contract to brew and bottle malt beverages with and on behalf of the holder of a Class 2 rectifying license, Class 5 brewery license, Class 7 micro–brewery license, Class 8 farm brewery license, or a nonresident dealer's permit;

(4) store the finished product under an individual storage permit or at a licensed public storage facility for subsequent sale and delivery:

(i) to a holder of a wholesaler's license;

(ii) to an authorized person outside the State; or

(iii) for shipment back to the micro–brewery location for sale on the retail premises; **[**and**]**

(5) enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or a wine and beer festival, and the return of any unused beer, if:

(i) the festival is in a sales territory for which the license holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title 5, Subtitle 1 of this article; and

(ii) the temporary delivery agreement is in writing**;**

(6) HOLD AN ADDITIONAL CLASS 7 MICRO–BREWERY LICENSE PROVIDED THAT BOTH LICENSES REMAIN SUBJECT TO THE PRODUCTION LIMITS OF SUBSECTION (D) OF THIS SECTION; AND

(7) SUBJECT TO SUBSECTION (D) OF THIS SECTION, BREW AND BOTTLE MALT BEVERAGES AT A LOCATION LISTED ON A PERMIT ISSUED IN ACCORDANCE WITH § 2–113 OF THIS TITLE.

(d) (1) Subject to paragraph (2) of this subsection, a license holder may not collectively brew, bottle, or contract for more than **[**22,500**]** **45,000** barrels of malt beverages each calendar year.

(2) ~~[~~(i)~~]~~ In determining the barrelage limitation under paragraph (1) of this subsection, any salable beer produced under a contractual arrangement accrues only to the license holder that owns the brand.

~~[~~(ii) A license holder that wishes to produce more than the barrelage authorized under paragraph (1) of this subsection shall:

1. divest itself of any retail license; and

2. obtain a Class 5 brewery license.~~]~~

(3) A license holder that has licenses for two locations may not collectively brew, bottle, or contract for more than **[**22,500**]** **45,000** barrels of malt beverages in aggregate from both of its locations each calendar year.

(e) A license holder:

(1) may not own, operate, or be affiliated with another manufacturer of beer except for a Class 2 rectifying license authorized under subsection (c)(2) of this section **OR MORE THAN ONE ADDITIONAL CLASS 7 MICRO–BREWERY LICENSE**; and

(2) may not be granted a wholesaler's license **OTHER THAN A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE**.

(f) (1) The on–sale privilege authorizes the license holder, each calendar year, to sell at retail for on–premises consumption:

(i) up to **[**4,000**]** **5,000** barrels of beer brewed under the license; or

(ii) if the license holder has licenses for two locations, beer that:

1. totals annually up to **[**4,000**]** **5,000** barrels **[**in aggregate from both its locations**]** **AT EACH LOCATION**; and

2. has been brewed at the location where it is sold.

(2) A license holder may sell and deliver beer brewed under the license to:

(i) a holder of a wholesaler's license; or

(ii) a person outside the State that is authorized to acquire beer.

(g) The hours and days for retail sales under the license are those established for a Class B license or for a holder of a Class B beer, wine, and liquor license.

(h) A license holder may sell at retail beer brewed under the license for off–premises consumption:

(1) in a sealed refillable container that:

(i) may be returned for refilling; and

(ii) shall be sealed by the license holder when refilled; and

(2) as prepackaged beer in a nonrefillable container.

(i) The annual license fee is $500.

(J) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE COMPTROLLER SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE FOLLOWING, IDENTIFIED BY JURISDICTION AND CLASS 7 LICENSE HOLDER:

(I) THE TOTAL BEER PRODUCTION OF THE LICENSE HOLDER IN THE PRECEDING FISCAL YEAR; AND

(II) THE TOTAL SALES OF THE LICENSE HOLDER FOR ON–SITE CONSUMPTION.

(2) EACH HOLDER OF A CLASS 7 LICENSE SHALL REPORT TO THE COMPTROLLER THE INFORMATION NEEDED TO PREPARE THE ANNUAL REPORT REQUIRED UNDER THIS SUBSECTION.

(3) THE COMPTROLLER SHALL INCLUDE THE INFORMATION REPORTED UNDER THIS SUBSECTION IN THE ANNUAL REPORT SUBMITTED UNDER § 1–306 OF THIS ARTICLE.

2–210.

(a) There is a Class 8 farm brewery license.

(b) (1) Subject to paragraph (2) of this subsection, a license holder may sell and deliver beer manufactured in a facility on the licensed farm or in a facility other than one on the licensed farm to:

(i) a wholesaler licensed to sell and deliver beer in the State; or

(ii) a person in another state authorized to acquire beer.

(2) The beer to be sold and delivered under paragraph (1) of this subsection shall be manufactured with an ingredient from a Maryland agricultural product, including hops, grain, and fruit, produced on the licensed farm.

(c) A license holder may:

(1) (i) sell beer produced by the license holder for on–premises consumption;

(ii) in an amount not exceeding 6 fluid ounces per brand, provide samples of beer that the license holder produces to a consumer:

1. at no charge; or

2. for a fee;

(iii) sell or serve:

1. bread and other baked goods;

2. chili;

3. chocolate;

4. crackers;

5. cured meat;

6. fruits (whole and cut);

7. hard and soft cheese (whole and cut);

8. salads and vegetables (whole and cut);

9. ice cream;

10. jam;

11. jelly;

12. vinegar;

13. pizza;

14. prepackaged sandwiches and other prepackaged foods ready to be eaten;

15. soup; and

16. condiments; and

(iv) subject to subsection (e)(2) of this section, sell or serve any food if the license holder is licensed to operate a food establishment under Title 21, Subtitle 3 of the Health – General Article;

(2) store **[**on its licensed farm**]**, in a segregated area approved by the Comptroller, beer produced **[**at the licensed farm**]** **BY THE LICENSE HOLDER** for sale and delivery to a wholesaler licensed in the State or a person outside the State authorized to acquire the beer;

(3) brew, bottle, or contract for not more than 15,000 barrels of beer each calendar year;

(4) contract with the holder of a Class 2 rectifying license, a Class 5 brewery license, or a Class 7 micro–brewery license to brew and bottle beer from ingredients produced on the licensed farm;

(5) import, export, and transport its beer in accordance with this section;

(6) store**, BREW, AND BOTTLE** beer **[**at a warehouse for which the license holder has been issued an individual storage permit**]** **IN A FACILITY LISTED ON A PERMIT ISSUED TO THE LICENSE HOLDER IN ACCORDANCE WITH § 2–113 OF THIS TITLE**, for sale and delivery to a wholesaler licensed in the State or a person outside the State authorized to acquire the beer, or shipment back to the licensed farm, if:

(i) the license holder does not serve or sell beer at the warehouse; and

(ii) the Comptroller has full access at all times to the warehouse to enforce this article; and

(7) enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or a wine and beer festival, and the return of any unused beer, if:

(i) the festival is in a sales territory for which the license holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title 5, Subtitle 1 of this article; and

(ii) the temporary delivery agreement is in writing.

(d) (1) A Class 8 farm brewery may be located only at the place stated on the license.

(2) The place listed on the license shall be in compliance with § 1–405(b) of this article.

(e) (1) Except as provided in paragraph (2) of this subsection and notwithstanding any local law, a license holder may exercise the privileges of a Class 8 farm brewery license.

(2) A license holder who sells foods under subsection (c)(1)(iv) of this section shall meet the same ratio of gross receipts between food and alcoholic beverages sales as a holder of a Class D beer and wine license or an equivalent license in the jurisdiction, as the local licensing board determines.

(f) Subject to subsections (i) and (j) of this section, a license holder **AT THE LOCATION LISTED ON THE LICENSE** may exercise the privileges of the license each day~~:~~ **FROM 10 A.M. TO 10 P.M.**

~~(1) from 10 a.m. to 6 p.m., for consumption of beer and sales and service of food at the licensed farm; and~~

~~(2) from 10 a.m. to 10 p.m., for:~~

~~(i) sampling of beer;~~

~~(ii) consumption of beer off the licensed farm if the beer is packaged in sealed or resealable containers, such as growlers; and~~

~~(iii) guests who attend a planned promotional event or other organized activity at the licensed farm.~~

(g) Except as provided in Division II of this article, a Class 8 farm brewery license allows the license holder to operate 7 days a week.

(h) Nothing in this section limits the application of relevant provisions of Title 21 of the Health – General Article, and regulations adopted under that title, to a license holder.

(i) (1) A license holder may sponsor a multibrewery activity at the **[**licensed farm**] LOCATION ISSUED ON THE LICENSE** that:

(i) includes the products of other Maryland breweries; and

(ii) provides for the sale of beer by the glass for on–premises consumption only.

(2) In a segregated area approved by the Comptroller **[**on the licensed farm**] AT THE LOCATION LISTED ON THE LICENSE**, a license holder may store the products of other Maryland breweries for the multibrewery activity.

(3) The multibrewery activity:

(i) may be held from 10 a.m. to 10 p.m. each day; and

(ii) may not exceed 3 consecutive days.

(j) (1) The Comptroller may issue a brewery promotional event permit to a license holder.

(2) At least 15 days before holding a planned promotional event, the license holder shall obtain a permit from the Comptroller by filing a notice of the promotional event on the form that the Comptroller provides.

(3) The permit authorizes the license holder to conduct at the **[**licensed farm**] LOCATION LISTED ON THE LICENSE** a promotional event at which the license holder may:

(i) provide samples of not more than 6 fluid ounces per brand to consumers; and

(ii) sell beer produced by the license holder to persons who participate in the event.

(4) The beer at the event shall be sold by the glass and for on–premises consumption only.

(5) The license holder may not be issued more than 12 permits in a calendar year.

(6) A single promotional event:

(i) may be held from 10 a.m. to 10 p.m. each day; and

(ii) may not exceed 3 consecutive days.

(7) The permit fee is $25 per event.

(k) The annual license fee is $200.

(L) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE COMPTROLLER SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE TOTAL BEER PRODUCTION OF EACH CLASS 8 LICENSE HOLDER IN THE PRECEDING FISCAL YEAR, IDENTIFIED BY JURISDICTION AND LICENSE HOLDER.

(2) EACH HOLDER OF A CLASS 8 LICENSE SHALL REPORT TO THE COMPTROLLER THE INFORMATION NEEDED TO PREPARE THE ANNUAL REPORT REQUIRED UNDER THIS SUBSECTION.

(3) THE COMPTROLLER SHALL INCLUDE THE INFORMATION REPORTED UNDER THIS SUBSECTION IN THE ANNUAL REPORT SUBMITTED UNDER § 1–306 OF THIS ARTICLE.

2–308.

(b) The license may be issued only to a person that:

(1) holds a Class 5 manufacturer's license, a Class 7 micro–brewery license, or a Class 8 farm brewery license; and

(2) produces in the aggregate from all of its locations not more than ***[****22,500****]*** ***45,000*** *barrels of beer annually.*

(c) The license authorizes the license holder to:

(1) sell and deliver its own beer produced at the license holder's premises to:

(i) a holder of a retail license that is authorized to acquire beer from a wholesaler; and

(ii) a holder of a permit that is authorized to acquire beer from a wholesaler; and

*(2) distribute not more than **[**3,000**]** **5,000** barrels of its own beer annually.*

2–311.

(b) (3) (i) The holder of a Class 5 manufacturer's license or Class 7 micro–brewery license may apply for and obtain a Class 7 limited beer wholesaler's license in accordance with this paragraph.

(ii) A holder of a Class 5 manufacturer's license that was selling the holder's own beer at wholesale in the State as of January 1, 2013, may obtain a Class 7 limited beer wholesaler's license to continue to sell the holder's own beer at wholesale in the same location in an amount that is not more than **[**3,000**]** **5,000** barrels annually.

(iii) A holder of a Class 5 manufacturer's license that produces in aggregate from all its locations not more than ~~22,500~~ ***45,000*** barrels of beer annually may obtain a Class 7 limited beer wholesaler's license and distribute not more than **[**3,000**]** **5,000** barrels of its own beer annually.

(iv) A holder of one or two Class 7 micro–brewery licenses that produces in aggregate from all of its locations not more than ~~22,500~~ ***45,000*** barrels of beer annually may obtain a Class 7 limited beer wholesaler's license and distribute beer that:

1. totals annually not more than **[**3,000**]** **5,000** barrels in aggregate from all of its locations; and

2. has been brewed at the location from where it is distributed.

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

Approved by the Governor, April 30, 2019.

Chapter 318

(Senate Bill 801)

AN ACT concerning

Brewery Modernization Act of 2019

FOR the purpose of authorizing a holder of a Class 5 brewery license, under certain circumstances, to serve samples of beer and sell beer for off–premises consumption at the location described in the license; authorizing the holder to brew and bottle

malt beverages at a location listed on an individual storage permit; ~~requiring a local licensing board to grant an on–site consumption permit to an applicant that holds a Class 5 brewery license or a Class D beer license or its equivalent;~~ authorizing a local licensing board to conditionally grant an applicant an on–site consumption permit or a Class D beer license that will become effective after the applicant meets certain requirements; specifying that a Class D beer license entitles the holder to sell beer that is fermented and brewed at a certain location; altering the amount of beer that a holder of a Class 5 brewery license may sell annually for on–premises consumption; repealing certain provisions of law that allow a holder of a Class 5 brewery license to sell a certain amount of beer under certain circumstances; ~~repealing certain provisions of law concerning hours of sale and specifying the hours of sale for any holder of a Class 5 brewery license with an on–site consumption permit and a Class D license or equivalent license;~~ specifying that certain hours of sale do not apply to transferees of certain licenses; authorizing a holder of a Class 7 micro–brewery license to hold an additional Class 7 micro–brewery license under certain circumstances; altering the amount of malt beverages that a holder of a Class 7 micro–brewery license may brew, bottle, or contract for each calendar year; authorizing a holder of a Class 7 micro–brewery license to be granted a Class 7 limited beer wholesaler's license; altering the amount of beer a Class 7 micro–brewery license holder may sell at retail each calendar year; altering the location where a holder of a Class 8 farm brewery license may store beer produced by the license holder; authorizing a holder of a Class 8 farm brewery license to store, brew, and bottle beer in a certain facility; authorizing a holder of a Class 8 farm brewery license to exercise certain privileges, sponsor certain activities, and store certain products at a certain location; altering the hours during which a holder of a Class 8 farm brewery license may exercise the privileges of the license; altering the amount of beer that the holder of a Class 5 manufacturer's license or a Class 7 micro–brewery license may distribute under a Class 7 limited beer wholesaler's license; requiring, instead of authorizing, the Comptroller to include certain information in a certain report; requiring the Comptroller to report to certain entities certain information regarding beer production; requiring certain license holders to report certain information to the Comptroller; requiring the Comptroller to include certain information in a certain annual report; and generally relating to Class 5 brewery licenses, Class 7 micro–brewery licenses, ~~and~~ Class 8 farm brewery licenses, and Class 7 limited beer wholesaler's licenses.

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 2–207, 2–209, ~~and~~ 2–210, 2–308(b) and (c), and 2–311(b)(3)
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 2–208(a)
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY adding to
Article – Alcoholic Beverages
Section 2–208(i)
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

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

Article – Alcoholic Beverages

2–207.

(a) In this section, "affiliate" means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a holder of a Class 5 brewery license.

(b) There is a Class 5 brewery license.

(c) A license holder may:

(1) establish and operate a plant for brewing and bottling malt beverages at the location described in the license;

(2) import beer from a holder of a nonresident dealer's permit;

(3) contract to brew and bottle beer with and on behalf of the holder of a Class 2 rectifying license, Class 5 brewery license, Class 7 micro–brewery license, Class 8 farm brewery license, or a nonresident dealer's permit;

(4) sell and deliver beer to:

(i) a holder of a wholesaler's license that is authorized to acquire beer; or

(ii) a person outside of the State that is authorized to acquire beer;

(5) subject to subsection (i) of this section, serve, **AT THE LOCATION DESCRIBED IN THE LICENSE AND** at no charge, samples of beer, consisting of a total of not more than 18 ounces of beer per visit, to an individual who:

(i) has attained the legal drinking age; and

(ii) is participating in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the brewery;

(6) subject to subsections (d) and (i) of this section, sell beer for off–premises consumption **AT THE LOCATION DESCRIBED IN THE LICENSE,** at retail in a container other than a keg to an individual **[**participating in a guided tour of the brewery or attending a scheduled promotional event or other organized activity at the brewery; and**]** **WHO HAS ATTAINED LEGAL DRINKING AGE;**

(7) subject to subsection (f) of this section, sell beer at the location described in the license for on–premises consumption**; AND**

(8) BREW AND BOTTLE MALT BEVERAGES AT A LOCATION LISTED ON A PERMIT ISSUED TO THE ~~LICENSED~~ LICENSE HOLDER IN ACCORDANCE WITH § 2–113 OF THIS TITLE.

(d) An individual may purchase beer under subsection (c)(6) of this section if the individual:

(1) purchases not more than 288 ounces of beer per visit; and

(2) has attained the legal drinking age.

(e) The annual license fee is $1,500.

(f) (1) **(I)** A local licensing board **~~[~~**may**~~]~~** ~~SHALL~~ grant an on–site consumption permit to an applicant that holds a Class 5 brewery license and, subject to paragraph **[**(6)**]** **(5)** of this subsection, a Class D beer license.

(II) ON REQUEST, A LOCAL LICENSING BOARD MAY GRANT AN APPLICANT A CONDITIONAL ON–SITE CONSUMPTION PERMIT OR A CONDITIONAL CLASS D BEER LICENSE.

(III) THE CONDITIONAL PERMIT OR CONDITIONAL LICENSE SHALL BECOME EFFECTIVE AFTER THE APPLICANT:

1. FILES A COMPLETED BREWER'S NOTICE FORM WITH THE U.S. DEPARTMENT OF TREASURY;

2. OBTAINS A CLASS 5 BREWERY LICENSE; AND

3. FULFILLS ANY OTHER OBLIGATION REQUIRED BY LAW THAT THE LOCAL LICENSING BOARD IDENTIFIES.

(2) Subject to the maximum volume limit under paragraph (4) of this subsection, a Class D beer license or an equivalent license under paragraph **[**(6)**]** **(5)** of this subsection entitles the holder to sell to an individual who has attained the legal drinking age, for on–premises consumption at the brewery:

(i) beer:

1. of which the holder of the Class 5 license is the brand owner; and

2. that is fermented and brewed entirely **[**at the brewery of the license holder**]** **BY THE LICENSE HOLDER AT A LOCATION AUTHORIZED BY THIS SECTION**;

(ii) beer that is fermented and brewed entirely at the brewery under contract with a brand owner who does not possess a Class 5 license; and

(iii) subject to paragraph (3) of this subsection, beer brewed at a location other than the Class 5 brewery if:

1. the brand owner of the beer is the holder of the Class 5 license or an affiliate of the holder of the Class 5 license;

2. the number of barrels of the beer sold for on–premises consumption under the Class D beer license or an equivalent license or an on–site consumption permit in a calendar year does not exceed the greater of:

A. 25% of the total number of barrels of beer sold for on–premises consumption under the Class D license or an equivalent license or an on–site consumption permit in that calendar year; or

B. 1.2% of total finished production under the Class 5 brewery license; and

3. A. the license holder contracts with or on behalf of a holder of a manufacturer's license or nonresident dealer's permit; or

B. the beer is manufactured by an affiliate of the license holder.

(3) (i) This paragraph applies to a Class 5 brewery with more than 1,000,000 barrels of finished production annually, alone or in combination with its affiliates.

(ii) Beer that is delivered to the Class 5 brewery in finished form may be sold for on–premises consumption under paragraph (2)(iii)2 of this subsection only if it is purchased from a licensed wholesaler.

(4) **[**Except as provided in paragraph (5) of this subsection, the**]** **THE** total amount of beer sold each year for on–premises consumption under this subsection may not exceed **[**2,000**]** **5,000** barrels.

(5) **[**(i) If, in a single year, the license holder reaches 80% of the volume authorized to be sold for on–premises consumption under paragraph (4) of this subsection, the license holder may file a request with the Comptroller for permission to sell up to an additional 1,000 barrels for on–premises consumption in that year.

(ii) The maximum volume that a license holder may sell for on–premises consumption in a single year is 3,000 barrels.

(iii) Any beer that the license holder sells for on–premises consumption in excess of the 2,000–barrel limit under paragraph (4) of this subsection shall be purchased from a licensed wholesaler.

(6)**]** Before a local licensing board that does not issue a Class D beer license may grant an on–site consumption permit, the local licensing board shall:

(i) establish an equivalent license; and

(ii) require the applicant to obtain that equivalent license.

[(7)**] (6)** A local licensing board may charge a fee for granting an on–site consumption permit.

[(8)**] (7)** A local licensing board shall require the holder of an on–site consumption permit or a Class D beer license or an equivalent license under paragraph **[**(6)**] (5)** of this subsection to:

(i) comply with the alcohol awareness requirements under § 4–505 of this article; and

(ii) abide by all applicable trade practice restrictions.

(g) (1) The Comptroller may issue a brewery promotional event permit to a holder of a Class 5 brewery license.

(2) Subject to subsection (i) of this section, the permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may, with respect to individuals who have attained the legal drinking age:

(i) provide samples consisting of a total of not more than 18 fluid ounces to a consumer; and

(ii) sell beer to individuals who participate in the event.

(3) Subject to subsection (i) of this section, the beer at the event shall be sold by the glass for on–premises consumption only.

(4) To obtain a permit, an applicant, at least 15 days before the event, shall file with the Comptroller an application that the Comptroller provides.

(5) A holder of a Class 5 brewery license may not be issued more than 12 permits in a calendar year.

(6) A single promotional event may not exceed 3 consecutive days.

(7) The permit fee is $25 per event.

(h) (1) This subsection does not apply to:

(i) **[**the holder of a Class 5 brewery license that held an on–site consumption permit and a Class D license or an equivalent license on or before April 1, 2017**, AND ANY TRANSFEREE OF THOSE LICENSES**;

(ii) an individual who held a minority interest in an on–site consumption permit and a Class D license or an equivalent license on or before April 1, 2017, and then obtains by transfer a majority interest in the same license or permit;

(iii) a location in the State for which a completed brewer's notice form was filed with the U. S. Department of Treasury on or before April 1, 2017;

(iv)**]** a promotional event conducted under subsection (g) of this section; and

[(v)**]** ~~(III)~~ a guided tour during which:

1. samples of beer are served under subsection (c)(5) of this section; or

2. beer is sold for off–premises consumption under subsection (c)(6) of this section.

[(2) This subsection applies to:

(i) a holder of a Class 5 brewery license who:

1. after April 1, 2017, obtains an on–site consumption permit and a Class D beer license or equivalent license for on–premises consumption; or

2. not holding a minority interest in an on–site consumption permit and a Class D license or an equivalent license on or before April 1, 2017, obtains a majority interest by transfer in an on–site consumption permit and a Class D license or an equivalent license; and

(ii) notwithstanding paragraph (1)(iii) of this subsection, a manufacturer of beer with more than 1,000,000 barrels of finished production annually alone or in combination with its affiliates.

(3) Notwithstanding any provision in Division II of this article, the sales and serving privileges of an on–site consumption permit and a Class D license or an equivalent license may be exercised only from 10 a.m. to 10 p.m. Monday through Sunday.~~]~~

~~**(2) A HOLDER OF A CLASS 5 BREWERY LICENSE WITH AN ON–SITE CONSUMPTION PERMIT AND A CLASS D LICENSE OR AN EQUIVALENT LICENSE MAY SERVE OR SELL BEER FOR ON–PREMISES CONSUMPTION DURING THE HOURS SPECIFIED IN THE LICENSE AT THE LOCATION DESCRIBED IN THE CLASS D LICENSE.**~~

(i) All beer offered, served, or sold to a consumer under subsection (c)(5) or (6) or (g) of this section shall be:

(1) fermented and brewed entirely at the Class 5 brewery; or

(2) beer of which the license holder or an affiliate of the license holder is the brand owner.

(j) (1) (i) The Comptroller may issue a refillable container permit for draft beer under § 4–1104 or Subtitle 11 of the various titles in Division II of this article to a holder of a Class 5 brewery license:

1. on completion of an application form that the Comptroller provides; and

2. at no cost to the holder of the Class 5 brewery license.

(ii) A refillable container permit may be renewed each year concurrently with the renewal of the Class 5 brewery license.

(2) The hours of sale for a refillable container permit issued under this subsection are the same as the hours when a guided tour, a promotional event, or other organized activity at the licensed premises authorized under subsection (c) of this section may be conducted.

(k) (1) On or before October 1 each year, the Comptroller shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic

Matters Committee, in accordance with § 2–1246 of the State Government Article, on the following, identified by jurisdiction and Class 5 license holder:

(i) the total beer production of the license holder in the preceding fiscal year; **AND**

(ii) the total sales of the license holder for on–site consumption under an on–site consumption permit, a Class D beer license, or an equivalent license in the preceding fiscal year**[**;

(iii) whether the license holder has requested permission to sell additional beer under subsection (f)(5)(i) of this section, and whether the Comptroller granted that permission, for the preceding fiscal year; and

(iv) the total sales of the license holder of additional beer under subsection (f)(5)(i) of this section in the preceding fiscal year**]**.

(2) Each holder of a Class 5 license shall report to the Comptroller the information needed to prepare the annual report under this subsection.

(3) The Comptroller ~~may~~ **SHALL** include the information reported under this subsection in the annual report submitted under § 1–306 of this article.

2–208.

(a) There is a Class 6 pub–brewery license.

(I) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE COMPTROLLER SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE TOTAL BEER PRODUCTION OF EACH CLASS 6 LICENSE HOLDER IN THE PRECEDING FISCAL YEAR, IDENTIFIED BY JURISDICTION AND LICENSE HOLDER.

(2) EACH HOLDER OF A CLASS 6 LICENSE SHALL REPORT TO THE COMPTROLLER THE INFORMATION NEEDED TO PREPARE THE ANNUAL REPORT REQUIRED UNDER THIS SUBSECTION.

(3) THE COMPTROLLER SHALL INCLUDE THE INFORMATION REPORTED UNDER THIS SUBSECTION IN THE ANNUAL REPORT SUBMITTED UNDER § 1–306 OF THIS ARTICLE.

2–209.

(a) There is a Class 7 micro–brewery license.

(b) Except as provided in Division II of this article, the license may be issued only to the holder of a Class B beer, wine, and liquor (on–sale) license that is issued for use on the premises of a restaurant.

(c) A license holder may:

(1) brew and bottle malt beverages at the location described in the license;

(2) obtain a Class 2 rectifying license for a premises located within 1 mile of the existing Class 7 micro–brewery location to bottle malt beverages brewed at the micro–brewery location only;

(3) contract to brew and bottle malt beverages with and on behalf of the holder of a Class 2 rectifying license, Class 5 brewery license, Class 7 micro–brewery license, Class 8 farm brewery license, or a nonresident dealer's permit;

(4) store the finished product under an individual storage permit or at a licensed public storage facility for subsequent sale and delivery:

(i) to a holder of a wholesaler's license;

(ii) to an authorized person outside the State; or

(iii) for shipment back to the micro–brewery location for sale on the retail premises; **[**and**]**

(5) enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or a wine and beer festival, and the return of any unused beer, if:

(i) the festival is in a sales territory for which the license holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title 5, Subtitle 1 of this article; and

(ii) the temporary delivery agreement is in writing**;**

(6) HOLD AN ADDITIONAL CLASS 7 MICRO–BREWERY LICENSE PROVIDED THAT BOTH LICENSES REMAIN SUBJECT TO THE PRODUCTION LIMITS OF SUBSECTION (D) OF THIS SECTION; AND

(7) SUBJECT TO SUBSECTION (D) OF THIS SECTION, BREW AND BOTTLE MALT BEVERAGES AT A LOCATION LISTED ON A PERMIT ISSUED IN ACCORDANCE WITH § 2–113 OF THIS TITLE.

(d) (1) Subject to paragraph (2) of this subsection, a license holder may not collectively brew, bottle, or contract for more than **[**22,500**]** **45,000** barrels of malt beverages each calendar year.

(2) ~~[~~(i)~~]~~ In determining the barrelage limitation under paragraph (1) of this subsection, any salable beer produced under a contractual arrangement accrues only to the license holder that owns the brand.

~~[~~(ii) A license holder that wishes to produce more than the barrelage authorized under paragraph (1) of this subsection shall:

1. divest itself of any retail license; and

2. obtain a Class 5 brewery license.~~]~~

(3) A license holder that has licenses for two locations may not collectively brew, bottle, or contract for more than **[**22,500**]** **45,000** barrels of malt beverages in aggregate from both of its locations each calendar year.

(e) A license holder:

(1) may not own, operate, or be affiliated with another manufacturer of beer except for a Class 2 rectifying license authorized under subsection (c)(2) of this section **OR MORE THAN ONE ADDITIONAL CLASS 7 MICRO–BREWERY LICENSE**; and

(2) may not be granted a wholesaler's license **OTHER THAN A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE**.

(f) (1) The on–sale privilege authorizes the license holder, each calendar year, to sell at retail for on–premises consumption:

(i) up to **[**4,000**]** **5,000** barrels of beer brewed under the license; or

(ii) if the license holder has licenses for two locations, beer that:

1. totals annually up to **[**4,000**]** **5,000** barrels **[**in aggregate from both its locations**]** **AT EACH LOCATION**; and

2. has been brewed at the location where it is sold.

(2) A license holder may sell and deliver beer brewed under the license to:

(i) a holder of a wholesaler's license; or

(ii) a person outside the State that is authorized to acquire beer.

(g) The hours and days for retail sales under the license are those established for a Class B license or for a holder of a Class B beer, wine, and liquor license.

(h) A license holder may sell at retail beer brewed under the license for off–premises consumption:

(1) in a sealed refillable container that:

(i) may be returned for refilling; and

(ii) shall be sealed by the license holder when refilled; and

(2) as prepackaged beer in a nonrefillable container.

(i) The annual license fee is $500.

(J) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE COMPTROLLER SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE FOLLOWING, IDENTIFIED BY JURISDICTION AND CLASS 7 LICENSE HOLDER:

(I) THE TOTAL BEER PRODUCTION OF THE LICENSE HOLDER IN THE PRECEDING FISCAL YEAR; AND

(II) THE TOTAL SALES OF THE LICENSE HOLDER FOR ON–SITE CONSUMPTION.

(2) EACH HOLDER OF A CLASS 7 LICENSE SHALL REPORT TO THE COMPTROLLER THE INFORMATION NEEDED TO PREPARE THE ANNUAL REPORT REQUIRED UNDER THIS SUBSECTION.

(3) THE COMPTROLLER SHALL INCLUDE THE INFORMATION REPORTED UNDER THIS SUBSECTION IN THE ANNUAL REPORT SUBMITTED UNDER § 1–306 OF THIS ARTICLE.

2–210.

(a) There is a Class 8 farm brewery license.

(b) (1) Subject to paragraph (2) of this subsection, a license holder may sell and deliver beer manufactured in a facility on the licensed farm or in a facility other than one on the licensed farm to:

(i) a wholesaler licensed to sell and deliver beer in the State; or

(ii) a person in another state authorized to acquire beer.

(2) The beer to be sold and delivered under paragraph (1) of this subsection shall be manufactured with an ingredient from a Maryland agricultural product, including hops, grain, and fruit, produced on the licensed farm.

(c) A license holder may:

(1) (i) sell beer produced by the license holder for on–premises consumption;

(ii) in an amount not exceeding 6 fluid ounces per brand, provide samples of beer that the license holder produces to a consumer:

1. at no charge; or

2. for a fee;

(iii) sell or serve:

1. bread and other baked goods;

2. chili;

3. chocolate;

4. crackers;

5. cured meat;

6. fruits (whole and cut);

7. hard and soft cheese (whole and cut);

8. salads and vegetables (whole and cut);

9. ice cream;

10. jam;

11. jelly;

12. vinegar;

13. pizza;

14. prepackaged sandwiches and other prepackaged foods ready to be eaten;

15. soup; and

16. condiments; and

(iv) subject to subsection (e)(2) of this section, sell or serve any food if the license holder is licensed to operate a food establishment under Title 21, Subtitle 3 of the Health – General Article;

(2) store **[**on its licensed farm**]**, in a segregated area approved by the Comptroller, beer produced **[**at the licensed farm**]** **BY THE LICENSE HOLDER** for sale and delivery to a wholesaler licensed in the State or a person outside the State authorized to acquire the beer;

(3) brew, bottle, or contract for not more than 15,000 barrels of beer each calendar year;

(4) contract with the holder of a Class 2 rectifying license, a Class 5 brewery license, or a Class 7 micro–brewery license to brew and bottle beer from ingredients produced on the licensed farm;

(5) import, export, and transport its beer in accordance with this section;

(6) store**, BREW, AND BOTTLE** beer **[**at a warehouse for which the license holder has been issued an individual storage permit**]** **IN A FACILITY LISTED ON A PERMIT ISSUED TO THE LICENSE HOLDER IN ACCORDANCE WITH § 2–113 OF THIS TITLE**, for sale and delivery to a wholesaler licensed in the State or a person outside the State authorized to acquire the beer, or shipment back to the licensed farm, if:

(i) the license holder does not serve or sell beer at the warehouse; and

(ii) the Comptroller has full access at all times to the warehouse to enforce this article; and

(7) enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or a wine and beer festival, and the return of any unused beer, if:

(i) the festival is in a sales territory for which the license holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title 5, Subtitle 1 of this article; and

(ii) the temporary delivery agreement is in writing.

(d) (1) A Class 8 farm brewery may be located only at the place stated on the license.

(2) The place listed on the license shall be in compliance with § 1–405(b) of this article.

(e) (1) Except as provided in paragraph (2) of this subsection and notwithstanding any local law, a license holder may exercise the privileges of a Class 8 farm brewery license.

(2) A license holder who sells foods under subsection (c)(1)(iv) of this section shall meet the same ratio of gross receipts between food and alcoholic beverages sales as a holder of a Class D beer and wine license or an equivalent license in the jurisdiction, as the local licensing board determines.

(f) Subject to subsections (i) and (j) of this section, a license holder **AT THE LOCATION LISTED ON THE LICENSE** may exercise the privileges of the license each day~~:~~ **FROM 10 A.M. TO 10 P.M.**

~~(1) from 10 a.m. to 6 p.m., for consumption of beer and sales and service of food at the licensed farm; and~~

~~(2) from 10 a.m. to 10 p.m., for:~~

~~(i) sampling of beer;~~

~~(ii) consumption of beer off the licensed farm if the beer is packaged in sealed or resealable containers, such as growlers; and~~

~~(iii) guests who attend a planned promotional event or other organized activity at the licensed farm.~~

(g) Except as provided in Division II of this article, a Class 8 farm brewery license allows the license holder to operate 7 days a week.

(h) Nothing in this section limits the application of relevant provisions of Title 21 of the Health – General Article, and regulations adopted under that title, to a license holder.

(i) (1) A license holder may sponsor a multibrewery activity at the **[**licensed farm**]** **LOCATION ISSUED ON THE LICENSE** that:

(i) includes the products of other Maryland breweries; and

(ii) provides for the sale of beer by the glass for on–premises consumption only.

(2) In a segregated area approved by the Comptroller **[**on the licensed farm**]** **AT THE LOCATION LISTED ON THE LICENSE**, a license holder may store the products of other Maryland breweries for the multibrewery activity.

(3) The multibrewery activity:

(i) may be held from 10 a.m. to 10 p.m. each day; and

(ii) may not exceed 3 consecutive days.

(j) (1) The Comptroller may issue a brewery promotional event permit to a license holder.

(2) At least 15 days before holding a planned promotional event, the license holder shall obtain a permit from the Comptroller by filing a notice of the promotional event on the form that the Comptroller provides.

(3) The permit authorizes the license holder to conduct at the **[**licensed farm**]** **LOCATION LISTED ON THE LICENSE** a promotional event at which the license holder may:

(i) provide samples of not more than 6 fluid ounces per brand to consumers; and

(ii) sell beer produced by the license holder to persons who participate in the event.

(4) The beer at the event shall be sold by the glass and for on–premises consumption only.

(5) The license holder may not be issued more than 12 permits in a calendar year.

(6) A single promotional event:

(i) may be held from 10 a.m. to 10 p.m. each day; and

(ii) may not exceed 3 consecutive days.

(7) The permit fee is $25 per event.

(k) The annual license fee is $200.

(L) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE COMPTROLLER SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL

AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE TOTAL BEER PRODUCTION OF EACH CLASS 8 LICENSE HOLDER IN THE PRECEDING FISCAL YEAR, IDENTIFIED BY JURISDICTION AND LICENSE HOLDER.

(2) EACH HOLDER OF A CLASS 8 LICENSE SHALL REPORT TO THE COMPTROLLER THE INFORMATION NEEDED TO PREPARE THE ANNUAL REPORT REQUIRED UNDER THIS SUBSECTION.

(3) THE COMPTROLLER SHALL INCLUDE THE INFORMATION REPORTED UNDER THIS SUBSECTION IN THE ANNUAL REPORT SUBMITTED UNDER § 1–306 OF THIS ARTICLE.

2–308.

(b) The license may be issued only to a person that:

(1) holds a Class 5 manufacturer's license, a Class 7 micro–brewery license, or a Class 8 farm brewery license; and

(2) produces in the aggregate from all of its locations not more than **[**22,500**]** **45,000** barrels of beer annually.

(c) The license authorizes the license holder to:

(1) sell and deliver its own beer produced at the license holder's premises to:

(i) a holder of a retail license that is authorized to acquire beer from a wholesaler; and

(ii) a holder of a permit that is authorized to acquire beer from a wholesaler; and

(2) distribute not more than **[**3,000**]** **5,000** barrels of its own beer annually.

2–311.

(b) (3) (i) The holder of a Class 5 manufacturer's license or Class 7 micro–brewery license may apply for and obtain a Class 7 limited beer wholesaler's license in accordance with this paragraph.

(ii) A holder of a Class 5 manufacturer's license that was selling the holder's own beer at wholesale in the State as of January 1, 2013, may obtain a Class 7 limited beer wholesaler's license to continue to sell the holder's own beer at wholesale in the same location in an amount that is not more than **[**3,000**]** **5,000** barrels annually.

(iii) A holder of a Class 5 manufacturer's license that produces in aggregate from all its locations not more than **[**22,500**]** **45,000** barrels of beer annually may obtain a Class 7 limited beer wholesaler's license and distribute not more than **[**3,000**]** **5,000** barrels of its own beer annually.

(iv) A holder of one or two Class 7 micro–brewery licenses that produces in aggregate from all of its locations not more than **[**22,500**]** **45,000** barrels of beer annually may obtain a Class 7 limited beer wholesaler's license and distribute beer that:

1. totals annually not more than **[**3,000**]** **5,000** barrels in aggregate from all of its locations; and

2. has been brewed at the location from where it is distributed.

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

Approved by the Governor, April 30, 2019.

Chapter 319

(Senate Bill 499)

AN ACT concerning

Baltimore City – Baltimore Police Department – Percentage of Civilian Employees ~~and Police Officers~~

FOR the purpose of requiring the composition of the Baltimore Police Department to consist of ~~certain percentages~~ *a certain percentage* of civilian employees ~~and police officers~~; requiring the Department to periodically report to certain persons regarding certain employment practices; and generally relating to the staffing of the Baltimore Police Department.

BY repealing and reenacting, without amendments,
The Public Local Laws of Baltimore City
Section 16–8(b)
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

BY adding to

The Public Local Laws of Baltimore City
Section 16–8(d)
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

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

Article 4 – Baltimore City

16–8.

(b) The authorized number of members of the Department, both police officers and civilian employees, and the compensation to be paid thereto, shall be as provided in the annual Ordinance of Estimates of Baltimore City, but in no event shall any person who was a member of the Department on July 1, 1966, be reduced in salary or compensation, or removed or dismissed from the Department except as provided by law.

(D) (1) BEGINNING ON JANUARY 1, 2022, THE DEPARTMENT SHALL BE COMPOSED OF NOT LESS THAN 20% CIVILIAN EMPLOYEES ~~AND NOT MORE THAN 80% POLICE OFFICERS~~.

(2) ON OR BEFORE JANUARY 1, 2022, AND EVERY 6 MONTHS THEREAFTER, THE DEPARTMENT SHALL PROVIDE A REPORT ON THE NUMBER OF CIVILIAN EMPLOYEES AND POLICE OFFICERS EMPLOYED BY THE DEPARTMENT TO THE MAYOR AND CITY COUNCIL OF BALTIMORE AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE MEMBERS OF THE BALTIMORE CITY DELEGATION TO THE GENERAL ASSEMBLY.

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

Approved by the Governor, April 30, 2019.

Chapter 320

(Senate Bill 96)

AN ACT concerning

Baltimore City – Tax Sales of Real Property – Water Liens
(Water Taxpayer Protection Act of 2019)

FOR the purpose of requiring the collector in Baltimore City to withhold from tax sale certain places of worship if the taxes on the property consist only of a lien for unpaid charges for water and sewer service; repealing the authority of the Mayor and City Council of Baltimore City to sell certain properties to enforce a lien for unpaid charges for water and sewer service if the properties are also being sold to enforce another lien; repealing the authority of the Mayor and City Council of Baltimore City to sell certain ~~places of worship~~ real property owned by religious groups or organizations to enforce a lien for unpaid charges for water and sewer service; repealing the authority of Baltimore City to enforce a water and sewer service lien on residential property if the property is being sold to enforce another lien; providing that this Act does not affect other rights or remedies of Baltimore City to collect unpaid charges for water and sewer service~~, subject to a certain exception~~; ~~prohibiting Baltimore City from acquiring residential property and places of worship by means of execution of a judgment under certain circumstances;~~ repealing a certain termination provision relating to the authority of Baltimore City to sell real property to enforce a water and sewer service lien; providing for the application of certain provisions of this Act; and generally relating to tax sales of real property in Baltimore City.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–811(b) and 14–849.1
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Chapter 714 of the Acts of the General Assembly of 2018
Section 3

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

Article – Tax – Property

14–811.

(b) (1) The collector may withhold from sale any residential property, when the total taxes on the property, including interest and penalties, amount to less than $750.

(2) In Baltimore City, the collector shall withhold from sale owner–occupied residential property, when the total taxes on the property, including interest and penalties, amount to less than $750.

(3) In Baltimore City, the collector shall withhold from sale residential property **OR PROPERTY THAT IS EXEMPT FROM TAXATION UNDER § 7–204(1) OR (2) OF THIS ARTICLE**, if the taxes on the property consist only of a lien for unpaid charges for water and sewer service.

14–849.1.

(a) In Baltimore City, the Mayor and City Council may not sell a property **[**solely**]** to enforce a lien for unpaid charges for water and sewer service unless:

(1) the lien is for at least $350;

(2) the property is not**:**

(I) a residential property; **OR**

(II) REAL PROPERTY ~~USED EXCLUSIVELY AS A PLACE OF WORSHIP~~ THAT IS EXEMPT FROM TAXATION UNDER § 7–204(1) OR (2) OF THIS ARTICLE; and

(3) the unpaid charges for water and sewer service are at least 3 quarters in arrears.

(b) **[**(1)**]** Notwithstanding subsection (a) of this section, the Mayor and City Council may enforce a lien on a property other than residential property **OR REAL PROPERTY ~~USED EXCLUSIVELY AS A PLACE OF WORSHIP~~ THAT IS EXEMPT FROM TAXATION UNDER § 7–204(1) OR (2) OF THIS ARTICLE** for unpaid water and sewer service that is less than $350 if the property is being sold to enforce another lien.

[(2) Notwithstanding subsection (a) of this section, the Mayor and City Council may enforce a lien on residential property for unpaid water and sewer service if the property is being sold to enforce another lien.**]**

(C) ~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS~~ THIS SECTION DOES NOT AFFECT ANY OTHER RIGHT OR REMEDY OF BALTIMORE CITY FOR THE COLLECTION OF A WATER AND SEWER SERVICE CHARGE.

~~(2) BALTIMORE CITY MAY NOT ACQUIRE RESIDENTIAL PROPERTY OR REAL PROPERTY USED EXCLUSIVELY AS A PLACE OF WORSHIP BY MEANS OF EXECUTION OF A JUDGMENT FOR FAILURE BY THE OWNER, ON WHOM THE WATER AND SEWER SERVICE CHARGE WAS ORIGINALLY MADE, TO PAY THE WATER AND SEWER SERVICE CHARGE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 714 of the Acts of 2018

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018. **[**It shall remain effective for a period of 1 year and 3 months and, at the end of December 31, 2019, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.**]**

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any liens attached to real property before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 321

(Senate Bill 210)

AN ACT concerning

Law Enforcement – Federal Military Surplus Program – Equipment Acquisition

FOR the purpose of ~~requiring certain law enforcement agencies to post notice of the acquisition of certain equipment from a federal military surplus program within a certain period of time; requiring a certain law enforcement agency~~ requiring the Department of State Police to submit a certain report to the Governor and the General Assembly on or before a certain date each year relating to the acquisition of equipment by law enforcement agencies through surplus programs; requiring the Department of State Police to include on its public website in a certain location a link to a certain report; providing for the termination of this Act; and generally relating to local law enforcement agencies and the acquisition of equipment from a federal military surplus program.

BY adding to
Article – Public Safety
Section 3–521
Annotated Code of Maryland
(2011 Replacement Volume and 2018 Supplement)

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

Article – Public Safety

3–521.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3–201 OF THIS TITLE.

(3) "SURPLUS PROGRAM" MEANS A PROGRAM OPERATED BY THE FEDERAL GOVERNMENT FOR THE TRANSFER OF SURPLUS MILITARY EQUIPMENT TO A LAW ENFORCEMENT AGENCY.

~~**(B) WITHIN 14 DAYS AFTER A LAW ENFORCEMENT AGENCY ACQUIRES EQUIPMENT FROM A SURPLUS PROGRAM, THE LAW ENFORCEMENT AGENCY SHALL POST NOTICE OF THE ACQUISITION ON A PUBLICLY ACCESSIBLE WEBSITE.**~~

~~**(C) ON OR BEFORE FEBRUARY 1 EACH YEAR, A LAW ENFORCEMENT AGENCY THAT HAS ACQUIRED EQUIPMENT FROM A SURPLUS PROGRAM WITHIN THE PRECEDING CALENDAR YEAR SHALL REPORT THE ACQUISITION OF THE EQUIPMENT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**~~

(B) ON OR BEFORE FEBRUARY 1 EACH YEAR, THE DEPARTMENT OF STATE POLICE SHALL SUBMIT A REPORT ON THE ACQUISITION OF EQUIPMENT BY LAW ENFORCEMENT AGENCIES THROUGH SURPLUS PROGRAMS WITHIN THE PRECEDING CALENDAR YEAR TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(C) THE DEPARTMENT OF STATE POLICE SHALL INCLUDE IN A PROMINENT LOCATION ON ITS PUBLIC WEBSITE A LINK TO THE DEFENSE LOGISTICS AGENCY'S REPORT LISTING EXCESS DEPARTMENT OF DEFENSE PROPERTY TRANSFERS TO LAW ENFORCEMENT AGENCIES THROUGH THE LAW ENFORCEMENT SUPPORT OFFICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019. It shall remain effective for a period of 3 years and, at the end of September 30, 2022, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, April 30, 2019.

Chapter 322

(House Bill 1140)

AN ACT concerning

Wills – Execution of Wills – Witnesses and Wills Executed Outside the State

FOR the purpose of prohibiting, for purposes of an attested will, a person from qualifying as a witness in the presence of the testator if the witness is in a different physical location than the testator; clarifying the conditions under which a will executed outside the State is properly executed; making stylistic changes; providing for the application of this Act; and generally relating to the execution of wills.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 4–102 and 4–104
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

4–102.

(A) Except as provided in §§ 4–103 and 4–104 of this subtitle, every will shall be**:**

(1) **[**in**]** **IN** writing**[**,**];**

(2) **[**signed**]** **SIGNED** by the testator, or by some other person for **[**him**]** **THE TESTATOR**, in **[**his**]** **THE TESTATOR'S** presence and by **[**his**]** **THE TESTATOR'S** express direction**[**,**];** and

(3) **[**attested**]** **ATTESTED** and signed by two or more credible witnesses in the presence of the testator.

(B) FOR PURPOSES OF THIS SECTION, A WITNESS IS NOT IN THE PRESENCE OF THE TESTATOR IF THE WITNESS IS IN A DIFFERENT PHYSICAL LOCATION THAN THE TESTATOR REGARDLESS OF WHETHER THE TESTATOR CAN OBSERVE THE WITNESS THROUGH ELECTRONIC AUDIO–VIDEO OR OTHER TECHNOLOGICAL MEANS.

4–104.

A will executed outside this State is properly executed if it is:

(1) In writing;

(2) Signed by the testator; and

(3) Executed in conformity with ~~the~~**:**

(I) **THE** provisions of § 4–102 of this subtitle~~, or the~~**;**

(II) **THE** law of the domicile of the testator~~, or the~~**; OR**

(III) **THE LAW OF THE** place where the **[**will is executed**] TESTATOR IS PHYSICALLY LOCATED AT THE TIME THE TESTATOR SIGNS THE WILL**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any will executed before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 323

(Senate Bill 212)

AN ACT concerning

~~Estates and Trusts~~ *Wills* – Execution of Wills – ~~Presence of~~ Witnesses *and Wills Executed Outside the State*

FOR the purpose of ~~establishing that~~ *prohibiting*, for purposes of ~~certain provisions of law governing the execution of a~~ *an attested* will, a ~~witness does not satisfy a certain requirement to be~~ *person from qualifying as a witness* in the presence of ~~a~~ *the* testator if the witness is in a different physical location ~~from~~ *than* the testator ~~and the testator can observe the witness only through electronic audio or video or other technological means~~; *clarifying the conditions under which a will executed outside the State is properly executed;* making stylistic changes; providing for the application of this Act; and generally relating to the execution of ~~testamentary documents~~ *wills*.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 4–102 and 4–104

Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

4–102.

(A) Except as provided in §§ 4–103 and 4–104 of this subtitle, every will shall be**:**

(1) **[**in**]** **IN** writing**[**,**];**

(2) **[**signed**]** **SIGNED** by the testator, or by some other person **[**for him**]** **FOR THE TESTATOR**, in **[**his**]** **THE TESTATOR'S** presence and by **[**his**]** **THE TESTATOR'S** express direction**[**,**];** and

(3) **[**attested**]** **ATTESTED** and signed by two or more credible witnesses in the presence of the testator.

~~**(B) A WITNESS DOES NOT SATISFY THE REQUIREMENT UNDER SUBSECTION (A)(3) OF THIS SECTION TO BE IN THE PRESENCE OF THE TESTATOR IF:**~~

~~**(1) THE THE WITNESS IS IN A DIFFERENT PHYSICAL LOCATION FROM THE TESTATOR; AND**~~

(B) FOR PURPOSES OF THIS SECTION, A WITNESS IS NOT IN THE PRESENCE OF THE TESTATOR IF THE WITNESS IS IN A DIFFERENT PHYSICAL LOCATION THAN THE TESTATOR REGARDLESS OF WHETHER THE TESTATOR CAN OBSERVE THE WITNESS THROUGH ELECTRONIC AUDIO–VIDEO OR OTHER TECHNOLOGICAL MEANS.

~~**(2) THE TESTATOR CAN OBSERVE THE WITNESS ONLY THROUGH ELECTRONIC AUDIO OR VIDEO OR OTHER TECHNOLOGICAL MEANS.**~~

4–104.

A will executed outside this State is properly executed if it is:

(1) In writing;

(2) Signed by the testator; and

(3) Executed in conformity with **[**the**]:**

(I) **THE** provisions of § 4–102 of this subtitle**[**, or the**];**

(II) **THE** law of the domicile of the testator**[**,**];** or **[**the**]**

(III) **THE** ***LAW OF THE*** place where the ~~will is executed~~ ***TESTATOR IS PHYSICALLY LOCATED AT THE TIME THE TESTATOR SIGNS THE WILL***.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any will executed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 324

(Senate Bill 809)

AN ACT concerning

Correctional Facilities – Restrictive Housing – Pregnant Inmates

FOR the purpose of requiring each correctional facility to have a written policy in place regarding the medical care of pregnant inmates that addresses the use of medical isolation or restrictive housing for certain purposes during pregnancy and during a certain post–pregnancy period; establishing that a pregnant inmate may not be involuntarily placed in certain restrictive housing, with certain exceptions; providing that a certain pregnant inmate may be placed in certain restrictive housing if a certain managing official makes a certain determination; requiring a certain managing official to make a certain documentation; requiring that a certain documentation be reviewed and affirmed in a certain manner at a certain time; requiring that a certain individual placed in certain restrictive housing be medically assessed at a certain time, housed only in a certain setting, and given a certain treatment plan; requiring a certain pregnant inmate to be admitted to the infirmary by order of a certain medical professional; requiring a certain inmate to be housed in the infirmary as an admitted patient under certain circumstances until a certain time; requiring a certain inmate who has been housed in the infirmary to be provided with certain benefits and privileges; requiring a certain inmate to be provided a certain notification within a certain period of time; ~~requiring a correctional facility to post certain information in a certain manner;~~ requiring the Secretary of Public Safety and Correctional Services to establish a certain process; requiring a certain managing official of a correctional facility to submit a certain report under certain circumstances; ~~requiring the Secretary, on or before a certain date and annually~~

~~thereafter, to make a certain report to the General Assembly;~~ defining a certain term; and generally relating to pregnant inmates.

BY repealing and reenacting, without amendments,
Article – Correctional Services
Section 9–601(j)(1)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 9–601(j)(2)(ix) and (x)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Correctional Services
Section 9–602(j)(2)(xi) and 9–601.1
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Correctional Services

9–601.

(j) (1) This subsection applies to local correctional facilities and correctional facilities in the Department.

(2) Each correctional facility shall have a written policy in place regarding the medical care of pregnant inmates that addresses:

(ix) eligibility and access to behavioral health counseling and social services during the prenatal and postpartum recovery periods; **[**and**]**

(x) use of restraints during pregnancy, transportation, labor and delivery, and postpartum recovery**; AND**

(XI) USE OF INVOLUNTARY MEDICAL ISOLATION OR RESTRICTIVE HOUSING FOR ADMINISTRATIVE, PROTECTIVE, OR DISCIPLINARY PURPOSES DURING PREGNANCY AND 8 WEEKS DURING THE POSTPARTUM OR POST–PREGNANCY RECOVERY PERIOD.

9–601.1.

(A) IN THIS SECTION, "RESTRICTIVE HOUSING" HAS THE MEANING STATED IN § 9–614 OF THIS SUBTITLE.

(B) EXCEPT AS PROVIDED IN THIS SECTION, A PREGNANT INMATE MAY NOT BE INVOLUNTARILY PLACED IN RESTRICTIVE HOUSING, INCLUDING INVOLUNTARY MEDICAL ISOLATION OR INFIRMARY.

(C) (1) A PREGNANT INMATE MAY BE INVOLUNTARILY PLACED IN RESTRICTIVE HOUSING IF THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY, IN CONSULTATION WITH THE PERSON OVERSEEING WOMEN'S HEALTH AND SERVICES IN THE FACILITY, MAKES AN INDIVIDUALIZED AND WRITTEN DETERMINATION THAT RESTRICTIVE HOUSING IS REQUIRED AS A TEMPORARY RESPONSE TO:

(I) BEHAVIOR THAT POSES:

~~(I)~~ 1. A SERIOUS AND IMMEDIATE RISK OF PHYSICAL HARM TO THE INMATE OR ANOTHER; OR

~~(II)~~ 2. AN IMMEDIATE AND CREDIBLE FLIGHT RISK THAT CANNOT BE REASONABLY PREVENTED BY OTHER MEANS; OR

(II) A SITUATION THAT POSES A RISK OF SPREADING A COMMUNICABLE DISEASE THAT CANNOT BE REASONABLY MITIGATED BY OTHER MEANS.

(2) A MANAGING OFFICIAL WHO MAKES A DETERMINATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL DOCUMENT THE REASON WHY OTHER LESS RESTRICTIVE HOUSING IS NOT POSSIBLE.

(3) THE DETERMINATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REVIEWED AND AFFIRMED AT LEAST EVERY 24 HOURS IN WRITING WITH A COPY PROVIDED TO THE INMATE.

(D) AN INDIVIDUAL PLACED IN RESTRICTIVE HOUSING UNDER THIS SECTION SHALL BE:

(1) MEDICALLY ASSESSED EVERY 8 HOURS;

(2) HOUSED ONLY IN THE LEAST RESTRICTIVE SETTING CONSISTENT WITH THE HEALTH AND SAFETY OF THE INDIVIDUAL; AND

(3) GIVEN AN INTENSIVE TREATMENT PLAN DEVELOPED AND APPROVED BY THE PERSON OVERSEEING WOMEN'S HEALTH AND SERVICES IN THE FACILITY.

(E) (1) A PREGNANT INMATE WHO IS DEEMED TO NEED INFIRMARY CARE SHALL BE ADMITTED TO THE INFIRMARY ON ORDER OF A PRIMARY CARE NURSE PRACTITIONER OR OBSTETRICIAN.

(2) IF THE INMATE IS OVERDUE IN THE PREGNANCY, THE INMATE SHALL BE HOUSED IN THE INFIRMARY AS AN ADMITTED PATIENT UNTIL LABOR BEGINS OR UNTIL THE OBSTETRICAL CONSULTANT HAS MADE OTHER HOUSING AND CARE RECOMMENDATIONS.

(3) A PREGNANT INMATE WHO HAS BEEN PLACED IN THE INFIRMARY SHALL BE PROVIDED:

(I) ACCESS TO REGULAR OUTSIDE RECREATION CONSISTENT WITH THE GENERAL POPULATION;

(II) ~~THE ABILITY TO PURCHASE FOOD ITEMS THROUGH THE COMMISSARY;~~

~~(III)~~ ACCESS TO VISITS, MAIL, AND TELEPHONE CONSISTENT WITH GENERAL POPULATION PRIVILEGES; AND

~~(IV)~~ (III) THE ABILITY TO CONTINUE TO PARTICIPATE IN WORK DETAIL, PROGRAMMING, AND CLASSES.

(F) (1) WITHIN 48 HOURS AFTER CONFIRMATION BY A HEALTH CARE PROFESSIONAL THAT AN INMATE IS PREGNANT, THE INMATE SHALL BE NOTIFIED IN WRITING OF THE RESTRICTIONS ON A PREGNANT INMATE BEING PLACED IN RESTRICTIVE HOUSING PROVIDED IN THIS SECTION.

(2) ~~(I) EACH CORRECTIONAL FACILITY SHALL POST THE RESTRICTIONS ON A PREGNANT INMATE BEING PLACED IN RESTRICTIVE HOUSING PROVIDED IN THIS SECTION.~~

~~(II) THE POSTING REQUIRED IN THIS PARAGRAPH SHALL BE PLACED IN CONSPICUOUS PLACES WITHIN THE CORRECTIONAL FACILITY WHERE INMATES ARE LIKELY TO SEE THE POSTING, INCLUDING HOUSING UNITS, MEDICAL UNITS, LIBRARIES, AND ALL INMATE HANDBOOKS.~~

~~(III)~~ THE SECRETARY SHALL ESTABLISH A PROCESS THROUGH WHICH AN INMATE MAY REPORT A VIOLATION OF THIS SECTION.

(G) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY WHO AUTHORIZED THE PLACEMENT OF A PREGNANT INMATE IN RESTRICTIVE HOUSING SHALL SUBMIT WITHIN 30 DAYS OF THE PLACEMENT A REPORT IN WRITING TO THE ~~SECRETARY~~ COMMISSIONER OF CORRECTION, THE COMMISSIONER OF PRETRIAL DETENTION AND SERVICES, AND ~~TO~~ THE PERSON OVERSEEING WOMEN'S HEALTH AND SERVICES IN THE FACILITY THAT DESCRIBES THE FACTS AND CIRCUMSTANCES SURROUNDING THE PLACEMENT, INCLUDING:

(1) THE REASONING FOR THE DETERMINATION TO PLACE THE INMATE IN RESTRICTIVE HOUSING;

(2) DETAILS OF THE PLACEMENT, INCLUDING THE NAMES OF THOSE WHO CONDUCTED MEDICAL ASSESSMENTS OF THE INMATE, DATES AND TIMES OF PLACEMENT, AND THE DATE, IF APPLICABLE, THE INMATE WAS RELEASED FROM RESTRICTIVE HOUSING; AND

(3) ANY PHYSICAL OR MENTAL EFFECTS ON THE INMATE OR FETUS RESULTING FROM THE PLACEMENT OBSERVED OR REPORTED BY THE PERSON OVERSEEING WOMEN'S HEALTH AND SERVICES IN THE FACILITY.

~~**(H) ON OR BEFORE OCTOBER 1, 2020, AND ANNUALLY THEREAFTER, THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, WITHOUT ANY PERSONALLY IDENTIFIABLE INFORMATION OF ANY INMATE, ON:**~~

~~**(1) THE NUMBER OF PREGNANT INMATES PLACED IN RESTRICTIVE HOUSING DURING THE PREVIOUS YEAR; AND**~~

~~**(2) THE OUTCOME OF THE PREGNANCIES, INCLUDING THE NUMBER OF STILLBIRTHS, MISCARRIAGES, ABORTIONS, ECTOPIC PREGNANCIES, MATERNAL DEATHS, NEONATAL DEATHS, AND PRETERM BIRTHS.**~~

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

Approved by the Governor, April 30, 2019.

Chapter 325

(House Bill 1027)

AN ACT concerning

Criminal Law – Child Pornography

FOR the purpose of altering certain definitions applicable to certain prohibitions against possessing, distributing, and creating child pornography; prohibiting a person from knowingly possessing and intentionally retaining a certain representation showing a computer–generated image that is indistinguishable from an actual *and identifiable* child under a certain age portrayed in a certain manner; defining a certain term; *providing that only certain depictions of sexual conduct apply to a certain offense;* applying certain penalties; and generally relating to child pornography.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 11–101, ~~11–201~~ *11–105(a)*, and 11–208
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 11–207
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Criminal Law

11–101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Advertising purposes" means the purpose of propagandizing in connection with the commercial:

(1) sale of a product;

(2) offering of a service; or

(3) exhibition of entertainment.

(c) "Sadomasochistic abuse" means:

(1) flagellation or torture committed by or inflicted on an individual who is:

(i) nude;

(ii) wearing only undergarments; or

(iii) wearing a revealing or bizarre costume; or

(2) binding, fettering, or otherwise physically restraining an individual who is:

(i) nude;

(ii) wearing only undergarments; or

(iii) wearing a revealing or bizarre costume.

(d) "Sexual conduct" means:

(1) human masturbation;

(2) sexual intercourse; **[**or**]**

(3) whether alone or with another individual or animal, any touching of or contact with:

(i) the genitals, buttocks, or pubic areas of an individual; or

(ii) breasts of a female individual**; OR**

(4) LASCIVIOUS EXHIBITION OF THE GENITALS OR PUBIC AREA OF ANY PERSON.

(e) "Sexual excitement" means:

(1) the condition of the human genitals when in a state of sexual stimulation;

(2) the condition of the human female breasts when in a state of sexual stimulation; or

(3) the sensual experiences of individuals engaging in or witnessing sexual conduct or nudity.

11–105.

(a) A person may not knowingly display for advertising purposes a picture, photograph, drawing, sculpture, or other visual representation or image of an individual or portion of a human body that:

(1) depicts sadomasochistic abuse;

(2) depicts sexual conduct ***AS DEFINED BY § 11–101(D)(1),(2), OR (3) OF THIS SUBTITLE****;*

(3) depicts sexual excitement; or

(4) contains a verbal description or narrative account of sadomasochistic abuse, sexual conduct, or sexual excitement.

~~11–201.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) "Distribute" means to transfer possession.~~

~~(c) "Knowingly" means having knowledge of the character and content of the matter.~~

~~(d) "Matter" means:~~

~~(1) a book, magazine, newspaper, or other printed or written material;~~

~~(2) a picture, drawing, photograph, motion picture, or other pictorial representation;~~

~~(3) a statue or other figure;~~

~~(4) a recording, transcription, or mechanical, chemical, **[**or**]** electrical~~**, OR DIGITAL** reproduction; or~~

~~(5) any other article, equipment, machine, or material.~~

~~(e) "Sadomasochistic abuse" has the meaning stated in § 11–101 of this title.~~

~~(f) "Sexual conduct" has the meaning stated in § 11–101 of this title.~~

~~(g) "Sexual excitement" has the meaning stated in § 11–101 of this title.~~

11–207.

(a) A person may not:

(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(4) knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance:

(i) that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or

(ii) in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation, or performance depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct; or

(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

(b) A person who violates this section is guilty of a felony and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding $50,000 or both.

(c) (1) (i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.

(ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.

(2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:

(i) observation of the matter depicting the individual;

(ii) oral testimony by a witness to the production of the matter, representation, or performance;

(iii) expert medical testimony; or

(iv) any other method authorized by an applicable provision of law or rule of evidence.

11–208.

(A) (1) IN THIS SECTION, "INDISTINGUISHABLE FROM AN ACTUAL CHILD" MEANS AN ORDINARY PERSON WOULD CONCLUDE THAT THE IMAGE IS OF AN ACTUAL MINOR ENGAGED IN SEXUAL CONDUCT.

(2) "INDISTINGUISHABLE FROM AN ACTUAL CHILD" INCLUDES AN ACTUAL MINOR OR A COMPUTER–GENERATED IMAGE THAT HAS BEEN CREATED, ADAPTED, OR MODIFIED TO APPEAR AS AN IDENTIFIABLE CHILD.

(3) "INDISTINGUISHABLE FROM AN ACTUAL CHILD" DOES NOT INCLUDE IMAGES OR ITEMS DEPICTING MINORS THAT ARE:

(I) DRAWINGS;

(II) CARTOONS;

(III) SCULPTURES; OR

(IV) PAINTINGS.

~~(a)~~ **(B)** A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child **OR A COMPUTER–GENERATED IMAGE THAT IS INDISTINGUISHABLE FROM AN ACTUAL *AND IDENTIFIABLE* CHILD** under the age of 16 years:

(1) engaged as a subject of sadomasochistic abuse;

(2) engaged in sexual conduct; or

(3) in a state of sexual excitement.

~~(b)~~ **(C)** (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $2,500 or both.

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $10,000 or both.

~~(c)~~ **(D)** Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:

(1) as a subject of sadomasochistic abuse; or

(2) in sexual conduct and in a state of sexual excitement.

~~(d)~~ **(E)** It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

(1) took reasonable steps to destroy each visual representation; or

(2) reported the matter to a law enforcement agency.

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

Approved by the Governor, April 30, 2019.

Chapter 326

(Senate Bill 736)

AN ACT concerning

Criminal Law – Child Pornography

FOR the purpose of *altering certain definitions applicable to certain prohibitions against possessing, distributing, and creating child pornography;* ~~altering certain definitions applicable to certain prohibitions against possessing, distributing, and creating child pornography;~~ prohibiting a person from knowingly possessing and intentionally retaining a certain representation showing a computer–generated image that is indistinguishable from an actual and identifiable child under a certain age portrayed in a certain manner; defining a certain term; *providing that only certain depictions of sexual conduct apply to a certain offense;* applying certain penalties; and generally relating to child pornography.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section *11–101, 11–105(a), ~~11–201,~~ and* ~~11–101, 11–201, and~~ 11–208
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 11–207
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Criminal Law~~
~~Section 11–207~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2018 Supplement)~~

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

Article – Criminal Law

11–101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Advertising purposes" means the purpose of propagandizing in connection with the commercial:

(1) sale of a product;

(2) offering of a service; or

(3) exhibition of entertainment.

(c) "Sadomasochistic abuse" means:

(1) flagellation or torture committed by or inflicted on an individual who is:

(i) nude;

(ii) wearing only undergarments; or

(iii) wearing a revealing or bizarre costume; or

(2) binding, fettering, or otherwise physically restraining an individual who is:

(i) nude;

(ii) wearing only undergarments; or

(iii) wearing a revealing or bizarre costume.

(d) "Sexual conduct" means:

(1) human masturbation;

(2) sexual intercourse; ***[****or****]***

(3) whether alone or with another individual or animal, any touching of or contact with:

(i) the genitals, buttocks, or pubic areas of an individual; or

*(ii) breasts of a female individual****; OR***

(4) LASCIVIOUS EXHIBITION OF THE GENITALS OR PUBIC AREA OF ANY PERSON.

(e) "Sexual excitement" means:

(1) the condition of the human genitals when in a state of sexual stimulation;

(2) the condition of the human female breasts when in a state of sexual stimulation; or

(3) the sensual experiences of individuals engaging in or witnessing sexual conduct or nudity.

11–105.

(a) A person may not knowingly display for advertising purposes a picture, photograph, drawing, sculpture, or other visual representation or image of an individual or portion of a human body that:

(1) depicts sadomasochistic abuse;

(2) depicts sexual conduct ***AS DEFINED BY § 11–101(D)(1), (2), OR (3) OF THIS SUBTITLE;***

(3) depicts sexual excitement; or

(4) contains a verbal description or narrative account of sadomasochistic abuse, sexual conduct, or sexual excitement.

~~*11–201.*~~

~~*(a) In this subtitle the following words have the meanings indicated.*~~

~~*(b) "Distribute" means to transfer possession.*~~

~~*(c) "Knowingly" means having knowledge of the character and content of the matter.*~~

~~*(d) "Matter" means:*~~

~~*(1) a book, magazine, newspaper, or other printed or written material;*~~

~~*(2) a picture, drawing, photograph, motion picture, or other pictorial representation;*~~

~~*(3) a statue or other figure;*~~

~~*(4) a recording, transcription, or mechanical, chemical,* **[***or***]** *electrical,* ~~**OR DIGITAL** *reproduction; or*~~

~~*(5) any other article, equipment, machine, or material.*~~

~~*(e) "Sadomasochistic abuse" has the meaning stated in § 11–101 of this title.*~~

~~*(f) "Sexual conduct" has the meaning stated in § 11–101 of this title.*~~

~~*(g) "Sexual excitement" has the meaning stated in § 11–101 of this title.*~~

11–207.

(a) A person may not:

(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(4) knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance:

(i) that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or

(ii) in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation, or performance depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct; or

(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

(b) A person who violates this section is guilty of a felony and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding $50,000 or both.

(c) (1) (i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.

(ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.

(2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:

(i) observation of the matter depicting the individual;

(ii) oral testimony by a witness to the production of the matter, representation, or performance;

(iii) expert medical testimony; or

(iv) any other method authorized by an applicable provision of law or rule of evidence.

~~11–101.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) "Advertising purposes" means the purpose of propagandizing in connection with the commercial:~~

~~(1) sale of a product;~~

~~(2) offering of a service; or~~

~~(3) exhibition of entertainment.~~

~~(c) "Sadomasochistic abuse" means:~~

~~(1) flagellation or torture committed by or inflicted on an individual who is:~~

~~(i) nude;~~

~~(ii) wearing only undergarments; or~~

~~(iii) wearing a revealing or bizarre costume; or~~

~~(2) binding, fettering, or otherwise physically restraining an individual who is:~~

~~(i) nude;~~

~~(ii) wearing only undergarments; or~~

~~(iii) wearing a revealing or bizarre costume.~~

~~(d) "Sexual conduct" means:~~

~~(1) human masturbation;~~

~~(2) sexual intercourse; [or]~~

~~(3) whether alone or with another individual or animal, any touching of or contact with:~~

~~(i) the genitals, buttocks, or pubic areas of an individual; or~~

~~(ii) breasts of a female individual~~**; OR**

~~**(4) LASCIVIOUS EXHIBITION OF THE GENITALS OR PUBIC AREA OF ANY PERSON.**~~

~~(c) "Sexual excitement" means:~~

~~(1) the condition of the human genitals when in a state of sexual stimulation;~~

~~(2) the condition of the human female breasts when in a state of sexual stimulation; or~~

~~(3) the sensual experiences of individuals engaging in or witnessing sexual conduct or nudity.~~

~~11–201.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) "Distribute" means to transfer possession.~~

~~(c) "Knowingly" means having knowledge of the character and content of the matter.~~

~~(d) "Matter" means:~~

~~(1) a book, magazine, newspaper, or other printed or written material;~~

~~(2) a picture, drawing, photograph, motion picture, or other pictorial representation;~~

~~(3) a statue or other figure;~~

~~(4) a recording, transcription, or mechanical, chemical,~~ **[**~~or~~**]** ~~electrical~~**, OR DIGITAL** ~~reproduction; or~~

~~(5) any other article, equipment, machine, or material.~~

~~(e) "Sadomasochistic abuse" has the meaning stated in § 11–101 of this title.~~

~~(f) "Sexual conduct" has the meaning stated in § 11–101 of this title.~~

~~(g) "Sexual excitement" has the meaning stated in § 11–101 of this title.~~

~~11–207.~~

~~(a) A person may not:~~

~~(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;~~

~~(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;~~

~~(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;~~

~~(4) knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance:~~

~~(i) that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or~~

~~(ii) in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation, or performance depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct; or~~

~~(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.~~

~~(b) A person who violates this section is guilty of a felony and on conviction is subject to:~~

~~(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both; and~~

~~(2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding $50,000 or both.~~

~~(c) (1) (i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.~~

~~(ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.~~

~~(2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:~~

~~(i) observation of the matter depicting the individual;~~

~~(ii) oral testimony by a witness to the production of the matter, representation, or performance;~~

~~(iii) expert medical testimony; or~~

~~(iv) any other method authorized by an applicable provision of law or rule of evidence.~~

11–208.

(A) (1) IN THIS SECTION, "INDISTINGUISHABLE FROM AN ACTUAL AND IDENTIFIABLE CHILD" MEANS AN ORDINARY PERSON WOULD CONCLUDE THAT THE IMAGE IS OF AN ACTUAL AND IDENTIFIABLE MINOR.

(2) "INDISTINGUISHABLE FROM AN ACTUAL AND IDENTIFIABLE CHILD" INCLUDES A COMPUTER–GENERATED IMAGE THAT HAS BEEN CREATED, ADAPTED, OR MODIFIED TO APPEAR AS AN ACTUAL AND IDENTIFIABLE CHILD.

(3) "INDISTINGUISHABLE FROM AN ACTUAL AND IDENTIFIABLE CHILD" DOES NOT INCLUDE IMAGES OR ITEMS DEPICTING MINORS THAT ARE:

(I) DRAWINGS;

(II) CARTOONS;

(III) SCULPTURES; OR

(IV) PAINTINGS.

~~(a)~~ **(B)** A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child **OR A COMPUTER–GENERATED IMAGE THAT IS INDISTINGUISHABLE FROM AN ACTUAL AND IDENTIFIABLE CHILD** under the age of 16 years:

(1) engaged as a subject of sadomasochistic abuse;

(2) engaged in sexual conduct; or

(3) in a state of sexual excitement.

~~(b)~~ **(C)** (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $2,500 or both.

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $10,000 or both.

~~(c)~~ **(D)** Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:

(1) as a subject of sadomasochistic abuse; or

(2) in sexual conduct and in a state of sexual excitement.

~~(d)~~ **(E)** It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

(1) took reasonable steps to destroy each visual representation; or

(2) reported the matter to a law enforcement agency.

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

Approved by the Governor, April 30, 2019.

Chapter 327

(Senate Bill 305)

AN ACT concerning

Real Property – Homeowners Associations – Number of Declarant Votes

FOR the purpose of altering the number of declarant votes before the date on which all lots that may be part of a development have been subdivided and recorded under certain circumstances; providing that a declarant is entitled to a certain number of votes beginning on the date on which all lots that may be part of a development have been subdivided and recorded under certain circumstances; and generally relating to declarant votes in homeowners associations.

BY repealing and reenacting, with amendments,

Article – Real Property
Section 11B–111.7
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Real Property

11B–111.7.

(A) Notwithstanding any other provision of law or any provision in the declaration, bylaws, rules, deeds, agreements, or recorded covenants or restrictions of a homeowners association, **[**until the time all lots in a homeowners association**]** **BEGINNING ON THE DATE ON WHICH ALL LOTS THAT MAY BE PART OF THE DEVELOPMENT** have been subdivided and recorded in the land records of the county in which the homeowners association is located, the declarant, when voting on a homeowners association matter, shall **[**have a number of votes that is equal to the number of lots that**]** **BE ENTITLED TO ONE VOTE PER LOT THAT**:

(1) **[**Have**]** **HAS** been subdivided and recorded in the land records of the county in which the homeowners association is located; and

(2) **[**Have**]** **HAS** not been sold to members of the public.

(B) BEFORE THE DATE ON WHICH ALL LOTS THAT MAY BE PART OF THE DEVELOPMENT HAVE BEEN SUBDIVIDED AND RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE HOMEOWNERS ASSOCIATION IS LOCATED, THE DECLARANT, WHEN VOTING ON A HOMEOWNERS ASSOCIATION MATTER, SHALL BE ENTITLED TO THE NUMBER OF VOTES SET FORTH IN THE GOVERNING DOCUMENTS OF THE HOMEOWNERS ASSOCIATION.

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

Approved by the Governor, April 30, 2019.

Chapter 328

(Senate Bill 913)

AN ACT concerning

State Retirement and Pension System – Administration – Retiree Information for Direct Mailings

FOR the purpose of repealing a requirement that certain requests by retiree organizations to the Board of Trustees for the State Retirement and Pension System for certain information to assist in direct mailings to certain retirees must be made at certain times each year; and generally relating to direct mailings to retirees of the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 21–128(a) and (b)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–128(c)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Personnel and Pensions

21–128.

(a) In this section, "retiree organization" means an organization in which State retirees participate and that has as one of its primary purposes, representing or providing services to State retirees.

(b) This section applies to any retiree organization that has the legal authority to provide services to retirees of the several systems.

(c) (1) A retiree organization may submit only **[**one request in both April and October of**]** **TWO REQUESTS** each year to the Board of Trustees to assist the retiree organization in performing direct mailings to retirees of the several systems who are members of the retiree organization or eligible to become members of the retiree organization.

(2) The direct mailings may not be for the purpose of supporting or opposing any political party, ballot measure, or candidate in any election, including any State general or primary election or any election within the retiree organization.

(3) (i) The Board of Trustees shall provide the retiree data for addressing envelopes only to the mail processing center under a secure data share

agreement with the mail processing center under which neither the retiree organization nor any other entity has direct access to any names or addresses.

(ii) If the Board of Trustees provides any retiree data to a mail processing center under subparagraph (i) of this paragraph, the Board of Trustees is not required to notify a retiree whose data is released of the provisions of § 21–504 of this title.

(4) (i) A retiree organization shall provide the Board of Trustees with copies of all materials that will be included in the direct mailing.

(ii) The Board of Trustees shall review the materials provided under subparagraph (i) of this paragraph before providing any retiree data to a mail processing center.

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

Approved by the Governor, April 30, 2019.

Chapter 329

(House Bill 1081)

AN ACT concerning

State Board of Public Accountancy – Firm Permits – Attest Services

FOR the purpose of repealing a provision of law that requires a certified public accountant firm to hold a permit issued by the State Board of Public Accountancy if the firm performs certain attest services for a client with a home office in this State; authorizing a certain firm that does not have an office in this State to perform certain attest services for a certain client in this State without a permit issued by the Board under certain circumstances; making conforming changes; and generally relating to certified public accountant firm permits and the State Board of Public Accountancy.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 2–101(a) through (c)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–401
Annotated Code of Maryland

(2018 Replacement Volume)

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

Article – Business Occupations and Professions

2–101.

(a) In this title the following words have the meanings indicated.

(b) "AICPA" means the American Institute of Certified Public Accountants.

(c) "Attest" means to provide the following services:

(1) an audit or other engagement performed in accordance with the Statements on Auditing Standards issued by AICPA;

(2) a review of a financial statement performed in accordance with the Statements on Standards for Accounting and Review Services issued by AICPA;

(3) a compilation;

(4) any examination, review, or agreed–upon procedures engagement to be performed in accordance with the Statements on Standards for Attestation Engagements issued by AICPA; and

(5) any engagement performed in accordance with the Auditing Standards of the Public Company Accounting Oversight Board.

2–401.

(a) A firm shall hold a permit issued by the Board if the firm:

(1) has an office in this State that performs attest services as defined in § 2–101(c) of this title; **OR**

(2) has an office in this State that uses the title "CPA" or "CPA firm"**[**; or

(3) performs attest services described in § 2–101(c)(1), (4), or (5) of this title for a client with a home office in this State**]**.

(b) A firm that does not have an office in this State may perform attest services as defined in **[**§ 2–101(c)(2) and (3)**] § 2–101(C)** of this title for a client **[**with a home office**]** in this State without a permit if the firm:

(1) meets the application and peer review requirements under §§ 2–402,

2–402.1, and 2–403 of this subtitle and § 2–4A–02 of this title; and

(2) performs services through an individual with a practice privilege under § 2–321 of this title **IN THE STATE WHERE THE INDIVIDUAL WITH A PRACTICE PRIVILEGE RETAINS A PRINCIPAL PLACE OF BUSINESS**.

(c) The Board shall grant or renew a permit to practice as a CPA firm to a partnership, limited liability company, or corporation that demonstrates its qualifications in accordance with this section.

(d) If a firm does not meet the requirements of this section, the firm may perform **[**other**]** professional services **OTHER THAN ATTEST SERVICES** while using the title "CPA" or "CPA firm" in this State without a permit, if the firm:

(1) performs those services through an individual with a practice privilege provided under § 2–321 of this title; and

(2) performs those services in the state where the individual with a practice privilege retains a principal place of business.

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

Approved by the Governor, April 30, 2019.

Chapter 330

(Senate Bill 513)

AN ACT concerning

State Board of Public Accountancy – Firm Permits – Attest Services

FOR the purpose of repealing a provision of law that requires a certified public accountant firm to hold a permit issued by the State Board of Public Accountancy if the firm performs certain attest services for a client with a home office in this State; authorizing a certain firm that does not have an office in this State to perform certain attest services for a certain client in this State without a permit issued by the Board under certain circumstances; making conforming changes; and generally relating to certified public accountant firm permits and the State Board of Public Accountancy.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 2–101(a) through (c)
Annotated Code of Maryland

(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–401
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Business Occupations and Professions

2–101.

(a) In this title the following words have the meanings indicated.

(b) "AICPA" means the American Institute of Certified Public Accountants.

(c) "Attest" means to provide the following services:

(1) an audit or other engagement performed in accordance with the Statements on Auditing Standards issued by AICPA;

(2) a review of a financial statement performed in accordance with the Statements on Standards for Accounting and Review Services issued by AICPA;

(3) a compilation;

(4) any examination, review, or agreed–upon procedures engagement to be performed in accordance with the Statements on Standards for Attestation Engagements issued by AICPA; and

(5) any engagement performed in accordance with the Auditing Standards of the Public Company Accounting Oversight Board.

2–401.

(a) A firm shall hold a permit issued by the Board if the firm:

(1) has an office in this State that performs attest services as defined in § 2–101(c) of this title; **OR**

(2) has an office in this State that uses the title "CPA" or "CPA firm"**[**; or

(3) performs attest services described in § 2–101(c)(1), (4), or (5) of this title for a client with a home office in this State**]**.

(b) A firm that does not have an office in this State may perform attest services as defined in **[**§ 2–101(c)(2) and (3)**]** **§ 2–101(C)** of this title for a client **[**with a home office**]** in this State without a permit if the firm:

(1) meets the application and peer review requirements under §§ 2–402, 2–402.1, and 2–403 of this subtitle and § 2–4A–02 of this title; and

(2) performs services through an individual with a practice privilege under § 2–321 of this title **IN THE STATE WHERE THE INDIVIDUAL WITH A PRACTICE PRIVILEGE RETAINS A PRINCIPAL PLACE OF BUSINESS**.

(c) The Board shall grant or renew a permit to practice as a CPA firm to a partnership, limited liability company, or corporation that demonstrates its qualifications in accordance with this section.

(d) If a firm does not meet the requirements of this section, the firm may perform **[**other**]** professional services **OTHER THAN ATTEST SERVICES** while using the title "CPA" or "CPA firm" in this State without a permit, if the firm:

(1) performs those services through an individual with a practice privilege provided under § 2–321 of this title; and

(2) performs those services in the state where the individual with a practice privilege retains a principal place of business.

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

Approved by the Governor, April 30, 2019.

Chapter 331

(Senate Bill 607)

AN ACT concerning

Homeowner's Insurance – Discrimination in Underwriting and Rating – Status as Surviving Spouse

FOR the purpose of prohibiting an insurer, with respect to homeowner's insurance, from increasing the premium of an insured who becomes a surviving spouse based solely on the insured's change in marital status; providing for a delayed effective date; and generally relating to homeowner's insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–501(e–2)(1) and (2)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY ~~repealing and reenacting, with amendments,~~ adding to
Article – Insurance
Section ~~27–501(e–2)(2)~~ 27–501(e–2)(7)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

27–501.

(e–2) (1) In this subsection, "credit history" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity that is used or expected to be used, or collected in whole or in part, for the purpose of determining personal lines insurance premiums or eligibility for coverage.

(2) With respect to homeowner's insurance, an insurer may not:

(i) refuse to underwrite, cancel, or refuse to renew a risk based, in whole or in part, on the credit history of an applicant or insured;

(ii) rate a risk based, in whole or in part, on the credit history of an applicant or insured in any manner, including:

1. the provision or removal of a discount;

2. assigning the insured or applicant to a rating tier; or

3. placing an insured or applicant with an affiliated company; ~~[~~or~~]~~

(iii) require a particular payment plan based, in whole or in part, on the credit history of the insured or applicant~~; OR~~.

~~(IV)~~ **(7) WITH RESPECT TO HOMEOWNER'S INSURANCE, AN INSURER MAY NOT INCREASE THE PREMIUM FOR AN INSURED WHO BECOMES A**

SURVIVING SPOUSE BASED SOLELY ON THE INSURED'S CHANGE IN MARITAL ~~STATUS.~~ STATUS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ January 1, ~~2019~~ 2020.

Approved by the Governor, April 30, 2019.

Chapter 332

(House Bill 1339)

AN ACT concerning

Property Tax Credit – Elderly Individuals – Eligibility

FOR the purpose of ~~altering the~~ authorizing the Mayor and City Council of Baltimore City or the governing body of a county or municipality to provide, by law, the minimum number of years, not exceeding a certain number of years, that an elderly individual must live in the same dwelling ~~for purposes of defining "eligible individual" as it relates to eligibility~~ in order to be eligible for a certain statewide optional property tax credit against the county or municipal corporation property tax; altering a certain definition; providing for the application of this Act; and generally relating to the eligibility of certain elderly individuals for a certain property tax credit.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–258
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Tax – Property

9–258.

(a) (1) In this section the following words have the meanings indicated.

(2) "Dwelling" has the meaning stated in § 9–105 of this title.

(3) "Eligible individual" means:

(i) an individual who is at least 65 years old ~~and has lived in the same dwelling for at least the preceding [40] 25 years~~;

(ii) an individual who is at least 65 years old and is a retired member of the uniformed services of the United States as defined in 10 U.S.C. § 101, the military reserves, or the National Guard; or

(iii) a surviving spouse, who has not remarried, of an individual described in item (ii) of this paragraph.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may grant, by law, a property tax credit under this section against the county or municipal corporation property tax imposed on the dwelling of an eligible individual.

(c) The property tax credit allowed under this section may:

(1) not exceed 20% of the county or municipal corporation property tax imposed on the property; and

(2) be granted for a period of up to 5 years.

(d) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may provide, by law, for:

(1) the maximum assessed value of a dwelling that is eligible for the tax credit under this section;

(2) **THE MINIMUM NUMBER OF YEARS, NOT TO EXCEED 40 YEARS, THAT AN ELIGIBLE INDIVIDUAL NOT DESCRIBED UNDER SUBSECTION (A)(3)(II) OR (III) OF THIS SECTION MUST HAVE RESIDED IN THE SAME DWELLING;**

(3) additional eligibility criteria for the tax credit under this section;

~~(3)~~ **(4)** regulations and procedures for the application and uniform processing of requests for the tax credit; and

~~(4)~~ **(5)** any other provision necessary to carry out the tax credit under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019, and shall be applicable to all taxable years beginning after June 30, 2019.

Approved by the Governor, April 30, 2019.

Chapter 333

(Senate Bill 654)

AN ACT concerning

Property Tax Credit – Elderly Individuals – Eligibility

FOR the purpose of ~~altering the~~ authorizing the Mayor and City Council of Baltimore City or the governing body of a county or municipality to provide, by law, the minimum number of years, not exceeding a certain number of years, that an elderly individual must live in the same dwelling ~~for purposes of defining "eligible individual" as it relates to eligibility~~ in order to be eligible for a certain statewide optional property tax credit against the county or municipal corporation property tax; altering a certain definition; providing for the application of this Act; and generally relating to the eligibility of certain elderly individuals for a certain property tax credit.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–258
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Tax – Property

9–258.

(a) (1) In this section the following words have the meanings indicated.

(2) "Dwelling" has the meaning stated in § 9–105 of this title.

(3) "Eligible individual" means:

(i) an individual who is at least 65 years old ~~and has lived in the same dwelling for at least the preceding~~ **[**40**]** **25** ~~years~~;

(ii) an individual who is at least 65 years old and is a retired member of the uniformed services of the United States as defined in 10 U.S.C. § 101, the military reserves, or the National Guard; or

(iii) a surviving spouse, who has not remarried, of an individual described in item (ii) of this paragraph.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may grant, by law, a property tax credit under this section against the county or municipal corporation property tax imposed on the dwelling of an eligible individual.

(c) The property tax credit allowed under this section may:

(1) not exceed 20% of the county or municipal corporation property tax imposed on the property; and

(2) be granted for a period of up to 5 years.

(d) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may provide, by law, for:

(1) the maximum assessed value of a dwelling that is eligible for the tax credit under this section;

(2) THE MINIMUM NUMBER OF YEARS, NOT TO EXCEED 40 YEARS, THAT AN ELIGIBLE INDIVIDUAL NOT DESCRIBED UNDER SUBSECTION (A)(3)(II) OR (III) OF THIS SECTION MUST HAVE RESIDED IN THE SAME DWELLING;

(3) additional eligibility criteria for the tax credit under this section;

~~(3)~~ **(4)** regulations and procedures for the application and uniform processing of requests for the tax credit; and

~~(4)~~ **(5)** any other provision necessary to carry out the tax credit under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019, and shall be applicable to all taxable years beginning after June 30, 2019.

Approved by the Governor, April 30, 2019.

Chapter 334

(Senate Bill 741)

AN ACT concerning

~~**Maryland Historical Trust – Properties Subject to Historic Preservation Easements – Waiver Process**~~
Secretary of Planning – Adaptive Reuse of Historic Properties – Study

FOR the purpose of ~~requiring the Maryland Historical Trust to develop a process for the waiver, in exceptional circumstances, of certain requirements, regulations, and processes applicable to a property subject to a certain historic preservation easement; specifying the conditions under which exceptional circumstances exist for purposes of this Act; and generally relating to properties subject to historic preservation easements held by the Maryland Historical Trust~~ requiring the Secretary of Planning to contract with a certain consultant to conduct a certain study on the adaptive reuse of certain historic properties; authorizing the Secretary to use up to a certain amount to pay for the costs of the study; requiring that the work of the consultant be guided by a certain steering committee; requiring that the study focus on certain complexes and campuses; prohibiting the study from including certain properties; requiring that the study identify certain factors and obstacles, develop a certain historic resource package, develop certain case studies, and provide certain recommendations; requiring that certain reports be submitted to certain persons on or before certain dates; and generally relating to a study of the adaptive reuse of historic properties.

~~BY repealing and reenacting, without amendments,~~
~~Article – State Finance and Procurement~~
~~Section 5A–301(a), (m), and (n)~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

~~BY adding to~~
~~Article – State Finance and Procurement~~
~~Section 5A–321~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

Preamble

WHEREAS, Preservation of Maryland's irreplaceable heritage is intrinsically valuable; and

WHEREAS, Historic preservation can result in substantial economic benefit, as well as significant economic cost; and

WHEREAS, The disposal of excess and underutilized historic real property by state and federal government agencies is often challenged by competing stakeholder interests, regulatory constraints, costly environmental requirements, geographical location, and design; and

WHEREAS, It is in the public interest to identify solutions in support of the redevelopment and adaptive reuse of excess historic real property in a manner that is economically feasible, results in positive preservation outcomes, supports local community development goals, and takes into account exceptional circumstances; now, therefore,

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

(a) (1) Subject to paragraph (2) of this subsection, the Secretary of Planning shall contract with a consultant to conduct a study on the adaptive reuse of historic properties located within the State that are or were owned by the State or the federal government.

(2) The consultant contracted to conduct the study under paragraph (1) of this subsection must be an independent, nongovernmental party with multidiscipline experience and knowledge in the areas of historic preservation, construction and development, economic development, and stakeholder engagement.

(b) The Secretary of Planning may use up to $75,000 to pay for the costs of the study required under subsection (a)(1) of this section.

(c) The work of the consultant contracted to conduct the study under subsection (a)(1) of this section shall be guided by a steering committee that includes:

(1) the Secretary of Planning, or the Secretary's designees;

(2) one member of the Senate, designated by the President of the Senate;

(3) one member of the House of Delegates, designated by the Speaker of the House;

(4) one representative of the private sector with experience in historic preservation, designated by the Secretary of Planning; and

(5) one representative of a nonprofit organization who has experience in historic preservation, designated by the Secretary of Planning.

(d) Subject to the discretion of the Secretary of Planning, the study conducted under subsection (a)(1) of this section:

(1) shall focus on complexes or campuses consisting of multiple buildings that:

(i) are or were owned by the federal government or the State; and

(ii) consist of at least three discrete buildings, which may be interconnected, that encompass at least 50,000 square feet in total gross floor area located on at least 3 acres of land; and

(2) may not include farms and other properties that are primarily used for agricultural purposes.

(e) The study conducted under subsection (a)(1) of this section shall:

(1) identify key success factors and primary obstacles to the preservation and redevelopment of historic properties, including how major components contribute to the delicate cost–value balance of a project, including:

(i) structural conditions;

(ii) environmental and health considerations;

(iii) local community economic development goals;

(iv) prevailing market real estate conditions;

(v) material, labor, and other regulatory requirements; and

(vi) available tax credits and other incentives;

(2) develop a historic resource package of existing, new, and altered enticements, programs, and resources that could be applied to support projects, such as the preservation of campuses and complexes described under subsection (d)(1) of this section, including:

(i) existing federal, state, and local governmental and private programs and resources that have been used or can be used to support projects, such as the preservation of campuses and complexes described under subsection (d)(1) of this section;

(ii) potential new support programs that could be created to help support projects, such as the preservation of campuses and complexes described under subsection (d)(1) of this section; and

(iii) regulatory changes that might be effective in balancing financial, fiscal, economic development, preservation, and local community development goals;

(3) develop three case studies of historic complexes or campuses that are not yet preserved or redeveloped that:

(i) exemplify how the major components outlined under item (1) of this subsection contribute to the delicate cost–value balance of the project; and

(ii) demonstrate how the historic resource package developed under item (2) of this subsection could positively impact the redevelopment of the historic complexes or campuses; and

(4) provide recommendations, based on items (1) through (3) of this subsection, for a historic resource package to be considered by the Secretary of Planning and the General Assembly for the 2020 legislative session.

(f) (1) On or before September 15, 2019, the consultant contracted to conduct the study under subsection (a)(1) of this section shall submit a draft report of its findings and recommendations to the Secretary of Planning and the steering committee described under subsection (c) of this section.

(2) On or before ~~October 31~~ *December 15*, 2019:

(i) the consultant contracted to conduct the study under subsection (a)(1) of this section shall submit a final report of its findings and recommendations to the Secretary of Planning; and

(ii) the Secretary of Planning shall forward the report submitted under item (i) of this paragraph to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

~~**Article – State Finance and Procurement**~~

~~5A–301.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(m) "Trust" means the Maryland Historical Trust.~~

~~(n) "Undertaking" means a project that involves or may result in building construction, building alteration, or land disturbance.~~

~~**5A–321.**~~

~~**(A) THE TRUST SHALL DEVELOP A PROCESS FOR THE WAIVER, IN EXCEPTIONAL CIRCUMSTANCES, OF REQUIREMENTS, REGULATIONS, AND PROCESSES APPLICABLE TO A PROPERTY SUBJECT TO A HISTORIC PRESERVATION EASEMENT HELD BY THE TRUST.**~~

~~**(B) FOR THE PURPOSES OF THIS SECTION, EXCEPTIONAL CIRCUMSTANCES EXIST IF:**~~

~~**(1) THE PROPERTY IS SUBJECT TO REPEATED FLOODING OR OTHER CONTINUING CONDITIONS THAT HAVE RESULTED IN DAMAGE TO THE PROPERTY'S INFRASTRUCTURE;**~~

~~**(2) THERE IS AN URGENT NEED TO STABILIZE HISTORIC STRUCTURES OR CONDUCT ENVIRONMENTAL REMEDIATION AT THE PROPERTY;**~~

~~**(3) THE COST OF COMPLYING WITH THE REQUIREMENTS, REGULATIONS, OR PROCESSES OF THE TRUST WOULD EXCEED THE NORMAL COST OF AN UNDERTAKING BY 20% OR MORE;**~~

~~**(4) EXTRAORDINARY INFRASTRUCTURE COSTS CHALLENGE THE VIABILITY OF AN UNDERTAKING; OR**~~

~~**(5) THE TRUST DETERMINES THAT, IN THE ABSENCE OF A WAIVER, THE PROPERTY MAY BECOME ABANDONED OR DILAPIDATED.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 335

(Senate Bill 622)

AN ACT concerning

~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention – Crime Firearms – Study

FOR the purpose of requiring the ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention to study and compile information regarding certain matters that relate to certain crime firearms; requiring the Department of State Police to provide certain information for the study; requiring the ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention to report its findings to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; defining a certain term; and generally relating to firearms.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) In this section, "crime firearm" means a firearm that is:

(1) used in the commission of a crime of violence as defined in § 5–101 of the Public Safety Article; or

(2) recovered by law enforcement in connection with illegal firearm possession, transportation, or transfer.

(b) The ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention shall:

(1) study information regarding crime firearms in the State, including:

(i) the number and types of crime firearms;

(ii) the sources of the crime firearms, including the ~~manufacturer,~~ importer, dealer, and first purchaser for all recovered crime firearms; and

(iii) the jurisdictions where crime firearms were recovered;

(2) ~~study~~ report the crimes committed with crime firearms by jurisdiction, including:

(i) the number of charges and convictions for:

1. crimes of violence;

2. illegal transfers;

3. illegal possession; ~~and~~

4. illegal transportation; and

5. straw purchases; and

(ii) the number and types of criminal charges associated with a crime firearm;

(3) compile all available information and data regarding the source of crime firearms, including:

(i) for out–of–state crime firearms:

1. the country, state, or city of origin; and

2. the location in the State where the crime firearm was recovered;

(ii) for in–State crime firearms:

1. the jurisdiction of origin; and

2. the location where the crime firearm was recovered;

(iii) information on the top 10 dealers of crime firearms in the State, including:

1. names;

2. locations; and

3. the dates and outcomes of audits conducted by the Maryland State Police of the dealers; and

(iv) ~~information on~~ the 10 states where the most crime firearms recovered in the State originated, including a comparison of the other states' firearms laws regarding:

1. licensing;

2. background checks;

3. waiting periods;

4. straw purchases; and

5. ~~safe storage laws~~ concealed carry laws;

(4) collect information on the length of time between the origination and recovery of a crime firearm; and

(5) gather information regarding *whether* the individuals found in possession of crime firearms~~, including:~~

~~(i) their ages;~~

~~(ii) their jurisdictions of residence;~~

~~(iii) their jurisdictions where charged; and~~

~~(iv) whether they~~ were previously prohibited from possessing a firearm.

(c) The Department of State Police shall provide the ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention with any and all information necessary to complete this study.

(d) On or before December 1, 2020, the ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention shall report its findings to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019. It shall remain effective for a period of 1 year and 3 months and, at the end of December 31, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, April 30, 2019.

Chapter 336

(House Bill 1192)

AN ACT concerning

Assembly Areas – State–Funded Construction or Renovation – Assisted Listening System Requirement

FOR the purpose of requiring certain recipients of State funds to install an assistive listening system in an assembly area during construction or renovation of the assembly area under certain circumstances; authorizing certain recipients of State funds to apply for a waiver from the requirement of a certain provision of this Act under certain circumstances; requiring that the waiver request include a certain description; establishing the Hearing Accessibility Advisory Board; requiring the Secretary of the Department of General Services to appoint the members of the Board; requiring the Board to consist of certain individuals and consumers; requiring the Board to consult with certain stakeholders, make certain recommendations, consider applications for waivers, and monitor compliance and investigate complaints; requiring the Department to adopt certain regulations; providing that this Act does not require certain agencies or recipients to retrofit existing facilities that are not undergoing renovation; authorizing a person to bring a civil action for a certain violation and under certain circumstances; prohibiting a person from being required to take any other action before bringing a certain civil action under certain circumstances; authorizing a court to grant certain relief, assess a certain civil penalty, and award certain other relief in a certain action; requiring that a certain court order include a certain requirement; defining certain terms; providing for the application of this Act; and generally relating to assistive listening systems in State–funded construction or renovation of assembly areas.

BY adding to
Article – State Finance and Procurement
Section 4–410
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Finance and Procurement

4–410.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "ASSEMBLY AREA" MEANS A BUILDING OR FACILITY, OR ANY PORTION OF A BUILDING OR FACILITY, THAT:

1. IS USED FOR THE PURPOSE OF ENTERTAINMENT, EDUCATION, OR CIVIC GATHERINGS; AND

2. REQUIRES THE USE OF A PUBLIC ADDRESS SYSTEM.

(II) "ASSEMBLY AREA" INCLUDES:

1. AN AMPHITHEATER, AN ARENA, AND A STADIUM;

2. AN AUDITORIUM;

3. A CENTER FOR THE PERFORMING ARTS;

4. A CLASSROOM AND A LECTURE HALL;

5. A CONCERT HALL;

6. A CONVENTION CENTER;

7. A COURTROOM;

8. A LEGISLATIVE CHAMBER;

9. A MOVIE THEATER, A THEATER, AND A PLAYHOUSE; AND

10. A PUBLIC HEARING AND MEETING ROOM~~; AND~~

~~11. ANY OTHER AREA THAT REQUIRES THE USE OF A PUBLIC ADDRESS SYSTEM~~.

(III) "ASSEMBLY AREA" DOES NOT INCLUDE ANY OUTDOOR AREA.

(3) "ASSISTIVE LISTENING SYSTEM" MEANS AN AMPLIFICATION SYSTEM USING TRANSMITTERS TO BYPASS THE ACOUSTICAL SPACE BETWEEN A SOUND SOURCE AND A LISTENER BY MEANS OF A WIRELESS DIRECT CONNECTION, SUCH AS A HEARING INDUCTION LOOP SYSTEM, THAT COUPLES TO A:

(I) PERSONAL HEARING DEVICE; OR

(II) RECEIVER, SUCH AS A HEARING INDUCTION LOOP RECEIVER OR OTHER SIMILAR TECHNOLOGY.

(4) "CONSTRUCTION OR RENOVATION" INCLUDES:

~~**(I) BUILDING;**~~

~~**(II) RECONSTRUCTING;**~~

~~**(III) IMPROVING;**~~

~~**(IV) RENOVATING;**~~

~~**(V) ENLARGING;**~~

~~**(VI) PAINTING AND DECORATING;**~~

~~**(VII) ALTERING;**~~

~~**(VIII) MAINTAINING; AND**~~

~~**(IX) REPAIRING.**~~

(I) CONSTRUCTION;

(II) RECONSTRUCTION; AND

(III) RENOVATION.

(5) "HEARING INDUCTION LOOP" MEANS A HEARING LOOP OR T–LOOP SYSTEM THAT TAKES A SOUND SOURCE AND TRANSFERS IT DIRECTLY VIA A MAGNETIC SIGNAL TO:

(I) A HEARING AID;

(II) A COCHLEAR IMPLANT;

(III) A HEARING INDUCTION LOOP RECEIVER; OR

(IV) ANY OTHER PERSONAL HEARING DEVICE THAT ACTS AS A RECEIVER.

(6) "RECIPIENT OF STATE FUNDS" MEANS ANY OF THE FOLLOWING THAT RECEIVE STATE MONEY FOR THE CONSTRUCTION OR RENOVATION OF AN ASSEMBLY AREA:

(I) A UNIT OF STATE GOVERNMENT;

(II) A UNIT OF LOCAL GOVERNMENT; OR

(III) A FOR–PROFIT OR NONPROFIT ENTITY OR ASSOCIATION.

(B) (1) A RECIPIENT OF STATE FUNDS SHALL INSTALL AN ASSISTIVE LISTENING SYSTEM IN AN ASSEMBLY AREA DURING THE CONSTRUCTION OR RENOVATION OF THE ASSEMBLY AREA IF:

(I) ~~AUDIBLE COMMUNICATION IS INTEGRAL TO THE USE OF~~ THE ASSEMBLY AREA USES OR REQUIRES THE USE OF A PUBLIC ADDRESS SYSTEM; AND

(II) A STATE CONTRACT HAS BEEN EXECUTED TO ENABLE CONSTRUCTION OR RENOVATION OF THE ASSEMBLY AREA.

(2) (I) A RECIPIENT OF STATE FUNDS MAY APPLY FOR A WAIVER FROM THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

1. THE RECIPIENT CLAIMS THAT AN ASSISTIVE LISTENING SYSTEM IS NOT TECHNOLOGICALLY FEASIBLE; OR

2. THERE IS A DISPUTE REGARDING WHETHER THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION APPLY TO A CONSTRUCTION OR RENOVATION PROJECT.

(II) A WAIVER REQUEST UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE A DESCRIPTION OF THE ALTERNATIVE ASSISTIVE LISTENING TECHNOLOGY THE RECIPIENT WILL USE TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT.

(C) (1) THERE IS A HEARING ACCESSIBILITY ADVISORY BOARD.

(2) (I) THE SECRETARY SHALL APPOINT THE MEMBERS OF THE BOARD.

(II) THE BOARD SHALL CONSIST OF:

1. INDIVIDUALS WHO HAVE EXPERTISE IN ASSISTIVE LISTENING SYSTEMS; AND

2. CONSUMERS WHO USE ASSISTIVE LISTENING SYSTEMS.

(3) THE BOARD SHALL:

(I) CONSULT WITH STAKEHOLDERS WHO ARE STATE RESIDENTS WHO USE OR WILL USE THE FACILITIES BEING BUILT OR RENOVATED, INCLUDING:

1. INDIVIDUALS WITH HEARING LOSS; AND

2. ORGANIZATIONS THAT REPRESENT PEOPLE WITH HEARING LOSS AND HAVE BACKGROUND EXPERIENCE AND KNOWLEDGE OF THE USE OF ASSISTIVE LISTENING SYSTEMS AND DEVICES;

(II) MAKE RECOMMENDATIONS FOR REGULATIONS IMPLEMENTING THIS SECTION;

(III) CONSIDER APPLICATIONS FOR WAIVERS SUBMITTED UNDER SUBSECTION (B)(2) OF THIS SECTION; AND

(IV) MONITOR COMPLIANCE WITH THIS SECTION AND INVESTIGATE ANY COMPLAINTS REGARDING NONCOMPLIANCE.

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS REGARDING:

(1) PROPER MAINTENANCE AND TRAINING OF STAFF;

(2) ADEQUATE SIGNAGE; AND

(3) A REQUIREMENT FOR FACILITIES TO PROVIDE RECEIVERS THAT CAN USE THE TECHNOLOGY FOR INDIVIDUALS WHO DO NOT HAVE A PERSONAL HEARING DEVICE OR DO NOT HAVE A HEARING DEVICE WITH A TELECOIL OR OTHER BUILT–IN RECEIVER.

(E) THIS SECTION DOES NOT REQUIRE STATE AGENCIES OR RECIPIENTS OF STATE FUNDS TO RETROFIT EXISTING FACILITIES THAT ARE NOT UNDERGOING RENOVATION.

(F) (1) (I) A PERSON MAY BRING A CIVIL ACTION FOR A VIOLATION OF THIS SECTION OR IF THE PERSON HAS REASONABLE GROUNDS FOR BELIEVING THAT THIS SECTION WILL BE VIOLATED.

(II) A PERSON MAY NOT BE REQUIRED TO TAKE ANY OTHER ACTION BEFORE BRINGING A CIVIL ACTION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A POTENTIAL VIOLATION OF THIS SECTION IF THE PERSON HAS ACTUAL NOTICE THAT A RECIPIENT OF STATE FUNDS DOES NOT INTEND TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

(2) IN A CIVIL ACTION BROUGHT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COURT MAY:

(I) GRANT ANY EQUITABLE RELIEF THAT THE COURT CONSIDERS APPROPRIATE, INCLUDING:

1. TEMPORARY, PRELIMINARY, OR PERMANENT RELIEF;

2. PROVIDING AN AUXILIARY AID OR SERVICE;

3. REQUIRING A MODIFICATION OF POLICY, PRACTICE, OR PROCEDURE; AND

4. MAKING FACILITIES READILY ACCESSIBLE TO AND USABLE BY INDIVIDUALS WITH DISABILITIES;

(II) ASSESS A CIVIL PENALTY AGAINST THE RECIPIENT OF STATE FUNDS; OR

(III) AWARD ANY OTHER RELIEF THE COURT CONSIDERS TO BE APPROPRIATE.

(3) IF A COURT ORDERS INJUNCTIVE RELIEF UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ORDER SHALL INCLUDE A REQUIREMENT THAT THE FACILITIES BE ALTERED TO MAKE THE FACILITIES READILY ACCESSIBLE TO AND USABLE BY INDIVIDUALS WITH DISABILITIES TO THE EXTENT REQUIRED BY THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not apply to a contract for construction or renovation of an assembly area entered into before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 337

(Senate Bill 1014)

AN ACT concerning

Assembly Areas – State–Funded Construction or Renovation – Assisted Listening System Requirement

FOR the purpose of requiring certain recipients of State funds to install an assistive listening system in an assembly area during construction or renovation of the assembly area under certain circumstances; authorizing certain recipients of State funds to apply for a waiver from the requirement of a certain provision of this Act under certain circumstances; requiring that the waiver request include a certain description; establishing the Hearing Accessibility Advisory Board; requiring the Secretary of the Department of General Services to appoint the members of the Board; requiring the Board to consist of certain individuals and consumers; requiring the Board to consult with certain stakeholders, make certain recommendations, consider applications for waivers, and monitor compliance and investigate complaints; requiring the Department to adopt certain regulations; providing that this Act does not require certain agencies or recipients to retrofit existing facilities that are not undergoing renovation; authorizing a person to bring a civil action for a certain violation and under certain circumstances; prohibiting a person from being required to take any other action before bringing a certain civil action under certain circumstances; authorizing a court to grant certain relief, assess a certain civil penalty, and award certain other relief in a certain action; requiring that a certain court order include a certain requirement; defining certain terms; providing for the application of this Act; and generally relating to assistive listening systems in State–funded construction or renovation of assembly areas.

BY adding to
Article – State Finance and Procurement
Section 4–410
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Finance and Procurement

4–410.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "ASSEMBLY AREA" MEANS A BUILDING OR FACILITY, OR ANY PORTION OF A BUILDING OR FACILITY, THAT:

1. IS USED FOR THE PURPOSE OF ENTERTAINMENT, EDUCATION, OR CIVIC GATHERINGS; AND

2. REQUIRES THE USE OF A PUBLIC ADDRESS SYSTEM.

(II) "ASSEMBLY AREA" INCLUDES:

1. AN AMPHITHEATER, AN ARENA, AND A STADIUM;

2. AN AUDITORIUM;

3. A CENTER FOR THE PERFORMING ARTS;

4. A CLASSROOM AND A LECTURE HALL;

5. A CONCERT HALL;

6. A CONVENTION CENTER;

7. A COURTROOM;

8. A LEGISLATIVE CHAMBER;

9. A MOVIE THEATER, A THEATER, AND A PLAYHOUSE; AND

10. A PUBLIC HEARING AND MEETING ROOM~~; AND~~

~~11. ANY OTHER AREA THAT REQUIRES THE USE OF A PUBLIC ADDRESS SYSTEM~~.

(III) "ASSEMBLY AREA" DOES NOT INCLUDE ANY OUTDOOR AREA.

(3) "ASSISTIVE LISTENING SYSTEM" MEANS AN AMPLIFICATION SYSTEM USING TRANSMITTERS TO BYPASS THE ACOUSTICAL SPACE BETWEEN A SOUND SOURCE AND A LISTENER BY MEANS OF A WIRELESS DIRECT CONNECTION, SUCH AS A HEARING INDUCTION LOOP SYSTEM, THAT COUPLES TO A:

(I) PERSONAL HEARING DEVICE; OR

(II) RECEIVER, SUCH AS A HEARING INDUCTION LOOP RECEIVER OR OTHER SIMILAR TECHNOLOGY.

(4) "CONSTRUCTION OR RENOVATION" INCLUDES:

~~**(I) BUILDING;**~~

~~**(II) RECONSTRUCTING;**~~

~~**(III) IMPROVING;**~~

~~**(IV) RENOVATING;**~~

~~**(V) ENLARGING;**~~

~~**(VI) PAINTING AND DECORATING;**~~

~~**(VII) ALTERING;**~~

~~**(VIII) MAINTAINING; AND**~~

~~**(IX) REPAIRING.**~~

(I) CONSTRUCTION;

(II) RECONSTRUCTION; AND

(III) RENOVATION.

(5) "HEARING INDUCTION LOOP" MEANS A HEARING LOOP OR T–LOOP SYSTEM THAT TAKES A SOUND SOURCE AND TRANSFERS IT DIRECTLY VIA A MAGNETIC SIGNAL TO:

(I) A HEARING AID;

(II) A COCHLEAR IMPLANT;

(III) A HEARING INDUCTION LOOP RECEIVER; OR

(IV) ANY OTHER PERSONAL HEARING DEVICE THAT ACTS AS A RECEIVER.

(6) "RECIPIENT OF STATE FUNDS" MEANS ANY OF THE FOLLOWING THAT RECEIVE STATE MONEY FOR THE CONSTRUCTION OR RENOVATION OF AN ASSEMBLY AREA:

(I) A UNIT OF STATE GOVERNMENT;

(II) A UNIT OF LOCAL GOVERNMENT; OR

(III) A FOR–PROFIT OR NONPROFIT ENTITY OR ASSOCIATION.

(B) (1) A RECIPIENT OF STATE FUNDS SHALL INSTALL AN ASSISTIVE LISTENING SYSTEM IN AN ASSEMBLY AREA DURING THE CONSTRUCTION OR RENOVATION OF THE ASSEMBLY AREA IF:

(I) ~~AUDIBLE COMMUNICATION IS INTEGRAL TO THE USE OF~~ THE ASSEMBLY AREA USES OR REQUIRES THE USE OF A PUBLIC ADDRESS SYSTEM; AND

(II) A STATE CONTRACT HAS BEEN EXECUTED TO ENABLE CONSTRUCTION OR RENOVATION OF THE ASSEMBLY AREA.

(2) (I) A RECIPIENT OF STATE FUNDS MAY APPLY FOR A WAIVER FROM THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

1. THE RECIPIENT CLAIMS THAT AN ASSISTIVE LISTENING SYSTEM IS NOT TECHNOLOGICALLY FEASIBLE; OR

2. THERE IS A DISPUTE REGARDING WHETHER THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION APPLY TO A CONSTRUCTION OR RENOVATION PROJECT.

(II) A WAIVER REQUEST UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE A DESCRIPTION OF THE ALTERNATIVE ASSISTIVE LISTENING TECHNOLOGY THE RECIPIENT WILL USE TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT.

(C) (1) THERE IS A HEARING ACCESSIBILITY ADVISORY BOARD.

(2) (I) THE SECRETARY SHALL APPOINT THE MEMBERS OF THE BOARD.

(II) THE BOARD SHALL CONSIST OF:

1. INDIVIDUALS WHO HAVE EXPERTISE IN ASSISTIVE LISTENING SYSTEMS; AND

2. CONSUMERS WHO USE ASSISTIVE LISTENING SYSTEMS.

(3) THE BOARD SHALL:

(I) CONSULT WITH STAKEHOLDERS WHO ARE STATE RESIDENTS WHO USE OR WILL USE THE FACILITIES BEING BUILT OR RENOVATED, INCLUDING:

1. INDIVIDUALS WITH HEARING LOSS; AND

2. ORGANIZATIONS THAT REPRESENT PEOPLE WITH HEARING LOSS AND HAVE BACKGROUND EXPERIENCE AND KNOWLEDGE OF THE USE OF ASSISTIVE LISTENING SYSTEMS AND DEVICES;

(II) MAKE RECOMMENDATIONS FOR REGULATIONS IMPLEMENTING THIS SECTION;

(III) CONSIDER APPLICATIONS FOR WAIVERS SUBMITTED UNDER SUBSECTION (B)(2) OF THIS SECTION; AND

(IV) MONITOR COMPLIANCE WITH THIS SECTION AND INVESTIGATE ANY COMPLAINTS REGARDING NONCOMPLIANCE.

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS REGARDING:

(1) PROPER MAINTENANCE AND TRAINING OF STAFF;

(2) ADEQUATE SIGNAGE; AND

(3) A REQUIREMENT FOR FACILITIES TO PROVIDE RECEIVERS THAT CAN USE THE TECHNOLOGY FOR INDIVIDUALS WHO DO NOT HAVE A PERSONAL HEARING DEVICE OR DO NOT HAVE A HEARING DEVICE WITH A TELECOIL OR OTHER BUILT–IN RECEIVER.

(E) THIS SECTION DOES NOT REQUIRE STATE AGENCIES OR RECIPIENTS OF STATE FUNDS TO RETROFIT EXISTING FACILITIES THAT ARE NOT UNDERGOING RENOVATION.

(F) (1) (I) A PERSON MAY BRING A CIVIL ACTION FOR A VIOLATION OF THIS SECTION OR IF THE PERSON HAS REASONABLE GROUNDS FOR BELIEVING THAT THIS SECTION WILL BE VIOLATED.

(II) A PERSON MAY NOT BE REQUIRED TO TAKE ANY OTHER ACTION BEFORE BRINGING A CIVIL ACTION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A POTENTIAL VIOLATION OF THIS SECTION IF THE PERSON HAS ACTUAL NOTICE THAT A RECIPIENT OF STATE FUNDS DOES NOT INTEND TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

(2) IN A CIVIL ACTION BROUGHT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COURT MAY:

(I) GRANT ANY EQUITABLE RELIEF THAT THE COURT CONSIDERS APPROPRIATE, INCLUDING:

1. TEMPORARY, PRELIMINARY, OR PERMANENT RELIEF;

2. PROVIDING AN AUXILIARY AID OR SERVICE;

3. REQUIRING A MODIFICATION OF POLICY, PRACTICE, OR PROCEDURE; AND

4. MAKING FACILITIES READILY ACCESSIBLE TO AND USABLE BY INDIVIDUALS WITH DISABILITIES;

(II) ASSESS A CIVIL PENALTY AGAINST THE RECIPIENT OF STATE FUNDS; OR

(III) AWARD ANY OTHER RELIEF THE COURT CONSIDERS TO BE APPROPRIATE.

(3) IF A COURT ORDERS INJUNCTIVE RELIEF UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ORDER SHALL INCLUDE A REQUIREMENT THAT THE FACILITIES BE ALTERED TO MAKE THE FACILITIES READILY ACCESSIBLE TO AND USABLE BY INDIVIDUALS WITH DISABILITIES TO THE EXTENT REQUIRED BY THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not apply to a contract for construction or renovation of an assembly area entered into before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 338

(House Bill 48)

AN ACT concerning

eSports Act

FOR the purpose of authorizing an organization conducting an eSports competition to offer prize money or merchandise to winning participants in the eSports competition; ~~prohibiting a person, including a participant in or observer of an eSports competition, from betting, wagering, or gambling on the result of the eSports competition;~~ defining a certain term; authorizing the Comptroller to adopt certain regulations; and generally relating to eSports competitions.

BY adding to
Article – Criminal Law
Section 12–114
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Criminal Law

12–114.

(A) IN THIS SECTION, "ESPORTS COMPETITION" MEANS A COMPETITION INVOLVING VIDEO GAMES, INCLUDING FIRST–PERSON SHOOTERS, REAL–TIME STRATEGY GAMES, AND MULTIPLAYER ONLINE BATTLE ARENAS IN WHICH:

(1) PLAYERS COMPETE AGAINST EACH OTHER; AND

~~(2) PLAYS ARE NOT RANDOMLY GENERATED BY THE VIDEO GAME CONSOLE OR ANOTHER DEVICE; AND~~

~~(3)~~ (2) THE DOMINANT ELEMENT DETERMINING THE RESULTS IS THE RELATIVE SKILL OF THE PLAYERS.

(B) ~~(1)~~ AN ORGANIZATION CONDUCTING AN ESPORTS COMPETITION MAY OFFER PRIZE MONEY OR MERCHANDISE TO WINNING PARTICIPANTS IN THE ESPORTS COMPETITION.

~~(2) A PERSON, INCLUDING A PARTICIPANT IN OR OBSERVER OF AN ESPORTS COMPETITION, MAY NOT BET, WAGER, OR GAMBLE ON THE RESULT OF THE ESPORTS COMPETITION.~~

(C) THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

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

Approved by the Governor, April 30, 2019.

Chapter 339

(House Bill 80)

AN ACT concerning

Horse Racing at Fair Hill – Union Hospital Allocation – Repeal

FOR the purpose of repealing a requirement that a certain licensee allocate the profits earned from horse racing at a certain location to a certain hospital; and generally relating to horse racing at Fair Hill.

BY repealing
Article – Business Regulation
Section 11–702(e)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

11–702.

[(e) The licensee shall allocate to the Union Hospital of Cecil County all profits earned under this subtitle, including money from pari–mutuel betting, admission charges, and other receipts.**]**

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

Approved by the Governor, April 30, 2019.

Chapter 340

(House Bill 130)

AN ACT concerning

Maryland Transit Administration ~~– Workgroup to~~ and Baltimore City Department of Transportation – Study of Dedicated Bus Lanes ~~in Baltimore City~~

FOR the purpose of ~~establishing the Workgroup to Study Dedicated Bus Lanes in Baltimore City; providing for the composition, chair, and staffing of the Workgroup; prohibiting a member of the Workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses;~~ requiring the ~~Workgroup~~ Maryland Transit Administration and the Baltimore City Department of Transportation to study and analyze dedicated bus lane enforcement mechanisms in use by certain other transit agencies and develop a certain enforcement plan; requiring the study to include a certain examination of best practices and technologies, a review of certain potential capital and operating costs, and an evaluation of the most effective methods for ensuring compliance with and enforcement of existing law; requiring the Administration and the Department to report ~~its~~ their findings, recommendations, and enforcement plan to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to ~~the Workgroup to Study Dedicated Bus Lanes~~ the study of dedicated bus lanes in Baltimore City.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

~~(a) There is a Workgroup to Study Dedicated Bus Lanes in Baltimore City.~~

~~(b) The Workgroup consists of the following members:~~

~~(1) the Maryland Transit Administrator, or the Administrator's designee;~~

~~(2) the Director of the Baltimore City Department of Transportation, or the Director's designee;~~

~~(3) one member of the Baltimore City Council, selected by the Baltimore City Council;~~

~~(4) one representative of the Central Maryland Transportation Alliance, selected by the Central Maryland Transportation Alliance;~~

~~(5) one representative of Bikemore, selected by Bikemore;~~

~~(6) two adult Baltimore City residents who regularly use mass transit, selected by the Central Maryland Transportation Alliance; and~~

~~(7) one youth Baltimore City resident who regularly uses mass transit, selected by the Central Maryland Transportation Alliance.~~

~~(c) The Maryland Transit Administrator shall chair the Workgroup.~~

~~(d) The Maryland Transit Administration shall provide staff for the Workgroup.~~

~~(e) A member of the Workgroup:~~

~~(1) may not receive compensation as a member of the Task Force; but~~

~~(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(f)~~ ~~The Workgroup~~ The Maryland Transit Administration, jointly with the Baltimore City Department of Transportation, shall:

(1) study and analyze dedicated bus lane enforcement mechanisms used by peer transit agencies in the United States; and

(2) develop a plan to enforce violations of dedicated bus lanes in Baltimore City.

~~(g)~~ (b) The study required under subsection ~~(f)(1)~~ (a)(1) of this section shall include:

(1) an examination of best practices and technologies that have been effective in reducing violations of dedicated bus lanes by unauthorized users;

(2) a review of potential capital and operating costs associated with dedicated bus lane enforcement mechanisms; and

(3) an evaluation of the most effective methods for ensuring compliance with and enforcement of existing law, including the issuance of fines and exceptions from current prohibitions.

~~(h)~~ (c) On or before December 31, 2019, the ~~Workgroup~~ Maryland Transit Administration and the Baltimore City Department of Transportation shall report ~~its~~ their findings, recommendations, and enforcement plan to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, April 30, 2019.

Chapter 341

(House Bill 1233)

AN ACT concerning

Environment – Reduction of Lead Risk in Housing – Elevated Blood Lead Levels and Environmental Investigations (Maryland Healthy Children Act)

FOR the purpose of reducing the elevated blood lead level after a certain date that initiates certain case management, notification, and lead risk reduction requirements; altering certain notification requirements triggered by the receipt of the results of a certain blood test; requiring the Department of the Environment to ~~conduct a~~ adopt certain regulations, on or before a certain date, for conducting certain environmental ~~investigation within a certain number of days when a child under a certain age or a woman who is pregnant has a certain elevated blood lead level~~ investigations in accordance with certain requirements; requiring the Department to include a summary of the results of certain investigations in a certain report; requiring the owner of a certain affected property to satisfy a certain risk reduction standard within 30 days after receiving a certain written notice; altering a certain definition; defining a certain ~~terms~~ term; and generally relating to the prevention of lead poisoning and the reduction of lead risk in housing.

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–304, 6–801, 6–819(c), and 6–846(a)
Annotated Code of Maryland

(2013 Replacement Volume and 2018 Supplement)

BY adding to
Article – Environment
Section 6–305
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

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

Article – Environment

6–304.

(a) The Secretary shall assist local governments, if necessary, to provide case management of children with elevated blood lead levels greater than or equal to ~~[~~10 micrograms per deciliter (µg/dl)~~]~~ **BEFORE JULY 1, 2020, AND GREATER THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE ON OR AFTER JULY 1, 2020**.

(b) ~~On receipt~~ **WITHIN 10 BUSINESS DAYS AFTER RECEIPT** of the results of a blood test for lead poisoning indicating that a child under **THE AGE OF** 6 years **[**of age**]** has an elevated blood lead level greater than or equal to **[**10 µg/dl**]** **THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE**, the Department or a local health department shall notify:

(1) The child's parent or legal guardian; and

(2) **[**In the case of a child who lives in a rental dwelling unit, the owner of the rental dwelling unit**]** **IF THE CHILD DOES NOT RESIDE AT A PROPERTY OWNED BY THE CHILD'S PARENT OR LEGAL GUARDIAN, THE OWNER OF THE PROPERTY** where the child resides.

6–305.

(A) ON OR BEFORE ~~OCTOBER 1~~ JULY 1, 2020, THE DEPARTMENT SHALL ADOPT REGULATIONS FOR CONDUCTING ENVIRONMENTAL INVESTIGATIONS TO DETERMINE LEAD HAZARDS FOR:

(1) CHILDREN UNDER THE AGE OF 6 YEARS WITH ELEVATED BLOOD LEAD LEVELS GREATER THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE; AND

(2) PREGNANT WOMEN WITH ELEVATED BLOOD LEAD LEVELS GREATER THAN OR EQUAL TO THE REFERENCE LEVEL AS DEFINED IN § 6–801(Q) OF THIS TITLE.

(B) (1) ~~SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE~~ THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE CONSISTENT WITH, OR MORE STRINGENT THAN, THE GUIDELINES FOR THE EVALUATION AND CONTROL OF LEAD–BASED PAINT HAZARDS IN HOUSING PUBLISHED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL PROVIDE FOR AN ENVIRONMENTAL INVESTIGATION TO BE COMPLETED ~~WITHIN 10 BUSINESS DAYS OF~~ AFTER RECEIPT BY THE DEPARTMENT OR THE COUNTY BOARD OF HEALTH OF THE RESULTS OF A BLOOD TEST UNDER § 6–304 OF THIS SUBTITLE FOR:

(I) CHILDREN UNDER THE AGE OF 6 YEARS WITH ELEVATED BLOOD LEAD LEVELS GREATER THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE; OR

(II) PREGNANT WOMEN WITH ELEVATED BLOOD LEAD LEVELS GREATER THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE.

~~(3) THIS SUBSECTION MAY NOT BE INTERPRETED TO REQUIRE THE DEPARTMENT TO ALTER ANY STANDARD ESTABLISHED BY REGULATION BEFORE OCTOBER 1, 2020, FOR LEAD–BASED PAINT OR A LEAD–CONTAINING SUBSTANCE.~~

(C) THE DEPARTMENT SHALL INCLUDE IN ITS ANNUAL REPORT ON STATEWIDE CHILDHOOD BLOOD LEAD TESTING A SUMMARY OF THE RESULTS OF ANY ENVIRONMENTAL INVESTIGATION CONDUCTED IN ACCORDANCE WITH THIS SECTION.

6–801.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Affected property" means:

(i) A property constructed before 1950 that contains at least one rental dwelling unit;

(ii) On and after January 1, 2015, a property constructed before 1978 that contains at least one rental unit; or

(iii) Any residential rental property for which the owner makes an election under § 6–803(a)(2) of this subtitle.

(2) "Affected property" includes an individual rental dwelling unit within a multifamily rental dwelling.

(3) "Affected property" does not include property exempted under § 6–803(b) of this subtitle.

(c) "Change in occupancy" means a change of tenant in an affected property in which the property is vacated and possession is either surrendered to the owner or abandoned.

(d) "Child" means an individual under the age of 6 years.

(e) "Commission" means the Lead Poisoning Prevention Commission.

(f) (1) "Elevated blood lead" or "EBL" means a quantity of lead in blood, expressed in micrograms per deciliter (μg/dl), that exceeds the **[**threshold**]** **REFERENCE** level specified in this subtitle and is determined in accordance with the following protocols:

(i) A venous blood test; or

(ii) Two capillary blood tests taken in accordance with paragraph (2) of this subsection.

(2) If the capillary blood test method is used, an individual shall:

(i) Have a first sample of capillary blood drawn and tested; and

(ii) Have a second sample of capillary blood drawn and tested within 84 days after the first sample is drawn.

(3) If the result of one capillary blood test would require action under this subtitle and the other result would not, an individual's elevated blood lead level shall be confirmed by a venous blood test.

(g) "Exterior surfaces" means:

(1) All fences and porches that are part of an affected property;

(2) All outside surfaces of an affected property that are accessible to a child and that are:

(i) Attached to the outside of an affected property; or

(ii) Other buildings and structures, including play equipment, benches, and laundry line poles, that are part of the affected property, except buildings or structures that are not owned or controlled by the owner of the affected property; and

(3) All painted surfaces in stairways, hallways, entrance areas, recreation areas, laundry areas, and garages within a multifamily rental dwelling unit that are common to individual dwelling units and are accessible to a child.

(h) "Fund" means the Lead Poisoning Prevention Fund.

(i) (1) "High efficiency particle air vacuum" or "HEPA–vacuum" means a device capable of filtering out particles of 0.3 microns or greater from a body of air at an efficiency of 99.97% or greater.

(2) "HEPA–vacuum" includes use of a HEPA–vacuum.

(j) "Lead–based paint" means paint or other surface coatings that contain lead in excess of the maximum lead content level allowed by the Department by regulation.

(k) "Lead–contaminated dust" means dust in affected properties that contains an area or mass concentration of lead in excess of the lead content level determined by the Department by regulation.

(l) "Lead–free" means at or below a lead content level deemed to be lead–free in accordance with criteria established by the Department by regulation.

(m) "Lead–safe housing" means a rental dwelling unit that:

(1) Is certified to be lead–free in accordance with § 6–804 of this subtitle;

(2) Was constructed after 1978;

(3) Is deemed to be lead–safe by the Department in accordance with criteria established by the Department by regulation; or

(4) Is certified to be in compliance with § 6–815(a) of this subtitle and:

(i) In which all windows are either lead–free or have been treated so that all friction surfaces are lead–free;

(ii) In which lead–contaminated dust levels are determined to be within abatement clearance levels established by the Department by regulation, within a time frame established by the Department by regulation; and

(iii) Which is subject to ongoing maintenance and testing as specified by the Department by regulation.

(n) "Multifamily rental dwelling" means a property which contains more than one rental dwelling unit.

(o) (1) "Owner" means a person, firm, corporation, guardian, conservator, receiver, trustee, executor, or legal representative who, alone or jointly or severally with others, owns, holds, or controls the whole or any part of the freehold or leasehold interest to any property, with or without actual possession.

(2) "Owner" includes:

(i) Any vendee in possession of the property; and

(ii) Any authorized agent of the owner, including a property manager or leasing agent.

(3) "Owner" does not include:

(i) A trustee or a beneficiary under a deed of trust or a mortgagee; or

(ii) The owner of a reversionary interest under a ground rent lease.

(p) "Person at risk" means a child or a pregnant woman who resides or regularly spends at least 24 hours per week in an affected property.

(Q) "REFERENCE LEVEL" MEANS:

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE BLOOD LEAD REFERENCE LEVEL AS DETERMINED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION ON OR AFTER OCTOBER 1, 2019; OR

(2) BEGINNING 1 YEAR AFTER THE DATE THAT THE CENTERS FOR DISEASE CONTROL AND PREVENTION REVISES THE BLOOD LEAD REFERENCE LEVEL UNTIL 1 YEAR AFTER A SUBSEQUENT REVISION, THE REVISED BLOOD LEAD REFERENCE LEVEL AS DETERMINED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

[(q)**] (R)** "Related party" means any:

(1) Person related to an owner by blood or marriage;

(2) Employee of the owner; or

(3) Entity in which an owner, or any person referred to in paragraph (1) or (2) of this subsection, has an interest.

[(r)**] (S)** "Relocation expenses" means all expenses necessitated by the relocation of a tenant's household to lead–safe housing, including moving and hauling expenses, the HEPA–vacuuming of all upholstered furniture, payment of a security deposit for the lead–safe housing, and installation and connection of utilities and appliances.

[(s)**] (T)** "Rent subsidy" means the difference between the rent paid by a tenant for housing at the time a qualified offer is made under Part V of this subtitle and the rent due for the lead–safe housing to which the tenant is relocated.

[(t)**] (U)** (1) "Rental dwelling unit" means a room or group of rooms that form a single independent habitable rental unit for permanent occupation by one or more individuals that has living facilities with permanent provisions for living, sleeping, eating, cooking, and sanitation.

(2) "Rental dwelling unit" does not include:

(i) An area not used for living, sleeping, eating, cooking, or sanitation, such as an unfinished basement;

(ii) A unit within a hotel, motel, or similar seasonal or transient facility;

(iii) An area which is secured and inaccessible to occupants; or

(iv) A unit which is not offered for rent.

[(u)**] (V)** "Risk reduction standard" means a risk reduction standard established under § 6–815 or § 6–819 of this subtitle.

6–819.

(c) (1) After February 23, 1996, an owner of an affected property shall satisfy the modified risk reduction standard:

(i) Within 30 days after receipt of written notice that a person at risk who resides in the ~~property has~~ **PROPERTY:**

1. **HAS** an elevated blood lead level documented by a test for EBL greater than or equal to **[**15 µg/dl before February 24, 2006 or greater than or equal to**]** 10 µg/dl **[**~~on or after~~ **BETWEEN** February 24, 2006**]** ~~**BEFORE OCTOBER 1, 2019, OR**~~ **AND JUNE 30, 2020; OR**

2. **HAS AN ELEVATED BLOOD LEAD LEVEL DOCUMENTED BY A TEST FOR ELEVATED BLOOD LEAD LEVEL GREATER THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE ON OR AFTER** ~~**OCTOBER 1, 2019**~~ **JULY 1, 2020, AND AN ENVIRONMENTAL INVESTIGATION CONDUCTED**

UNDER § 6–305 OF THIS TITLE HAS CONCLUDED THAT THERE IS A DEFECT AT THE AFFECTED PROPERTY; or

(ii) Within 30 days after receipt of written notice from the tenant, or from any other source, of:

1. A defect; and

2. The existence of a person at risk in the affected property.

(2) (i) An owner who receives multiple notices of an elevated blood **LEAD** level under this subsection or multiple notices of defect under subsection (d) of this section may satisfy all such notices by subsequent compliance with the risk reduction measures specified in subsection (a) of this section, as documented by satisfaction of subsection (f) or (g) of this section, if the owner complies with the risk reduction measures specified in subsection (a) of this section after the date of the test documenting the elevated blood **LEAD** level or after the date the notices of defect were issued.

(ii) Subparagraph (i) of this paragraph does not affect an owner's obligation to perform the risk reduction measures specified in subsection (a) of this section for a triggering event that occurs after the owner satisfies the provisions of subparagraph (i) of this paragraph.

6–846.

(a) On receiving the results of a blood lead test under § 6–303 of this title indicating that a person at risk has an EBL greater than or equal to ~~[~~15 µg/dl before February 24, 2006, or greater than or equal to~~]~~ 10 µg/dl ~~[on or after~~ **BETWEEN** February 24, 2006~~]~~ ~~BEFORE OCTOBER 1, 2019~~ **AND SEPTEMBER 30, 2019, OR GREATER THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE ON OR AFTER OCTOBER 1, 2019**, the Department or a local health department shall notify:

(1) The person at risk, or in the case of a minor, the parent or legal guardian of the person at risk, of the results of the test; and

(2) The owner of the affected property in which the person at risk resides or regularly spends at least 24 hours per week of the results of the test.

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

Approved by the Governor, April 30, 2019.

Chapter 342

(House Bill 190)

AN ACT concerning

Environment – Failing On–Site Sewage Disposal System – Definition

FOR the purpose of defining the term "failing on–site sewage disposal system" for purposes of certain provisions of law relating to on–site sewage disposal systems; ~~requiring each county to adopt by local law or ordinance the definition of "failing on–site sewage disposal system";~~ providing that this Act may not be construed to preempt or prevail over any county ordinance, law, or rule that provides a more stringent definition of the term "failing on–site sewage disposal system"; providing that this Act may not be construed to alter a certain enforcement referral method established under a delegation agreement between the Department of the Environment and a local health department except under certain circumstances; and generally relating to on–site sewage disposal systems.

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–101(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY adding to
Article – Environment
Section 9–101(d–1) ~~and 9–1113~~
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Environment

9–101.

(a) In this title the following words have the meanings indicated.

(D–1) ~~(1)~~ "FAILING ON–SITE SEWAGE DISPOSAL SYSTEM" MEANS ~~THE CONDITION OF~~ AN ON–SITE SEWAGE DISPOSAL SYSTEM *OR A CESSPOOL*, OR A COMPONENT OF AN ON–SITE SEWAGE DISPOSAL SYSTEM *OR A CESSPOOL*, ~~THREATENS OR IMPACTS~~ THAT IS A THREAT TO PUBLIC HEALTH DUE TO:

~~(I) THE INADEQUATE TREATMENT OF SEWAGE; OR~~

~~(II)~~ ~~(I)~~ *(1)* **THE POTENTIAL FOR DIRECT ~~OR INDIRECT~~ CONTACT BETWEEN SEWAGE AND MEMBERS OF THE PUBLIC;**

~~(III)~~ *(2)* **A FAILURE TO PREVENT:**

~~1.~~ *(I)* **SEWAGE FROM REACHING THE SURFACE OF THE GROUND;**

~~2.~~ *(II)* **SEWAGE FROM BACKING UP INTO A STRUCTURE DUE TO SLOW SOIL ABSORPTION OF SEWAGE EFFLUENT;**

~~3.~~ *(III)* **SEWAGE FROM LEAKING FROM A SEWAGE TANK OR COLLECTION SYSTEM;**

~~4.~~ *(IV)* **UNLESS SPECIFICALLY AUTHORIZED BY A GROUNDWATER PROTECTION REPORT APPROVED BY THE DEPARTMENT BEFORE JANUARY 1, 2019, GROUNDWATER DEGRADATION; OR**

~~5.~~ *(V)* **SURFACE WATER DEGRADATION; OR**

~~(III)~~ *(3)* **FOR A PERMITTED ON–SITE SEWAGE DISPOSAL SYSTEM, SIGNIFICANT NONCOMPLIANCE WITH THE STANDARDS AND CONDITIONS OF THE ON–SITE SEWAGE DISPOSAL SYSTEM PERMIT.**

~~(2) "FAILING ON–SITE SEWAGE DISPOSAL SYSTEM" INCLUDES AN A CESSPOOL, ON–SITE SEWAGE DISPOSAL SYSTEM OR A COMPONENT OF AN ON–SITE SEWAGE DISPOSAL SYSTEM THAT:~~

~~(I) FAILS TO PREVENT SEWAGE FROM:~~

~~1. REACHING THE SURFACE OF THE GROUND;~~

~~2. BACKING UP INTO A STRUCTURE DUE TO SLOW SOIL ABSORPTION OF SEWAGE EFFLUENT; OR~~

~~3. LEAKING FROM A SEWAGE TANK OR COLLECTION SYSTEM;~~

~~(II) FAILS TO PREVENT GROUNDWATER OR SURFACE WATER DEGRADATION FROM CESSPOOLS OR SEEPAGE PITS;~~

~~(III) FAILS TO PREVENT GROUNDWATER OR SURFACE WATER CONTAMINATION FROM INADEQUATELY TREATED SEWAGE EFFLUENT;~~

~~(IV) IS A CESSPOOL; OR~~

~~(V) DOES NOT COMPLY WITH THE STANDARDS AND CONDITIONS OF AN ON–SITE SEWAGE DISPOSAL SYSTEM PERMIT.~~

~~9–1113.~~

~~EACH COUNTY SHALL ADOPT BY LOCAL LAW OR ORDINANCE THE DEFINITION OF "FAILING ON–SITE SEWAGE DISPOSAL SYSTEM" AS DEFINED IN § 9–101 OF THIS TITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to:

(1) preempt or prevail over any county ordinance, resolution, law, or rule that provides a definition of the term "failing on–site sewage disposal system" that is more stringent than the definition of the term "failing on–site sewage disposal system" under § 9–101 of the Environment Article, as enacted by Section 1 of this Act; or

(2) alter an existing enforcement referral method established under a delegation agreement between the Department of the Environment and a local health department, unless the county in which a local health department is located has adopted a definition of the term "failing on–site sewage disposal system" that is more stringent than the definition of the term "failing on–site sewage disposal system" under § 9–101 of the Environment Article, as enacted by Section 1 of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 343

(House Bill 213)

AN ACT concerning

Cownose Ray Fishery Management Plan and Moratorium on Contests

FOR the purpose of extending the date by which the Department of Natural Resources is required to prepare a certain fishery management plan for the cownose ray species, subject to available funding; ~~extending the termination date for~~ continuing the prohibition on a person sponsoring, conducting, or participating in a certain cownose

ray fishing contest in State waters until the Department prepares a certain fishery management plan for the cownose ray species; and generally relating to the cownose ray fishery.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–215(b)(25)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 398 of the Acts of the General Assembly of 2017
Section 2 and 3

BY repealing and reenacting, with amendments,
Chapter 399 of the Acts of the General Assembly of 2017
Section 2 and 3

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

Article – Natural Resources

4–215.

(b) The Department shall prepare fishery management plans for the following species:

(25) Cownose ray.

Chapter 398 of the Acts of 2017

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, **[**2018**]** **2020**, subject to funding made available to the Department of Natural Resources to implement Section 1 of this Act, the Department shall prepare the cownose ray fishery management plan required by § 4–215(b)(25) of the Natural Resources Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) In this section, "cownose ray fishing contest" means any competition, tournament or derby with the objective of catching or killing cownose rays for:

(1) prizes or other inducements; or

(2) entertainment purposes.

(b) Until ~~July 1, [2019]~~ **2021** **THE DEPARTMENT OF NATURAL RESOURCES PREPARES THE COWNOSE RAY FISHERY MANAGEMENT PLAN REQUIRED BY § 4–215(B)(25) OF THE NATURAL RESOURCES ARTICLE, AS ENACTED BY SECTION 1 OF THIS ACT**, a person may not sponsor, conduct, or participate in a cownose ray fishing contest in State waters.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor, and on conviction is subject to the penalties provided in § 4–1201(a) and (b) of the Natural Resources Article.

Chapter 399 of the Acts of 2017

SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 31, **[**2018**]** **2020**, subject to funding made available to the Department of Natural Resources to implement Section 1 of this Act, the Department shall prepare the cownose ray fishery management plan required by § 4–215(b)(25) of the Natural Resources Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) In this section, "cownose ray fishing contest" means any competition, tournament, or derby with the objective of catching or killing cownose rays for:

(1) prizes or other inducements; or

(2) entertainment purposes.

(b) Until ~~July 1, [2019]~~ **2021** **THE DEPARTMENT OF NATURAL RESOURCES PREPARES THE COWNOSE RAY FISHERY MANAGEMENT PLAN REQUIRED BY § 4–215(B)(25) OF THE NATURAL RESOURCES ARTICLE, AS ENACTED BY SECTION 1 OF THIS ACT**, a person may not sponsor, conduct, or participate in a cownose ray fishing contest in State waters.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor, and on conviction is subject to the penalties provided in § 4–1201(a) and (b) of the Natural Resources Article.

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

Approved by the Governor, April 30, 2019.

Chapter 344

(House Bill 471)

AN ACT concerning

Health Occupations – Requirements for the Practice of Optometry – Miscellaneous Revisions

FOR the purpose of ~~requiring that, in addition to being licensed, an individual be certified under certain provisions of law and this Act before practicing optometry in the State within the scope of the certification; providing that a certain provision of law does not apply to a certain student under the direct supervision of a physician; requiring certain optometrists to complete certain continuing education requirements; requiring that a certain course completed by a licensed optometrist be counted toward a certain number of hours of continuing education; requiring certain optometrists to refer certain patients to certain health care practitioners or a hospital emergency room under certain circumstances; authorizing an optometrist certified under certain provisions of this Act to use a certain title; requiring certain optometrists to be certified under certain provisions of law before administering certain pharmaceutical agents to a patient; altering the coursework requirements for certain certifications; prohibiting a certain optometrist certified under a certain provision of law from taking certain actions; replacing the requirement that the Maryland Department of Health collect and report certain statistical information with a requirement that certain optometrists report certain adverse events to the State Board of Examiners in Optometry; establishing a new level of certification for licensed optometrists; providing that certain restrictions do not apply to optometrists certified under certain provisions of this Act; requiring the Board to certify certain optometrists who submit certain evidence of certain certification or education, and completion of certain courses; requiring that certain courses be of a certain length, emphasize certain topics, and be given by certain associations or organizations; providing that certain optometrists are not subject to certain requirements for certain certification; prohibiting certain optometrists from administering or prescribing certain substances; providing that certain optometrists be held to certain standards of care; requiring the Board, rather than a certain person, to recommend to the Secretary of Health certain quality assurance guidelines for certain optometrists; requiring the Secretary to adopt certain regulations~~ repealing certain provisions of law requiring a therapeutically certified optometrist to refer a certain patient to an ophthalmologist under certain circumstances; altering the types of therapeutic pharmaceutical agents a therapeutically certified optometrist is authorized to administer or prescribe; prohibiting therapeutically certified optometrists from administering or prescribing certain substances and agents except under certain circumstances; prohibiting therapeutically certified optometrists from administering or prescribing certain substances and agents to certain patients except under certain circumstances; altering the circumstances under which a therapeutically certified optometrist is authorized to administer and prescribe certain pharmaceutical agents for a certain type of glaucoma; authorizing

therapeutically certified optometrists to order certain tests under certain conditions; altering the circumstances under which a therapeutically certified optometrist is authorized to remove certain foreign bodies from a human eye; requiring a therapeutically certified optometrist to comply with a certain notice requirement; altering and repealing certain definitions; defining ~~certain terms~~ a certain term; making certain clarifying and conforming changes; providing for the application of certain provisions of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to requirements for the practice of optometry.

~~BY repealing and reenacting, without amendments,~~
~~Article – Health Occupations~~
~~Section 11–101(a)~~
~~Annotated Code of Maryland~~
~~(2014 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~11–101(g) and (h), 11–301, 11–309, 11–402 through 11–404, 11–404.1,~~ 11–101, 11–404.2, and 11–404.3
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

~~BY adding to~~
~~Article – Health Occupations~~
~~Section 11–101(i) and 11–404.2~~
~~Annotated Code of Maryland~~
~~(2014 Replacement Volume and 2018 Supplement)~~

BY repealing
Article – Health Occupations
Section 11–503
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

~~11–101.~~

~~(a) In this title the following words have the meanings indicated.~~

~~(g) (1) "Practice optometry" means:~~

~~(i) Subject to §§ 11–404~~**, 11–404.1,** ~~and 11–404.2 of this title, to use any means known in the science of optics or eye care, except surgery:~~

~~1. To detect, diagnose,~~ **[**~~and subject to §§ 11–404 and 11–404.2 of this title,~~**]** ~~treat,~~ **[**~~subject to this title,~~**]** **AND MANAGE** ~~any optical or diseased condition in the human eye~~ **AND THE ADNEXA OF THE EYE**~~; or~~

~~2. To prescribe eyeglasses, lenses, or contact lenses to correct any optical or visual condition in the human eye;~~

~~(ii) To give advice or direction on the fitness or adaptation of eyeglasses or lenses to any individual for the correction or relief of a condition for which eyeglasses or lenses are worn; or~~

~~(iii) To use or permit the use of any instrument, test card, test type, test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or lenses for an individual to wear.~~

~~(2) Subject to §§ 11–404~~**, 11–404.1,** ~~and 11–404.2 of this title, "practice optometry" includes:~~

[~~(i) The administration of topical ocular diagnostic pharmaceutical agents;~~**]**

[~~(ii)~~**] (I)** ~~The administration and prescription of therapeutic pharmaceutical agents~~**, DEVICES, AND TREATMENTS;** **[**~~and~~**]**

[~~(iii)~~**] (II)** ~~The removal of~~ **[**~~superficial~~**]** ~~A foreign~~ **[**~~bodies from the cornea and conjunctiva~~**]** **BODY OR RESIDUAL PARTICULATE MATTER THAT:**

1. IS EMBEDDED IN THE CONJUNCTIVA OR CORNEA; AND

2. HAS NOT PENETRATED BEYOND THE MID STROMA;

(III) THE ORDERING, EVALUATION, OR PERFORMANCE OF BLOOD TESTS, CULTURES, AND IMAGING TESTS; AND

(IV) THE ASSESSMENT, DIAGNOSIS, OR TREATMENT FOR CONDITIONS OF THE VISUAL SYSTEM INCLUDING:

1. PATIENT CARE THAT REQUIRES VISION THERAPY, LIGHT THERAPY, VISUAL TRAINING, VISUAL REHABILITATION, ORTHOPTICS, OR EYE EXERCISES AS PART OF AN APPROPRIATE REHABILITATION OR TREATMENT PLAN OF PHYSICAL, PHYSIOLOGICAL, SENSORIMOTOR, NEUROMUSCULAR, OR PERCEPTUAL ANOMALY OF THE EYES OR VISION SYSTEM; AND

~~2.~~ **MANAGEMENT OF CARE FOR A PATIENT WHO HAS BEEN PRESCRIBED OR USES LENSES, PRISMS, FILTERS, OCCLUSION, OR OTHER DEVICES FOR THE ENHANCEMENT, REHABILITATION, OR TREATMENT OF THE VISUAL SYSTEM OR PREVENTION OF VISUAL DYSFUNCTION.**

~~(h) "Therapeutically certified optometrist" means a licensed optometrist who is certified by the Board to practice optometry to the extent permitted under~~ **[**~~§ 11–404.2~~**] § 11–404.1** ~~of this title.~~

~~(I) "THERAPEUTICALLY CERTIFIED OPTOMETRIST II" MEANS A LICENSED OPTOMETRIST WHO IS CERTIFIED BY THE BOARD TO PRACTICE OPTOMETRY TO THE EXTENT PERMITTED UNDER § 11–404.2 OF THIS TITLE.~~

~~11–301.~~

~~(a)~~ **(1)** ~~Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice optometry in this State.~~

[~~(b)~~**]** ~~**(2)** This~~ **[**~~section~~**] SUBSECTION** ~~does not apply to a student while participating in a residency training program under the direct supervision of a licensed optometrist~~ **OR A PHYSICIAN.**

~~**(B) A LICENSED OPTOMETRIST SHALL BE CERTIFIED UNDER § 11–404, § 11–404.1, OR § 11–404.2 OF THIS TITLE BEFORE THE LICENSED OPTOMETRIST MAY PRACTICE OPTOMETRY WITHIN THE SCOPE OF THE CERTIFICATION.**~~

~~11–309.~~

~~(a) In addition to any other qualifications and requirements established by the Board, the Board shall establish continuing education requirements as a condition to the renewal of licenses and certificates under this title.~~

~~(b) (1) The continuing education required by the Board shall be in courses approved by the Board.~~

~~(2) The Board may not require a nontherapeutically certified optometrist to attend more than 50 hours in any licensing period.~~

~~(3) The Board shall require a therapeutically certified optometrist~~ **OR A THERAPEUTICALLY CERTIFIED OPTOMETRIST II** ~~to attend at least 50 hours of continuing education in a licensing period.~~

~~(4) (i) In each licensing period, a therapeutically certified optometrist~~ **OR A THERAPEUTICALLY CERTIFIED OPTOMETRIST II** ~~shall attend 30 hours of~~

~~continuing education on [the use and management of therapeutic pharmaceutical agents] DISEASE TREATMENT AND MANAGEMENT.~~

~~(ii) The 30 hours of continuing education required under subparagraph (i) of this paragraph shall be counted toward the total number of required hours of continuing education in a licensing period.~~

~~(5) A COURSE COMPLETED BY A LICENSED OPTOMETRIST AS REQUIRED BY THE BOARD TO BE CERTIFIED UNDER § 11–404.1 OR § 11–404.2 OF THIS TITLE SHALL BE COUNTED TOWARD THE TOTAL NUMBER OF REQUIRED HOURS OF CONTINUING EDUCATION FOR THE LICENSING PERIOD IN WHICH THE COURSE WAS COMPLETED.~~

~~(c) At the time a licensee applies for license renewal, the licensee shall submit to the Board, on a form provided by the Board, a certification that the licensee has attended the required courses.~~

~~(d) The Board may refuse to renew the license of a licensee who has failed:~~

~~(1) To attend the required courses; or~~

~~(2) To submit certification of attendance at the required courses.~~

~~(e) The Board may waive the continuing education requirements in cases of illness or other undue hardship on the licensee.~~

~~(f) The Board may use any funds allocated to it for continuing education as State funds to match federal funds for providing continuing education.~~

~~11–402.~~

~~[~~~~(a)~~**~~]~~** ~~If, while providing optometric services to a patient, [an] A LICENSED optometrist [or diagnostically certified optometrist] detects or diagnoses an active eye pathology which the optometrist is not [licensed or] certified to treat under [§ 11–404 or § 11–404.2 of] this subtitle, the optometrist shall, AS APPROPRIATE, refer the patient to:~~

~~(1)~~ **~~A LICENSED OPTOMETRIST WHO IS CERTIFIED UNDER THIS SUBTITLE TO TREAT THE ACTIVE EYE PATHOLOGY;~~**

~~(2)~~ ~~An ophthalmologist [or a therapeutically certified optometrist, as appropriate];~~

~~[~~~~(2)~~**~~] (3)~~** ~~The patient's physician;~~

~~[~~~~(3)~~**~~] (4)~~** ~~A physician if required under a managed care contract; or~~

~~[~~(4)~~]~~ **(5)** ~~A hospital emergency room or ambulatory surgical center [if necessary].~~

~~[~~(b) ~~If, while providing optometric services to a patient, a therapeutically certified optometrist diagnoses an active eye pathology that the optometrist is not certified to treat under § 11–404.2of this subtitle, the optometrist shall refer the patient to:~~

(1) ~~An ophthalmologist ;~~

(2) ~~The patient's physician;~~

(3) ~~A physician if required under a managed care contract; or~~

(4) ~~A hospital emergency room if necessary.~~**]**

~~11–403.~~

(a) ~~A licensed optometrist may:~~

(1) ~~Use the title "optometrist";~~

(2) ~~If the optometrist holds the degree of doctor of optics or doctor of optometry from a college or university authorized to give the degree, use the title "Doctor" or the abbreviations "Dr." or "O.D." with the optometrist's name;~~

(3) ~~If the optometrist is certified under § 11–404 of this subtitle, use the title "diagnostically certified optometrist";~~ **[**~~and~~**]**

(4) ~~If the optometrist is certified under § 11–404.1 of this subtitle, use the title "therapeutically certified optometrist"~~**; AND**

(5) IF THE OPTOMETRIST IS CERTIFIED UNDER § 11–404.2 OF THIS SUBTITLE, USE THE TITLE "THERAPEUTICALLY CERTIFIED OPTOMETRIST II".

(b) ~~Except as otherwise provided in this section, a licensed optometrist may not attach to the optometrist's name or use as a title:~~

(1) ~~The words or abbreviations "Doctor", "Dr.", "M.D.", "physician", or "surgeon", or any other word or abbreviation that suggests that the optometrist practices medicine; or~~

(2) ~~Any word or abbreviation that suggests that the optometrist treats diseases or injuries of the human eye, including the words "eye specialist", "eyesight specialist", "oculist", or "ophthalmologist".~~

~~11–404.~~

~~(a) [Unless certified under this section] EXCEPT AS PROVIDED IN §§ 11–404.1 AND 11–404.2 OF THIS SUBTITLE, a licensed optometrist SHALL BE CERTIFIED UNDER THIS SECTION BEFORE THE OPTOMETRIST may [not] administer a topical ocular diagnostic pharmaceutical agent to a patient.~~

~~(b) The Board shall certify a licensed optometrist as qualified to administer topical ocular diagnostic pharmaceutical agents if the licensed optometrist submits to the Board evidence satisfactory to the Board that the licensed optometrist:~~

~~(1) Meets the educational requirements that the Board establishes for certification of qualification to administer topical ocular diagnostic pharmaceutical agents; and~~

~~(2) Has within [7] 4 years before certification UNDER THIS SECTION SUCCESSFULLY completed [a course] COURSEWORK in pharmacology that meets the requirements of subsection (c) of this section.~~

~~(c) The [course] COURSEWORK in pharmacology required by subsection (b) of this section shall:~~

~~(1) Be of at least the length that the Board establishes but not less than [70] 30 course hours;~~

~~(2) Place emphasis on:~~

~~(i) [Topical] THE application AND ADMINISTRATION of ocular diagnostic pharmaceutical agents for the purpose of examining and analyzing ocular functions; and~~

~~(ii) Allergic reactions to ocular diagnostic pharmaceutical agents; and~~

~~(3) Be given by an institution that is:~~

~~(i) Accredited by a regional or professional accrediting organization that is recognized or approved by the United States Commissioner of Education; and~~

~~(ii) Approved by the Board.~~

~~(d) The Board shall revoke the certification of qualification to administer topical ocular diagnostic pharmaceutical agents of any licensed optometrist who does not annually take a course of study, approved by the Board, that relates to the use of those agents.~~

~~(e) Certification of qualification under this section authorizes the licensed optometrist who is certified under this section to administer a topical ocular diagnostic pharmaceutical agent to a patient for diagnostic purposes but not for purposes of treatment.~~

~~[(f) Except as expressly authorized under this section for diagnostic purposes or under § 11–404.1 of this subtitle for therapeutic purposes, an optometrist may not administer drugs or medicine to any patient.]~~

~~(F) A LICENSED OPTOMETRIST WHO IS CERTIFIED UNDER THIS SECTION MAY NOT:~~

~~(1) ADMINISTER OR PRESCRIBE ANY THERAPEUTIC PHARMACEUTICAL AGENTS, DEVICES, OR TREATMENTS;~~

~~(2) REMOVE ANY FOREIGN BODIES OR RESIDUAL PARTICULATE MATTER FROM THE HUMAN EYE;~~

~~(3) ORDER, EVALUATE, OR PERFORM BLOOD TESTS, CULTURES, AND IMAGING TESTS; OR~~

~~(4) DIAGNOSE OR TREAT GLAUCOMA.~~

~~(g) [The Department shall collect and report statistical information on the incidences of negative reactions to the administration by optometrists]~~ **~~A LICENSED OPTOMETRIST WHO IS CERTIFIED UNDER THIS SECTION SHALL REPORT TO THE BOARD AN ADVERSE EVENT THAT OCCURS IN RESPONSE TO THE ADMINISTRATION~~** ~~of topical ocular diagnostic pharmaceutical agents~~ **~~BY THE LICENSED OPTOMETRIST.~~**

~~11–404.1.~~

~~(a) [Unless certified under this section]~~ **~~EXCEPT AS PROVIDED IN §§ 11–404 AND 11–404.2 OF THIS SUBTITLE,~~** ~~a licensed optometrist~~ **~~SHALL BE CERTIFIED UNDER THIS SECTION BEFORE THE OPTOMETRIST~~** ~~may [not administer]~~**~~:~~**

~~(1) ADMINISTER TOPICAL OCULAR DIAGNOSTIC PHARMACEUTICAL AGENTS;~~

~~(2) ADMINISTER~~ ~~or prescribe any therapeutic pharmaceutical agents~~ **~~IN ACCORDANCE WITH THIS SECTION;~~** ~~or [remove superficial]~~

~~(3) REMOVE~~ ~~foreign bodies from a human eye, adnexa, or lacrimal system~~ **~~IN ACCORDANCE WITH THIS SECTION.~~**

~~(b) (1) Except as provided in paragraph (2) of this subsection, the Board shall certify a licensed optometrist as a therapeutically certified optometrist if the licensed~~

~~optometrist submits to the Board evidence satisfactory to the Board that the licensed optometrist:~~

~~(i) Has **WITHIN 6 YEARS BEFORE CERTIFICATION UNDER THIS SECTION** successfully completed at least **[110] 60** hours of **[**a**] COURSEWORK:**~~

~~**1. I**N PHARMACOLOGY WITH AN EMPHASIS ON THE APPLICATION, ADMINISTRATION, AND USE OF~~ therapeutic pharmaceutical agents ~~**[**course approved**]; AND**~~

~~**2. APPROVED** by the Board;~~

~~(ii) Has successfully passed a pharmacology examination relating to the treatment and management of ocular disease, which is prepared, administered, and graded by the National Board of Examiners in Optometry or any other nationally recognized optometric organization as approved by the Secretary; **AND**~~

~~(iii) Is currently certified by the Board to administer topical ocular diagnostic pharmaceutical agents under § 11–404 of this subtitle**[**; and~~

~~(iv) Has successfully completed an 8–hour course in the management of topical steroids approved by the Board**]**.~~

~~(2) (i) Except as provided in subparagraph (ii) of this paragraph, an optometrist who has graduated on or after July 1, 2005 from an accredited school of optometry recognized by the Board is not subject to the requirements of paragraph (1) of this subsection.~~

~~(ii) If an optometrist who has graduated on or after July 1, 2005 from an accredited school of optometry recognized by the Board is not certified under this section within 3 years of graduation, the optometrist shall successfully complete a therapeutic pharmaceutical agents course and successfully pass a pharmacology exam under paragraph (1) of this subsection before the Board may certify the optometrist.~~

~~**[**11–404.2.**]**~~

~~**[**(a) In this section, "refer" means that a therapeutically certified optometrist:~~

~~(1) Informs the patient that the patient should see an ophthalmologist and give the ophthalmologist an opportunity to physically examine the patient; and~~

~~(2) Refrains from rendering further treatment for the specific condition that is the basis for the referral until the patient has been physically examined by an ophthalmologist.**]**~~

~~[(b)] (C)~~ ~~(1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents limited to:~~

~~(i) Ocular antihistamines, decongestants, and combinations thereof;~~

~~(ii) Ocular antiallergy pharmaceutical agents;~~

~~(iii) Ocular antibiotics and combinations of ocular antibiotics, excluding specially formulated or fortified antibiotics;~~

~~(iv) Anti–inflammatory agents;~~

~~(v) Ocular lubricants and artificial tears;~~

~~(vi) Tropicamide;~~

~~(vii) Homatropine;~~

~~(viii) Nonprescription drugs that are commercially available; and~~

~~(ix) Primary open–angle glaucoma medications, in accordance with subsection [(c)] (D) of this section.~~

~~(2) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent listed in paragraph (1)(i) through (vii) of this subsection, and the patient does not have the expected response within 72 hours:~~

~~(i) The therapeutically certified optometrist shall consult with an ophthalmologist; and~~

~~(ii) The ophthalmologist may determine that the ophthalmologist needs to physically examine the patient.~~

~~(3) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent under paragraph (2) of this subsection, the therapeutically certified optometrist shall communicate with the patient to determine the response of the patient to the therapeutic pharmaceutical agent as soon as practicable after 72 hours of the time the agent was administered or prescribed.~~

~~(4) A therapeutically certified optometrist may administer or prescribe topical steroids in accordance with a practice protocol established by the Board.~~

~~(5) A therapeutically certified optometrist may not administer or prescribe:~~

~~(i) Antiviral agents;~~

~~(ii) Antifungal agents;~~

~~(iii) Antimetabolite agents; or~~

~~(iv) Antiparasitic agents.~~

~~(6) A therapeutically certified optometrist may dispense a topical therapeutic pharmaceutical agent listed in paragraph (1) of this subsection only if:~~

~~(i) No charge is imposed for the therapeutic pharmaceutical agent or for dispensing the agent; and~~

~~(ii) The amount dispensed does not exceed a 72–hour supply, except that if the minimum available quantity for dispensing is greater than a 72–hour supply, the minimum available quantity may be dispensed.~~

~~[(c)] (D)~~ ~~(1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents for glaucoma only:~~

~~(i) For patients with primary open–angle glaucoma;~~

~~(ii) After the optometrist refers the patient to an ophthalmologist; and~~

~~(iii) After the ophthalmologist and optometrist jointly and promptly develop a written individualized treatment plan that is signed by the ophthalmologist and optometrist and includes:~~

~~1. All tests and examinations that led to the diagnosis;~~

~~2. An initial schedule of all tests and examinations necessary to treat the patient's condition;~~

~~3. A medication plan;~~

~~4. A target intraocular pressure; and~~

~~5. Criteria for surgical intervention by the ophthalmologist.~~

~~(2) (i) A treatment plan developed under this subsection may be modified only after both the optometrist and the ophthalmologist consult together and consent to the modification.~~

~~(ii) Each modification shall be noted in the optometric record of the patient.~~

~~(3) A therapeutically certified optometrist who treats a patient with primary open–angle glaucoma in accordance with this section:~~

~~(i) Shall refer the patient to an ophthalmologist at least once a year after the initial mandatory referral under paragraph (1) of this subsection;~~

~~(ii) May continue to render treatment under the joint treatment plan until the patient is examined by an ophthalmologist;~~

~~(iii) Shall consult with an ophthalmologist if:~~

~~1. The patient does not have the expected response to treatment;~~

~~2. The target intraocular pressure is not reached; or~~

~~3. There is worsening in a patient's visual field or optic nerve head; and~~

~~(iv) May perform and evaluate visual field tests, nerve fiber layer photos, and optic disc photos. The tests or photos shall be provided to an ophthalmologist for review by the ophthalmologist.~~

[~~(d)~~**] (E)** ~~(1) Except as provided in paragraphs (2) and (3) of this subsection, a therapeutically certified optometrist may not administer or prescribe any oral pharmaceutical agent for any purpose.~~

~~(2) (i) A therapeutically certified optometrist may administer and prescribe oral tetracycline and its derivatives only for the diagnosis and treatment of meibomitis and seborrheic blepharitis.~~

~~(ii) If a therapeutically certified optometrist administers or prescribes oral tetracycline or its derivatives to a patient in accordance with subparagraph (i) of this paragraph and the patient does not improve within 3 weeks of treatment, the optometrist shall refer the patient to an ophthalmologist.~~

~~(3) A therapeutically certified optometrist may administer or prescribe nonprescription drugs that are commercially available.~~

[~~(e)~~**] (F)** ~~(1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not perform any procedure on the eyelid of a patient.~~

~~(2) A therapeutically certified optometrist may epilate with forceps an eyelash from the eyelid, adnexa, or lacrimal system of a patient.~~

~~[(f)] (G) A therapeutically certified optometrist may remove superficial foreign bodies from the human eye only if:~~

~~(1) The foreign body may be removed with a cotton–tipped applicator or blunt spatula; and~~

~~(2) The foreign body has not penetrated beyond the bowman's membrane of the cornea and is not within 2.5 millimeters of the visual axis.~~

~~[(g)] (H) (1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not order laboratory tests for a patient.~~

~~(2) A therapeutically certified optometrist may order a conjunctival culture.~~

~~[(h)] (I) A therapeutically certified optometrist may not provide any therapeutic treatment listed in this section for a child under the age of 1 year.~~

~~[(i)] (J) Unless the standard of care requires an earlier referral, if a therapeutically certified optometrist diagnoses a corneal ulcer or infiltrate, and the patient does not have the expected response within 48 hours, the optometrist immediately shall refer the patient to an ophthalmologist.~~

~~[(j)] (K) A therapeutically certified optometrist shall be held to the same standard of care as an ophthalmologist who is licensed under Title 14 of this article and who is providing similar services.~~

~~11–404.2.~~

~~(A) (1) EXCEPT AS PROVIDED UNDER §§ 11–404 AND 11–404.1 OF THIS SUBTITLE AND SUBJECT TO SUBSECTIONS (E) AND (F) OF THIS SECTION, A LICENSED OPTOMETRIST SHALL BE CERTIFIED UNDER THIS SECTION BEFORE THE OPTOMETRIST MAY:~~

~~(I) ADMINISTER TOPICAL OCULAR DIAGNOSTIC PHARMACEUTICAL AGENTS;~~

~~(II) ADMINISTER OR PRESCRIBE, AS APPROPRIATE, A DELIVERY MECHANISM, DRUG, THERAPY, DEVICE, OR TREATMENT FOR THE MANAGEMENT OF OCULAR DISEASES, CONDITIONS, AND ABNORMALITIES;~~

~~(III) REMOVE FOREIGN BODIES OR RESIDUAL PARTICULATE MATTER FROM THE HUMAN EYE OR THE ADNEXA OF THE EYE; OR~~

~~(IV) ORDER, EVALUATE, OR PERFORM BLOOD TESTS, CULTURES, AND IMAGING TESTS.~~

~~(2) THE RESTRICTIONS PROVIDED FOR THERAPEUTICALLY CERTIFIED OPTOMETRISTS UNDER § 11–404.1(C) THROUGH (I) OF THIS SUBTITLE DO NOT APPLY TO A LICENSED OPTOMETRIST CERTIFIED UNDER THIS SECTION.~~

~~(B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE BOARD SHALL CERTIFY A LICENSED OPTOMETRIST AS A THERAPEUTICALLY CERTIFIED OPTOMETRIST II IF THE LICENSED OPTOMETRIST SUBMITS TO THE BOARD EVIDENCE SATISFACTORY TO THE BOARD THAT THE LICENSED OPTOMETRIST:~~

~~(1) (I) IS CURRENTLY CERTIFIED BY THE BOARD AS A THERAPEUTICALLY CERTIFIED OPTOMETRIST UNDER § 11–404.1 OF THIS SUBTITLE; OR~~

~~(II) CAN DEMONSTRATE TO THE BOARD THE EQUIVALENT EDUCATIONAL REQUIREMENTS OF A THERAPEUTICALLY CERTIFIED OPTOMETRIST UNDER § 11–404.1 OF THIS SUBTITLE;~~

~~(2) HAS SUCCESSFULLY COMPLETED A COURSE IN ADVANCED PHARMACOLOGY THAT MEETS THE REQUIREMENTS OF SUBSECTION (C)(1) OF THIS SECTION; AND~~

~~(3) HAS SUCCESSFULLY COMPLETED A COURSE IN THE TREATMENT AND MANAGEMENT OF PATIENTS WITH EYE DISEASES AND CONDITIONS THAT MEETS THE REQUIREMENTS OF SUBSECTION (C)(2) OF THIS SECTION.~~

~~(C) (1) A COURSE IN ADVANCED PHARMACOLOGY REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION SHALL:~~

~~(I) BE 10 HOURS;~~

~~(II) PLACE EMPHASIS ON THE USE OF TOPICAL AND ORAL PHARMACEUTICAL AGENTS AND OTHER THERAPEUTIC TREATMENTS AND DEVICES THAT MANAGE OCULAR DISEASES, CONDITIONS, AND ABNORMALITIES, INCLUDING POSSIBLE SIDE EFFECTS AND ALLERGIC REACTIONS TO TOPICAL AND ORAL PHARMACEUTICAL AGENTS; AND~~

~~(III) BE GIVEN BY THE MARYLAND OPTOMETRIC ASSOCIATION OR ANOTHER STATEWIDE ASSOCIATION OR NONPROFIT ORGANIZATION APPROVED BY THE BOARD.~~

~~(2) A COURSE IN THE TREATMENT AND MANAGEMENT OF PATIENTS WITH EYE DISEASES AND CONDITIONS REQUIRED BY SUBSECTION (B)(3) OF THIS SECTION SHALL:~~

~~(I) BE 10 HOURS;~~

~~(II) PLACE EMPHASIS ON:~~

~~1. CURRENT BEST PRACTICES FOR THE DIAGNOSIS, MANAGEMENT, AND TREATMENT OF EYE DISEASES AND CONDITIONS;~~

~~2. THE MISDIAGNOSIS OF EYE DISEASES AND CONDITIONS; AND~~

~~3. MEDICALLY NECESSARY REFERRALS AND PERIOPERATIVE PATIENT COMANAGEMENT FOR EYE DISEASES AND CONDITIONS; AND~~

~~(III) BE GIVEN BY THE MARYLAND OPTOMETRIC ASSOCIATION OR ANOTHER STATEWIDE ASSOCIATION OR NONPROFIT ORGANIZATION APPROVED BY THE BOARD.~~

~~(D) AN OPTOMETRIST WHO HAS GRADUATED ON OR AFTER DECEMBER 31, 2019, FROM AN ACCREDITED SCHOOL OF OPTOMETRY RECOGNIZED BY THE BOARD IS NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.~~

~~(E) A THERAPEUTICALLY CERTIFIED OPTOMETRIST II MAY NOT ADMINISTER OR PRESCRIBE CONTROLLED SUBSTANCES.~~

~~(F) A THERAPEUTICALLY CERTIFIED OPTOMETRIST II SHALL BE HELD TO THE SAME STANDARD OF CARE AS AN OPHTHALMOLOGIST WHO IS LICENSED UNDER TITLE 14 OF THIS ARTICLE AND PROVIDES SIMILAR SERVICES.~~

11–101.

(a) In this title the following words have the meanings indicated.

(b) "Board" means the State Board of Examiners in Optometry.

(c) "Diagnostically certified optometrist" means a licensed optometrist who is certified by the Board to administer topical ocular diagnostic pharmaceutical agents to the extent permitted under § 11–404 of this title.

(d) "License" means, unless the context requires otherwise, a license issued by the Board to practice optometry.

(e) "Licensed optometrist" means, unless the context requires otherwise, an optometrist who is licensed by the Board to practice optometry.

(f) "Optometrist" means an individual who practices optometry.

(g) (1) "Practice optometry" means:

(i) Subject to §§ 11–404 and 11–404.2 of this title, to use any means known in the science of optics or eye care, except surgery:

1. To detect, diagnose, **MANAGE,** and **TREAT,** subject to §§ 11–404 and 11–404.2 of this title, **[**treat, subject to this title,**]** any optical or diseased condition in the human eye **AND THE ADNEXA OF THE EYE**; or

2. To prescribe eyeglasses, lenses, or contact lenses to correct any optical or visual condition in the human eye;

(ii) To give advice or direction on the fitness or adaptation of eyeglasses or lenses to any individual for the correction or relief of a condition for which eyeglasses or lenses are worn; or

(iii) To use or permit the use of any instrument, test card, test type, test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or lenses for an individual to wear.

(2) Subject to §§ 11–404 and 11–404.2 of this title, "practice optometry" includes:

(i) The administration of **[**topical ocular diagnostic**]** pharmaceutical agents;

[(ii) The administration and prescription of therapeutic pharmaceutical agents; and**]**

[(iii)**] (II)** The removal of superficial foreign bodies from the cornea and conjunctiva**;**

(III) THE DIAGNOSIS, TREATMENT, AND MANAGEMENT OF OPEN–ANGLE GLAUCOMA;

(IV) THE ORDERING OF CULTURES AND BLOODWORK TESTING; AND

(V) THE ORDERING AND PERFORMING OF IN–OFFICE, NONINVASIVE, NONRADIOGRAPHIC IMAGING.

~~(h) "Therapeutically certified optometrist" means a licensed optometrist who is certified by the Board to practice optometry to the extent permitted under § 11–404.2 of this title.~~

~~(I)~~ ***(H)*** **(1) "SURGERY" MEANS A PROCEDURE USING ANY INSTRUMENTS, INCLUDING LASERS, SCALPELS, NEEDLES, CAUTERY, A CRYOPROBE, OR SUTURES IN WHICH HUMAN TISSUE IS CUT, BURNED, VAPORIZED, REMOVED, OR OTHERWISE PERMANENTLY ALTERED BY ANY MECHANICAL MEANS, LASER, IONIZING RADIATION, ULTRASOUND, OR OTHER MEANS.**

(2) "SURGERY" DOES NOT INCLUDE:

(I) PREOPERATIVE AND POSTOPERATIVE CARE PROVIDED IN ACCORDANCE WITH §§ 11–404 AND 11–404.2 OF THIS TITLE;

(II) NONSURGICAL LIGHT THERAPIES USED ONLY FOR THE TREATMENT OF MEIBOMIAN GLAND DISEASE AND VISION THERAPY BUT NOT FOR CORNEAL COLLAGEN CROSS LINKING;

(III) ORTHOKERATOLOGY;

(IV) A NONINVASIVE PROCEDURE TO REMOVE A SUPERFICIAL FOREIGN BODY IN ACCORDANCE WITH § 11–404.2(D) OF THIS TITLE;

(V) CORNEAL SCRAPING OR CONJUNCTIVAL SWABS FOR CULTURES IN ACCORDANCE WITH § 11–404.2(E) OF THIS TITLE;

(VI) EPILATING WITH FORCEPS AN EYELASH FROM THE EYELID, ADNEXA, OR LACRIMAL SYSTEM OF A PATIENT; OR

(VII) NONINVASIVE MEIBOMIAN GLAND EXPRESSION.

(I) "THERAPEUTICALLY CERTIFIED OPTOMETRIST" MEANS A LICENSED OPTOMETRIST WHO IS CERTIFIED BY THE BOARD TO PRACTICE OPTOMETRY TO THE EXTENT PERMITTED UNDER § 11–404.2 OF THIS TITLE.

11–404.2.

[(a) In this section, "refer" means that a therapeutically certified optometrist:

(1) Informs the patient that the patient should see an ophthalmologist and give the ophthalmologist an opportunity to physically examine the patient; and

(2) Refrains from rendering further treatment for the specific condition that is the basis for the referral until the patient has been physically examined by an ophthalmologist.**]**

[(b)**] (A)** (1) **[**A**] EXCEPT AS PROVIDED IN THIS SUBSECTION AND IN SUBSECTION (D) OF THIS SECTION FOR THE TREATMENT OF OPEN–ANGLE GLAUCOMA, A** therapeutically certified optometrist may administer and prescribe **[**topical therapeutic pharmaceutical agents limited to:

(i) Ocular antihistamines, decongestants, and combinations thereof;

(ii) Ocular antiallergy pharmaceutical agents;

(iii) Ocular antibiotics and combinations of ocular antibiotics, excluding specially formulated or fortified antibiotics;

(iv) Anti–inflammatory agents;

(v) Ocular lubricants and artificial tears;

(vi) Tropicamide;

(vii) Homatropine;

(viii) Nonprescription drugs that are commercially available; and

(ix) Primary open–angle glaucoma medications, in accordance with subsection (c) of this section**] THERAPEUTIC PHARMACEUTICAL AGENTS FOR THE PREVENTION, MANAGEMENT, OR TREATMENT OF CONDITIONS AND DISEASES OF THE EYE AND OCULAR ADNEXA**.

(2) (I) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE:

1. CONTROLLED DANGEROUS SUBSTANCES;

2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, NONTOPICAL SYSTEMIC IMMUNOSUPPRESSIVE AND IMMUNOMODULATORY AGENTS;

3. ORAL ANTIFUNGAL AGENTS; OR

4. ORAL AND TOPICAL ANTIMETABOLITE AGENTS.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ADMINISTER OR PRESCRIBE ORAL CORTICOSTEROIDS FOR NOT MORE THAN 1 MONTH UNLESS THE THERAPEUTICALLY CERTIFIED OPTOMETRIST CONSULTS WITH A PHYSICIAN.

(3) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE PHARMACEUTICAL AGENTS THAT ARE:

(I) DELIVERED INTRAVENOUSLY;

(II) GIVEN BY INJECTION, EXCEPT A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY GIVE AN INJECTION OF EPINEPHRINE IN THE APPROPRIATE DOSE FOR THE TREATMENT OF ACUTE ANAPHYLAXIS OR EMERGENCY RESUSCITATION;

(III) GIVEN OR DELIVERED BY A SUSTAINED DELIVERY DEVICE, EXCEPT FOR PUNCTAL PLUGS, CONTACT LENSES, OR OTHER EXTRAOCULAR DEVICES THAT RELEASE MEDICATION INTO THE TEAR FILM; OR

(IV) FOR THE TREATMENT OF A SYSTEMIC DISEASE UNLESS SPECIFIC TO THE TREATMENT OF AN OCULAR CONDITION OR DISEASE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE ANY ORAL PHARMACEUTICAL AGENT TO A PATIENT UNDER THE AGE OF 18 YEARS.

(2) (I) AFTER A THERAPEUTICALLY CERTIFIED OPTOMETRIST CONSULTS WITH A PHYSICIAN, THE THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY PRESCRIBE AND ADMINISTER ORAL ANTIBIOTICS TO A MINOR WHO IS AT LEAST 16 YEARS OLD AND UNDER THE AGE OF 18 YEARS.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST SHALL PROVIDE THE PHYSICIAN CONSULTED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH WITH A WRITTEN REPORT.

[(2) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent listed in paragraph (1)(i) through (vii) of this subsection, and the patient does not have the expected response within 72 hours:

(i) The therapeutically certified optometrist shall consult with an ophthalmologist; and

(ii) The ophthalmologist may determine that the ophthalmologist needs to physically examine the patient.

(3) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent under paragraph (2) of this subsection, the therapeutically certified optometrist shall communicate with the patient to determine the response of the patient to the therapeutic pharmaceutical agent as soon as practicable after 72 hours of the time the agent was administered or prescribed.

(4) A therapeutically certified optometrist may administer or prescribe topical steroids in accordance with a practice protocol established by the Board.

(5) A therapeutically certified optometrist may not administer or prescribe:

(i) Antiviral agents;

(ii) Antifungal agents;

(iii) Antimetabolite agents; or

(iv) Antiparasitic agents.

(6) A therapeutically certified optometrist may dispense a topical therapeutic pharmaceutical agent listed in paragraph (1) of this subsection only if:

(i) No charge is imposed for the therapeutic pharmaceutical agent or for dispensing the agent; and

(ii) The amount dispensed does not exceed a 72–hour supply, except that if the minimum available quantity for dispensing is greater than a 72–hour supply, the minimum available quantity may be dispensed.**]**

(c) (1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents for glaucoma only**[**:

(i) For patients with primary**] FOR A PATIENT WHO:**

(I) IS AT LEAST 18 YEARS OLD; AND

(II) HAS open–angle glaucoma**[**;

(ii) After the optometrist refers the patient to an ophthalmologist; and

(iii) After the ophthalmologist and optometrist jointly and promptly develop a written individualized treatment plan that is signed by the ophthalmologist and optometrist and includes:

1. All tests and examinations that led to the diagnosis;

2. An initial schedule of all tests and examinations necessary to treat the patient's condition;

3. A medication plan;

4. A target intraocular pressure; and

5. Criteria for surgical intervention by the ophthalmologist**]**.

[(2) (i) A treatment plan developed under this subsection may be modified only after both the optometrist and the ophthalmologist consult together and consent to the modification.

(ii) Each modification shall be noted in the optometric record of the patient.**]**

[(3)**] (2) (I)** A therapeutically certified optometrist who treats a patient with **[**primary**]** open–angle glaucoma in accordance with this section**[**:

(i) Shall**] SHALL** refer the patient to an ophthalmologist **[**at least once a year after the initial mandatory referral under paragraph (1) of this subsection;**] FOR AN EXAMINATION WITHIN 3 MONTHS AFTER THE INITIAL DIAGNOSIS OR PRESENTATION TO THE THERAPEUTICALLY CERTIFIED OPTOMETRIST UNLESS THE INTRAOCULAR PRESSURE HAS BEEN REDUCED 20% OR MORE FROM THE INITIAL PRESSURE.**

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO TREATS A PATIENT WITH OPEN–ANGLE GLAUCOMA IN ACCORDANCE WITH THIS SECTION SHALL REFER THE PATIENT TO AN OPHTHALMOLOGIST FOR AN EXAMINATION WITHIN 12 MONTHS AFTER THE INITIAL DIAGNOSIS OR PRESENTATION TO THE THERAPEUTICALLY CERTIFIED OPTOMETRIST UNLESS CLINICAL STABILITY HAS BEEN DOCUMENTED BY VISUAL FIELD OR IMAGING OF THE OPTIC NERVE STRUCTURE.

(3) FOR A PATIENT ON GLAUCOMA MEDICATIONS AT THE TIME OF PRESENTATION TO A THERAPEUTICALLY CERTIFIED OPTOMETRIST, IF THE THERAPEUTICALLY CERTIFIED OPTOMETRIST IS UNABLE TO CONFIRM EITHER THE DATE OF INITIAL OPEN–ANGLE GLAUCOMA DIAGNOSIS OR THE INTRAOCULAR PRESSURE AT THE TIME THE PATIENT WAS INITIALLY DIAGNOSED, THE THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY RENDER TREATMENT TO A PATIENT WITH OPEN–ANGLE GLAUCOMA WITHOUT REFERRING THE PATIENT TO AN OPHTHALMOLOGIST IF:

(I) THE INTRAOCULAR PRESSURE OF THE PATIENT REMAINS STABLE; AND

(II) CLINICAL STABILITY IS DOCUMENTED BY VISUAL FIELD OR IMAGING OF THE OPTIC NERVE STRUCTURE WITHIN 12 MONTHS AFTER THE PATIENT IS FIRST EXAMINED BY THE OPTOMETRIST.

[(ii) May continue to render treatment under the joint treatment plan until the patient is examined by an ophthalmologist;

(iii) Shall consult with an ophthalmologist if:

1. The patient does not have the expected response to treatment;

2. The target intraocular pressure is not reached; or

3. There is worsening in a patient's visual field or optic nerve head; and

(iv) May perform and evaluate visual field tests, nerve fiber layer photos, and optic disc photos. The tests or photos shall be provided to an ophthalmologist for review by the ophthalmologist.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, a therapeutically certified optometrist may not administer or prescribe any oral pharmaceutical agent for any purpose.

(2) (i) A therapeutically certified optometrist may administer and prescribe oral tetracycline and its derivatives only for the diagnosis and treatment of meibomitis and seborrheic blepharitis.

(ii) If a therapeutically certified optometrist administers or prescribes oral tetracycline or its derivatives to a patient in accordance with subparagraph (i) of this paragraph and the patient does not improve within 3 weeks of treatment, the optometrist shall refer the patient to an ophthalmologist.

(3) A therapeutically certified optometrist may administer or prescribe nonprescription drugs that are commercially available.

(e) (1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not perform any procedure on the eyelid of a patient.

(2) A therapeutically certified optometrist may epilate with forceps an eyelash from the eyelid, adnexa, or lacrimal system of a patient.**]**

(4) (I) FOR A PATIENT WHO IS AT LEAST 18 YEARS OLD, A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ONLY ADMINISTER OR PRESCRIBE ORAL GLAUCOMA MEDICATIONS FOR UP TO 24 HOURS AFTER THE PATIENT PRESENTS IN THE OFFICE WITH UNCONTROLLED INTRAOCULAR PRESSURE.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO ADMINISTERS OR PRESCRIBES ORAL GLAUCOMA MEDICATIONS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL IMMEDIATELY CONSULT WITH AN OPHTHALMOLOGIST AND REFER THE PATIENT TO AN OPHTHALMOLOGIST.

[(f)**] (D)** A therapeutically certified optometrist may remove superficial **CONJUNCTIVAL OR CORNEAL** foreign bodies from the human eye only if:

[(1) The foreign body may be removed with a cotton–tipped applicator or blunt spatula; and**]**

[(2)**] (1)** The foreign body **[**has**]:**

(I) HAS not penetrated beyond the bowman's membrane of the cornea and is **[**not**]** within 2.5 millimeters of the visual axis **OF THE CORNEA; OR**

(II) IS PERIPHERAL AND ANTERIOR TO THE MID–STROMA; AND

(2) REMOVAL WILL NOT REQUIRE PERMANENT ALTERATION OF TISSUE.

[(g)**] (E)** (1) Except as provided **[**in paragraph (2)**]** ***IN*** **PARAGRAPHS (2) AND (3)** of this subsection, a therapeutically certified optometrist may not order **ANY** laboratory tests**, GENETIC TESTS, EXTRAOCULAR IMAGING, OR OTHER TESTING** for a patient.

(2) **(I)** A therapeutically certified optometrist may order **[**a**]:**

1. A conjunctival **OR CORNEAL** culture**; OR**

2. AFTER CONSULTING WITH A PHYSICIAN, A NONGENETIC BLOOD TEST.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO ORDERS NONGENETIC BLOOD TESTS SHALL SEND THE WRITTEN RESULTS TO THE PHYSICIAN CONSULTED IN ACCORDANCE WITH SUBPARAGRAPH (I)2 OF THIS PARAGRAPH.

(3) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ORDER AND PERFORM IN–OFFICE, NONINVASIVE, NONRADIOGRAPHIC IMAGING.

[(h)**] (F)** A therapeutically certified optometrist may not provide any therapeutic treatment listed in this section for a child under the age of 1 year.

[(i)**] (G)** Unless the standard of care requires an earlier referral, if a therapeutically certified optometrist diagnoses a corneal ulcer or infiltrate, and the patient does not have the expected response within 48 hours, the optometrist immediately shall refer the patient to an ophthalmologist.

[(j)**] (H)** A therapeutically certified optometrist shall be **[**held**]:**

(1) HELD to the same standard of care as an ophthalmologist who is licensed under Title 14 of this article and who is providing similar services**; AND**

(2) REQUIRED TO COMPLY WITH THE NOTICE REQUIREMENT UNDER § 14–508 OF THIS ARTICLE.

11–404.3.

(a) The **[**Maryland Optometric Association and the Maryland Society of Eye Physicians and Surgeons**] BOARD** shall recommend to the Secretary quality assurance guidelines for therapeutically certified optometrists~~, THERAPEUTICALLY CERTIFIED OPTOMETRISTS II,~~ and optometric care.

(b) **[**(1)**]** After considering the recommendations of the **[**Maryland Optometric Association and the Maryland Society of Eye Physicians and Surgeons**] BOARD**, the Secretary shall adopt regulations that establish**[**:

(i) Standards**] STANDARDS** of quality for therapeutically certified optometrists~~, THERAPEUTICALLY CERTIFIED OPTOMETRISTS II,~~ and optometric care**[**;

(ii) An ongoing quality assurance program that includes the monitoring and study of the joint management of primary open–angle glaucoma patients under § 11–404.2(c) of this subtitle;

(iii) A program to evaluate the cost of optometric care; and

(iv) A plan to monitor complaint investigation.

(2) The regulations shall require the Board to:

(i) Conduct a continuing study and investigation of therapeutically certified optometrists to ensure the quality of care they provide; and

(ii) Report to the Secretary, as the Secretary requires, on the results of the Board's study and investigation.

(3) The Board's study and investigation shall include:

(i) A peer review program; and

(ii) A review of patient optometric records that includes the collection and evaluation of data on the drugs being prescribed and administered and the appropriateness of treatment by therapeutically certified optometrists**]**.

[11–503.

An optometrist practicing in the State may not:

(1) Use surgical lasers;

(2) Perform any surgery, including cataract surgery or cryosurgery;

(3) Perform a radial keratotomy;

(4) Give an injection, except that an optometrist may give an injection of epinephrine in the appropriate dose for the treatment of acute anaphylaxis or emergency resuscitation; or

(5) Except as provided under this title, dispense a therapeutic pharmaceutical agent to any person.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) The requirements for certification under § 11–404(b) of the Health Occupations Article, as enacted by Section 1 of this Act, do not apply to a licensed optometrist certified under § 11–404 of the Health Occupations Article on or before July 1, 2019.~~

~~(b) The requirements for certification under § 11–404.1(b) of the Health Occupations Article, as enacted by Section 1 of this Act, do not apply to a licensed optometrist certified under § 11–404.1 of the Health Occupations Article on or before July 1, 2019.~~

(a) This section does not apply to an individual who graduates on or after July 1, 2019, from an accredited college of optometry, an accredited university school of optometry, or an equivalent program of education as determined by the State Board of Examiners in Optometry.

(b) (1) Before July 1, 2020, a therapeutically certified optometrist certified under Title 11 of the Health Occupations Article shall demonstrate to the State Board of Examiners in Optometry successful completion of a 10–hour course in advanced pharmacology with emphasis on the use of oral pharmaceutical agents in treating ocular diseases.

(2) To fulfill the requirement of paragraph (1) of this subsection, a therapeutically certified optometrist may complete a course given by the Maryland Optometric Association or any other statewide association or nonprofit association.

(3) A course completed by a therapeutically certified optometrist in accordance with this section shall be counted toward the total number of hours of continuing education required under § 11–309 of the Health Occupations Article for the licensing period in which the course was completed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect March 1, 2020.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect ~~July~~ June 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 345

(Senate Bill 719)

AN ACT concerning

University System of Maryland – Board of Regents – Transparency and Oversight

FOR the purpose of altering the membership of the Board of Regents of the University System of Maryland; requiring the President of the Senate and the Speaker of the House of Delegates to appoint certain members to the Board; requiring the Senate to consider appointees to the Board collectively during a certain period of time to ensure a certain balance of membership; requiring the Governor to notify the Senate of certain appointments; specifying when the Board shall elect a chairperson; requiring the chairperson, except under certain circumstances, to serve in the position subject to the advice and consent of the Senate; altering the term of the student members of the Board; requiring the Board to make certain meetings available to the public by live and archived video streaming and to make certain documents available to the public; ~~requiring the Board to conduct certain activities in open session;~~ altering the voting rights of the student members of the Board; making conforming changes; *requiring the Board to review certain annual*

statements; requiring the Board to provide certain education and training to certain Board members at certain times; requiring the Board to approve the membership of certain search committees; requiring the Board to notify certain individuals at least a certain number of days before certain financial incentives go into effect; providing for the termination of certain provisions of this Act; and generally relating to the Board of Regents of the University System of Maryland.

BY repealing and reenacting, with amendments,
Article – Education
Section 12–102 ~~and 12–103~~*, 12–103, 12–108(b)(3), and 12–109(a)*
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 12–104(a)
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY adding to
Article – Education
Section 12–104(p) and (q)
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

12–102.

(a) (1) There is a body corporate and politic known as the University System of Maryland.

(2) The University is an instrumentality of the State and a public corporation.

(3) The University is an independent unit of State government.

(4) The exercise by the University of the powers conferred by this subtitle is the performance of an essential public function.

(b) The government of the University System of Maryland is vested in the Board of Regents of the University System of Maryland.

(c) The Board of Regents consists of **[**17**]** **21** members as follows:

(1) (i) Except as provided in item (ii) of this item, **[**one member**]** **TWO MEMBERS** shall be **[**a**]** full–time **[**student**]** **STUDENTS** in good academic standing at an institution under the jurisdiction of the Board; and

(ii) A student member who is in good academic standing at the University of Maryland University College shall be exempt from the full–time student requirement in item (i) of this item;

(2) One member shall be the **[**State**]** Secretary of Agriculture ex officio; **[**and**]**

(3) ONE MEMBER SHALL BE THE SECRETARY OF COMMERCE EX OFFICIO;

(4) ONE MEMBER SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(5) ONE MEMBER SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE; AND

[(3)**]** **(6)** The remaining members of the Board shall be residents of the State **[**and**],** shall be appointed from the general public**, AND SHALL INCLUDE AT LEAST:**

(I) ONE INDIVIDUAL WITH A BACKGROUND IN HIGHER EDUCATION ADMINISTRATION;

(II) ONE INDIVIDUAL WITH A BACKGROUND IN FINANCE; AND

(III) ONE INDIVIDUAL WITH A BACKGROUND IN DIVERSITY AND WORKPLACE INCLUSION.

(d) In making appointments to the Board, the Governor**, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE** shall consider representation from all parts of the State.

(e) **(1)** **[**Except for the Secretary of Agriculture, each**]** **EACH** member of the Board **APPOINTED UNDER SUBSECTION (C)(1) AND (6) OF THIS SECTION** shall be appointed by the Governor, with the advice and consent of the Senate.

(2) AFTER THE 40TH DAY, AND BEFORE THE 80TH DAY, FROM THE COMMENCEMENT OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY, THE SENATE SHALL CONSIDER EACH YEAR'S APPOINTEES TO THE BOARD COLLECTIVELY TO ENSURE ADEQUATE BALANCE OF MEMBERSHIP.

(f) (1) Except for the student **[**member**]** **MEMBERS**, each appointed member serves for a term of 5 years from July 1 of the year of appointment and until a successor is appointed and qualifies. These members may be reappointed.

(2) The student **[**member**]** **MEMBERS** shall be appointed for a term of **[**1 year**]** **2 YEARS**, from July 1, and may be reappointed if the student remains a student at any campus of the University System of Maryland.

(3) A member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term and until a successor is appointed and qualifies.

(g) (1) **(I)** Except for the Secretary of Agriculture **AND THE SECRETARY OF COMMERCE,** and subject to paragraph (2) of this subsection, a member may not serve more than 2 consecutive full terms.

(II) AT THE EXPIRATION OF EACH MEMBER'S FULL TERM, THE GOVERNOR SHALL APPOINT A REPLACEMENT MEMBER OR SHALL SUBMIT A LETTER TO THE SENATE IN ORDER TO EXTEND THE TERM OF THE EXISTING MEMBER.

(2) The unexpired or partial term of a member appointed to fill a vacancy occurring during a 5–year term does not qualify as a full term for the newly appointed member.

(h) Each member of the Board:

(1) Serves without compensation; and

(2) Is entitled to reimbursement for expenses in accordance with the Standard State Travel Regulations.

12–103.

(a) **(1)** **[**Each**]** **IN DECEMBER EACH** year, the Board of Regents shall elect from among the members of the Board of Regents:

[(1)**]** **(I)** A chairperson; and

[(2)**]** **(II)** Any other officer it requires.

(2) **(I)** ~~**THE**~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE MEMBER ELECTED AS CHAIRPERSON SHALL SERVE IN THAT POSITION SUBJECT TO THE ADVICE AND CONSENT OF THE SENATE.**

(II) A CHAIRPERSON WHO HAS BEEN CONFIRMED BY THE SENATE IS NOT SUBJECT AGAIN TO THE ADVICE AND CONSENT OF THE SENATE DURING THE PERIOD OF CONTINUOUS SERVICE AS CHAIRPERSON.

(b) (1) **(I) [**The**] SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, THE** Board shall determine the time and place of its meetings and may adopt rules for the conduct of its meetings.

(II) THE BOARD SHALL MAKE AVAILABLE TO THE PUBLIC LIVE AND ARCHIVED VIDEO STREAMING OF EACH OPEN MEETING AND SHALL ALLOW TIME AT EACH OPEN MEETING FOR PUBLIC COMMENT.

(III) THE BOARD SHALL:

~~1.~~ ~~INCLUDE~~ INCLUDE ALL MOTIONS AND VOTE TALLIES FROM OPEN AND CLOSED SESSIONS IN PUBLICLY AVAILABLE BOARD MEETING MINUTES~~; AND~~

~~2. CONDUCT ANY VOTES RELATED TO THE EMPLOYMENT OR TERMINATION OF UNIVERSITY PRESIDENTS OR THE CHANCELLOR IN AN OPEN SESSION~~.

(2) The Governor, the State Treasurer, and the State Comptroller shall be notified of all meetings of the Board and may sit with the Board at any meeting.

(3) The Secretary of Budget and Management, the Chairmen of the Senate Finance and Budget and Taxation Committees, and the Chairmen of the House Ways and Means and Appropriations Committees shall be invited to sit with the Board at any meetings of the Board at which requests for appropriations are prepared.

(4) A majority of the voting members shall constitute a quorum for the transaction of business.

(5) No formal action may be taken by the Board without the approval of a majority of the voting members of the Board.

(6) (I) OF THE TWO STUDENT MEMBERS, ONLY ONE MEMBER SHALL BE A VOTING MEMBER OF THE BOARD EACH YEAR.

(II) A STUDENT MEMBER SHALL BE A VOTING MEMBER OF THE BOARD FOR ONLY 1 YEAR OF A 2–YEAR TERM.

12–104.

(a) In addition to any other powers granted and duties imposed by this title, and subject to the provisions of Title 11 of this article and any other restriction imposed by law by specific reference to the University System of Maryland, or by any trust agreement involving a pledge of property or money, the Board of Regents has the powers and duties set forth in this section.

(P) THE BOARD OF REGENTS SHALL REVIEW THE ANNUAL FINANCIAL DISCLOSURE STATEMENTS FILED BY THE CHANCELLOR AND THE PRESIDENTS OF EACH CONSTITUENT INSTITUTION IN ACCORDANCE WITH § 5–607 OF THE GENERAL PROVISIONS ARTICLE.

(Q) THE BOARD OF REGENTS SHALL PROVIDE EACH MEMBER APPOINTED TO THE BOARD, AT THE TIME OF APPOINTMENT, AND AT REASONABLE INTERVALS, WITH EDUCATION AND TRAINING ON THE BOARD'S GOVERNANCE POLICIES, FIDUCIARY RESPONSIBILITIES, LEGAL OBLIGATIONS, OVERSIGHT OF PERSONNEL POLICIES, OVERSIGHT OF CONSTITUENT INSTITUTIONS, AND OTHER RESPONSIBILITIES.

12–109.

(a) ***(1)*** *Except as provided in Subtitle 3 of this title,* ***AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,*** *in consultation with the Chancellor and after a thorough search, the Board of Regents shall appoint a qualified person as president of each constituent institution.*

(2) THE BOARD OF REGENTS SHALL APPROVE THE MEMBERSHIP OF ANY SEARCH COMMITTEE CONVENED TO RECOMMEND A QUALIFIED PERSON AS PRESIDENT OF A CONSTITUENT INSTITUTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

12–108.

(b) (3) ***(I)*** ***[****The****]*** ***SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE*** *Chancellor is entitled to the compensation established by the Board.*

(II) THE BOARD OF REGENTS SHALL NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE AT LEAST 30 DAYS BEFORE A CONTRACTUAL SALARY INCREASE, NEGOTIATED SEVERANCE PACKAGE, OR ANY OTHER FINANCIAL BONUS FOR THE CHANCELLOR GOES INTO EFFECT.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019. *Section 2 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2021, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.*

Approved by the Governor, April 30, 2019.

Chapter 346

(House Bill 533)

AN ACT concerning

University System of Maryland – Board of Regents – Transparency and Oversight

FOR the purpose of altering the membership of the Board of Regents of the University System of Maryland; requiring the President of the Senate and the Speaker of the House of Delegates to appoint certain members to the Board; requiring the Senate to consider appointees to the Board collectively during a certain period of time to ensure a certain balance of membership; requiring the Governor to notify the Senate of certain appointments; specifying when the Board shall elect a chairperson; requiring the chairperson, except under certain circumstances, to serve in the position subject to the advice and consent of the Senate; altering the term of the student members of the Board; requiring the Board to make certain meetings available to the public by live and archived video streaming and to make certain documents available to the public; ~~requiring the Board to conduct certain activities in open session or closed sessions;~~ altering the voting rights of the student members of the Board; ~~establishing the Workgroup to Study Oversight of the University System of Maryland; providing for the composition, chair, and staffing of the Workgroup; prohibiting a member of the Workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Workgroup to review and compile information regarding certain matters; requiring the Workgroup to report its findings to the Governor and the General Assembly on or before a certain date;~~ making conforming changes; *requiring the Board to review certain annual statements; requiring the Board to provide certain education and training to certain Board members at certain times; requiring the Board to approve the membership of certain search committees; requiring the Board to notify certain individuals at least a certain number of days before certain financial incentives go into effect; providing for the termination of certain provisions of this Act;* ~~providing for the termination of certain provisions of this Act;~~ and generally relating to the Board of Regents of the University System of Maryland.

BY repealing and reenacting, with amendments,
Article – Education

Section 12–102 ~~and 12–103~~, *12–103, 12–108(b)(3), and 12–109(a)*
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 12–104(a)
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY adding to
Article – Education
Section 12–104(p) and (q)
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

12–102.

(a) (1) There is a body corporate and politic known as the University System of Maryland.

(2) The University is an instrumentality of the State and a public corporation.

(3) The University is an independent unit of State government.

(4) The exercise by the University of the powers conferred by this subtitle is the performance of an essential public function.

(b) The government of the University System of Maryland is vested in the Board of Regents of the University System of Maryland.

(c) The Board of Regents consists of **[**17**]** **21** members as follows:

(1) (i) Except as provided in item (ii) of this item, **[**one member**]** **TWO MEMBERS** shall be **[**a**]** full–time **[**student**]** **STUDENTS** in good academic standing at an institution under the jurisdiction of the Board; and

(ii) A student member who is in good academic standing at the University of Maryland University College shall be exempt from the full–time student requirement in item (i) of this item;

(2) One member shall be the **[**State**]** Secretary of Agriculture ex officio; **[**and**]**

(3) ONE MEMBER SHALL BE THE SECRETARY OF COMMERCE EX OFFICIO;

(4) ONE MEMBER SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(5) ONE MEMBER SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE; AND

[(3)**] (6)** The remaining members of the Board shall be residents of the State **[**and**],** shall be appointed from the general public**, AND SHALL INCLUDE:**

(I) ONE INDIVIDUAL WITH A BACKGROUND IN HIGHER EDUCATION ADMINISTRATION;

(II) ONE INDIVIDUAL WITH A BACKGROUND IN FINANCE; AND

(III) ONE INDIVIDUAL WITH A BACKGROUND IN DIVERSITY AND WORKPLACE INCLUSION.

(d) In making appointments to the Board, the Governor**, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE** shall consider representation from all parts of the State.

(e) **(1) [**Except for the Secretary of Agriculture, each**] EACH** member of the Board **APPOINTED UNDER SUBSECTION (C)(1) AND (6) OF THIS SECTION** shall be appointed by the Governor, with the advice and consent of the Senate.

(2) AFTER THE 40TH DAY, AND BEFORE THE 80TH DAY, FROM THE COMMENCEMENT OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY, THE SENATE SHALL CONSIDER EACH YEAR'S APPOINTEES TO THE BOARD COLLECTIVELY TO ENSURE ADEQUATE BALANCE OF MEMBERSHIP.

(f) (1) Except for the student **[**member**] MEMBERS**, each appointed member serves for a term of 5 years from July 1 of the year of appointment and until a successor is appointed and qualifies. These members may be reappointed.

(2) The student **[**member**] MEMBERS** shall be appointed for a term of **[**1 year**] 2 YEARS**, from July 1, and may be reappointed if the student remains a student at any campus of the University System of Maryland.

(3) A member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term and until a successor is appointed and qualifies.

(g) (1) **(I)** Except for the Secretary of Agriculture **AND THE SECRETARY OF COMMERCE,** and subject to paragraph (2) of this subsection, a member may not serve more than 2 consecutive full terms.

(II) AT THE EXPIRATION OF EACH MEMBER'S FULL TERM, THE GOVERNOR SHALL APPOINT A REPLACEMENT MEMBER OR SHALL SUBMIT A LETTER TO THE SENATE IN ORDER TO EXTEND THE TERM OF THE EXISTING MEMBER.

(2) The unexpired or partial term of a member appointed to fill a vacancy occurring during a 5–year term does not qualify as a full term for the newly appointed member.

(h) Each member of the Board:

(1) Serves without compensation; and

(2) Is entitled to reimbursement for expenses in accordance with the Standard State Travel Regulations.

12–103.

(a) **(1) [**Each**] IN DECEMBER EACH** year, the Board of Regents shall elect from among the members of the Board of Regents:

[(1)**] (I)** A chairperson; and

[(2)**] (II)** Any other officer it requires.

(2) (I) ~~THE~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE MEMBER ELECTED AS CHAIRPERSON SHALL SERVE IN THAT POSITION SUBJECT TO THE ADVICE AND CONSENT OF THE SENATE.

(II) A CHAIRPERSON WHO HAS BEEN CONFIRMED BY THE SENATE IS NOT SUBJECT AGAIN TO THE ADVICE AND CONSENT OF THE SENATE DURING THE PERIOD OF CONTINUOUS SERVICE AS CHAIRPERSON.

(b) (1) **(I) [**The**] SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, THE** Board shall determine the time and place of its meetings and may adopt rules for the conduct of its meetings.

(II) THE BOARD SHALL MAKE AVAILABLE TO THE PUBLIC LIVE AND ARCHIVED VIDEO STREAMING OF EACH OPEN MEETING AND SHALL ALLOW TIME AT EACH OPEN MEETING FOR PUBLIC COMMENT.

(III) THE BOARD SHALL:

~~1.~~ ~~INCLUDE~~ *INCLUDE* ALL MOTIONS AND VOTE TALLIES FROM OPEN AND CLOSED SESSIONS IN PUBLICLY AVAILABLE BOARD MEETING MINUTES~~; AND~~

~~2.~~ ~~CONDUCT~~ NOTWITHSTANDING ~~§ 3–305 OF THE GENERAL PROVISIONS ARTICLE, CONDUCT~~ ANY VOTES RELATED TO THE ~~EMPLOYMENT OR TERMINATION OF UNIVERSITY PRESIDENTS OR THE CHANCELLOR IN AN OPEN~~ A CLOSED ~~SESSION; AND~~

~~3. CONDUCT ANY VOTES RELATED TO THE TERMINATION OF UNIVERSITY PRESIDENTS OR THE CHANCELLOR IN AN OPEN SESSION~~.

(2) The Governor, the State Treasurer, and the State Comptroller shall be notified of all meetings of the Board and may sit with the Board at any meeting.

(3) The Secretary of Budget and Management, the Chairmen of the Senate Finance and Budget and Taxation Committees, and the Chairmen of the House Ways and Means and Appropriations Committees shall be invited to sit with the Board at any meetings of the Board at which requests for appropriations are prepared.

(4) A majority of the voting members shall constitute a quorum for the transaction of business.

(5) No formal action may be taken by the Board without the approval of a majority of the voting members of the Board.

(6) (I) OF THE TWO STUDENT MEMBERS, ONLY ONE MEMBER SHALL BE A VOTING MEMBER OF THE BOARD EACH YEAR.

(II) A STUDENT MEMBER SHALL BE A VOTING MEMBER OF THE BOARD FOR ONLY 1 YEAR OF A 2–YEAR TERM.

12–104.

(a) In addition to any other powers granted and duties imposed by this title, and subject to the provisions of Title 11 of this article and any other restriction imposed by law by specific reference to the University System of Maryland, or by any trust agreement

involving a pledge of property or money, the Board of Regents has the powers and duties set forth in this section.

(P) THE BOARD OF REGENTS SHALL REVIEW THE ANNUAL FINANCIAL DISCLOSURE STATEMENTS FILED BY THE CHANCELLOR AND THE PRESIDENTS OF EACH CONSTITUENT INSTITUTION IN ACCORDANCE WITH § 5–607 OF THE GENERAL PROVISIONS ARTICLE.

(Q) THE BOARD OF REGENTS SHALL PROVIDE EACH MEMBER APPOINTED TO THE BOARD, AT THE TIME OF APPOINTMENT, AND AT REASONABLE INTERVALS, WITH EDUCATION AND TRAINING ON THE BOARD'S GOVERNANCE POLICIES, FIDUCIARY RESPONSIBILITIES, LEGAL OBLIGATIONS, OVERSIGHT OF PERSONNEL POLICIES, OVERSIGHT OF CONSTITUENT INSTITUTIONS, AND OTHER RESPONSIBILITIES.

12–109.

(a) ***(1)*** *Except as provided in Subtitle 3 of this title,* ***AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,*** *in consultation with the Chancellor and after a thorough search, the Board of Regents shall appoint a qualified person as president of each constituent institution.*

(2) THE BOARD OF REGENTS SHALL APPROVE THE MEMBERSHIP OF ANY SEARCH COMMITTEE CONVENED TO RECOMMEND A QUALIFIED PERSON AS PRESIDENT OF A CONSTITUENT INSTITUTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

12–108.

(b) (3) ***(I) [****The****]*** ***SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE*** *Chancellor is entitled to the compensation established by the Board.*

(II) THE BOARD OF REGENTS SHALL NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE AT LEAST 30 DAYS BEFORE A CONTRACTUAL SALARY INCREASE, NEGOTIATED SEVERANCE PACKAGE, OR ANY OTHER FINANCIAL BONUS FOR THE CHANCELLOR GOES INTO EFFECT.

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

~~(a) There is a Workgroup to Study Oversight of the University System of Maryland.~~

~~(b) The Workgroup consists of the following members:~~

~~(1) three members of the Senate of Maryland, appointed by the President of the Senate; and~~

~~(2) three members of the House of Delegates, appointed by the Speaker of the House.~~

~~(c) The Department of Legislative Services shall provide staff for the Workgroup.~~

~~(d) A member of the Workgroup:~~

~~(1) may not receive compensation as a member of the Workgroup; but~~

~~(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(e) The Workgroup shall:~~

~~(1) review oversight policies for the constituent institutions under the University System of Maryland;~~

~~(2) compile information on the governing structure of university boards nationally; and~~

~~(3) review best practices for the organization, governance, and oversight of university systems and governing boards.~~

~~(f) On or before December 31, 2019, the Workgroup shall report its findings to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

SECTION ~~3.~~ ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019. *Section 2 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2021, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.* ~~Section 2 of this Act shall remain effective for a period of 1 year and, at the end of June 30, 2020, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

Approved by the Governor, April 30, 2019.

Chapter 347

(House Bill 861)

AN ACT concerning

State Retirement and Pension System – Service Credit for Unused Sick Leave

FOR the purpose of making certain members of the State Retirement and Pension System eligible to receive creditable service at retirement for unused sick leave accrued by the member in certain systems in the State Retirement and Pension System under certain circumstances; providing for the calculation of the creditable service for unused sick leave accrued by certain members in certain systems; requiring a certain adjustment to a certain retirement benefit for certain retirees; and generally relating to creditable service for unused sick leave in the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 20–206
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Personnel and Pensions

20–206.

(a) In this section, "unused sick leave" means sick leave credit that:

(1) has not been used before retirement; and

(2) was available to the member to be used as sick leave during employment.

(b) This section does not apply to:

(1) the Judges' Retirement System; or

(2) the Legislative Pension Plan.

(c) Except as provided in **[**subsection**]** **SUBSECTIONS** (f) **AND (G)** of this section, a member is entitled to receive creditable service for unused sick leave if the member retires on or before 30 days after the member is separated from employment with a participating employer or a participating governmental unit that has withdrawn from one of the several

systems under Title 31 of this article.

(d) (1) At retirement, a member is entitled to receive creditable service for unused sick leave, on verification of the unused sick leave to the Board of Trustees.

(2) (i) This subsection does not apply to the Local Fire and Police System or the Law Enforcement Officers' Pension System.

(ii) A member who separates from employment for reasons other than retirement on or before June 30, 1990, is entitled to receive creditable service for unused sick leave that is reported by the member's employer at the member's separation from employment if the member was entitled to a vested allowance at the time of separation.

(e) (1) Subject to paragraphs (2) and (3) of this subsection, for 22 days of unused sick leave a member is entitled to receive 1 month of creditable service.

(2) (i) If a member has at least 11 days but less than 22 days of unused sick leave, the member is entitled to receive 1 month of creditable service.

(ii) If a member has at least 22 days of unused sick leave, and if fractional days totaling 11 or more result from the application of the formula described in paragraph (1) of this subsection, a member is entitled to receive 1 additional month of creditable service.

(3) For the purposes of this section:

(i) a member may not accumulate more than 15 days of sick leave per year;

(ii) unless sick leave credit is accepted and credited by the current participating employer, a member may not receive credit for unused sick leave granted by a former employer; and

(iii) in determining the amount of unused sick leave a member is eligible to use as creditable service at retirement, the Board of Trustees shall use the lesser of:

1. the member's number of years of creditable service, not including credit for unused sick leave, multiplied by 15; or

2. the member's cumulative number of unused sick leave days reported by the participating employer.

(f) (1) This subsection applies to a member of the Employees' Pension System who:

(i) was a member of the Correctional Officers' Retirement System and was transferred from the Correctional Officers' Retirement System to the Employees' Pension System as a result of a change in position with the same employer that rendered the individual ineligible for membership in the Correctional Officers' Retirement System; and

(ii) did not transfer service credit from the Correctional Officers' Retirement System to the Employees' Pension System.

(2) Subject to paragraph (3) of this subsection, a member is entitled to receive creditable service for the total amount of unused sick leave accrued by the member at the time of retirement.

(3) The creditable service for unused sick leave shall be calculated for each of the two State systems by multiplying the total amount of unused sick leave, calculated in accordance with subsection (e) of this section, by a fraction:

(i) the numerator of which is the creditable service earned in the State system, not including the creditable service for unused sick leave; and

(ii) the denominator of which is the total creditable service earned in both State systems, not including the creditable service for unused sick leave.

(G) (1) THIS SUBSECTION APPLIES TO A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM WHO:

(I) WAS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM AND WAS TRANSFERRED FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM TO THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM AS A RESULT OF A CHANGE IN MEMBERSHIP WITHIN THE SEVERAL SYSTEMS THAT RENDERED THE INDIVIDUAL INELIGIBLE FOR MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM;

(II) DID NOT TRANSFER SERVICE CREDIT FROM THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM TO THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM; AND

(III) 1. RETIRES UNDER § 25–401 OF THIS ARTICLE, AND RECEIVES A VESTED BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM;

2. RETIRES UNDER §§ 22–401, 22–402, 23–401, OR 23–402 OF THIS ARTICLE, AND RECEIVES A VESTED BENEFIT FROM THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM FOR SERVICE EARNED ON OR

AFTER JULY 1, 2016; OR

3. RETIRES WITH A VESTED BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM, AND EARNED SERVICE IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2016, FOR WHICH THE INDIVIDUAL IS NOT ELIGIBLE FOR A BENEFIT.

(2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, A MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE FOR THE TOTAL AMOUNT OF UNUSED SICK LEAVE ACCRUED BY THE MEMBER AT THE TIME OF RETIREMENT.

(3) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL DESCRIBED UNDER ITEM (1)(III)1 OR 2 OF THIS SUBSECTION.

(II) THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE SHALL BE CALCULATED FOR EACH OF THE TWO STATE SYSTEMS BY MULTIPLYING THE TOTAL AMOUNT OF UNUSED SICK LEAVE, CALCULATED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, BY A FRACTION:

1. THE NUMERATOR OF WHICH IS THE CREDITABLE SERVICE EARNED IN THE STATE SYSTEM, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE; AND

2. THE DENOMINATOR OF WHICH IS THE TOTAL CREDITABLE SERVICE EARNED IN BOTH STATE SYSTEMS, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE.

(4) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL DESCRIBED UNDER ITEM (1)(III)3 OF THIS SUBSECTION.

(II) AN INDIVIDUAL'S RETIREMENT BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM SHALL BE ADJUSTED TO INCLUDE ANY CREDIT FOR UNUSED SICK LEAVE THAT THE INDIVIDUAL ACCRUED IN THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM PRIOR TO BECOMING A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM:

1. ON OR AFTER JULY 1, 2016, IN A POSITION INCLUDED UNDER § 25–201(A)(7) OF THIS ARTICLE;

2. ON OR AFTER JULY 1, 2017, IN A POSITION INCLUDED UNDER § 25–201(A)(8) OR (9) OF THIS ARTICLE; OR

3. ON OR AFTER JULY 1, 2018, IN A POSITION INCLUDED UNDER § 25–201(A)(10) OR (11) OF THIS ARTICLE.

[(g)**] (H)** Credit for unused sick leave may not be used under this section:

(1) to determine years of eligibility service required for a benefit under this Division II; or

(2) to compute average final compensation.

[(h)**] (I)** A State employee who came into the State system while retaining sick leave and annual leave benefits under a county system and who came under the provisions of Chapter 423 of the Acts of 1971 shall be entitled to the same full credit toward retirement as provided by this section.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an individual who:

(1) retired from a position:

(i) affected by Chapter 218 or 219 of the Acts of the General Assembly of 2016 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement;

(ii) affected by Chapter 688, 689, or 690 of the Acts of the General Assembly of 2017 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement; or

(iii) affected by Chapter 579 or 580 of the Acts of the General Assembly of 2018 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement; and

(2) retired from the Employees' Pension System before July 1, 2019, and was not eligible for a vested benefit from the Correctional Officers' Retirement System at the time of retirement.

(b) An individual described under subsection (a) of this section shall have the individual's retirement benefit from the Employees' Pension System or Employees' Retirement System adjusted to include any credit for unused sick leave that the individual accrued in the Employees' Pension System or Employees' Retirement System prior to becoming a member of the Correctional Officers' Retirement System, subject to the restrictions of § 20–206(e) of the State Personnel and Pensions Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 348

(House Bill 1379)

AN ACT concerning

Optional Retirement Program – Membership

FOR the purpose of prohibiting certain individuals who are members of the Employees' Pension System of the State Retirement and Pension System from becoming a member of the Optional Retirement Program of the State Retirement and Pension System on or after a certain date; and generally relating to membership in the Optional Retirement Program of the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 30–302, 30–303, and 30–307
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Personnel and Pensions

30–302.

(a) An election to participate in the program shall be made by an eligible employee at commencement of employment.

(b) An eligible employee's election to participate in the program is a one–time irrevocable election.

(c) An individual who previously participated in a State system as an employee of an employing institution or any other unit of State government may not elect to participate in the program.

30–303.

(a) An eligible employee shall elect to:

(1) join a pension or retirement system in accordance with the provisions of this Division II applicable to that system; or

(2) participate in the program.

(b) An eligible employee shall:

(1) make an election under this section in writing; and

(2) file the election with the Board of Trustees and the employing institution at commencement of employment.

(c) An eligible employee's election under this section is a one–time, irrevocable election.

(d) The effective date of the election shall be the day of commencement of employment.

30–307.

(a) (1) This subsection applies to an election to participate in the program made on or before June 30, 2017.

(2) Except as otherwise provided in this section, an election to participate in the program is a waiver of all rights and benefits provided by the retirement or pension system in which the participating employee was a member on the effective date of the election.

(3) For the purpose of determining eligibility for immediate vested rights or benefits in a retirement system or pension system, an eligible employee who is a member of that State system when the employee elects to participate in the program is deemed to have separated from employment on the effective date of the election.

(4) The Board of Trustees may only compute retirement system or pension system benefits on the basis of years of creditable service as a member of that State system.

(5) (i) This paragraph applies only to a participating employee whose last employer prior to joining the program was a participating employer that does not participate in the employer pick–up program as defined in § 414(h)(2) of the Internal Revenue Code.

(ii) A participating employee may withdraw any accumulated contributions in the annuity savings fund on or after the effective date of the participating employee's election to join the program.

(iii) If a participating employee withdraws the accumulated

contributions, the participating employee forfeits any right to a benefit in the State system from which the accumulated contributions were withdrawn.

(b) (1) A participating employee is ineligible for membership in a retirement system or pension system while the participating employee is employed in any eligible position by any employing institution.

(2) A participating employee who is subsequently appointed, promoted, or transferred to another position that is eligible for membership in a State system but is not eligible for participation in the program shall participate in a State system with respect to that position as a condition of employment.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an individual who:

(1) on or before July 1, 1993, began employment with the Maryland General Assembly and enrolled in the Employees' Pension System of the State Retirement and Pension System as a condition of employment;

(2) on or before December 1, 1997, accepted employment as a legislative liaison for Towson University and elected to participate in the Optional Retirement Program of the State Retirement and Pension System instead of membership in the Teachers' Pension System of the State Retirement and Pension System;

(3) on or before November 1, 2010, began employment in an executive position with the Maryland Department of Transportation and enrolled in the Employees' Pension System as a condition of employment; and

(4) on or before March 1, 2015, began employment with the University of Maryland University College and maintained the individual's membership in the Employees' Pension System.

(b) Notwithstanding §§ 30–302, 30–303, and 30–307 of the State Personnel and Pensions Article, an individual described under subsection (a) of this section may not participate in the Optional Retirement Program on or after February 1, 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 349

(House Bill 222)

AN ACT concerning

Real Property – Residential Real Estate Transactions – Escrow Agents

FOR the purpose of requiring an escrow agent to enter into a written agreement with the purchaser and seller of certain residential real estate ~~before~~ when the escrow agent ~~may~~ agrees to hold trust money in escrow for the residential real estate transaction; requiring a written agreement an escrow agent enters into with the purchaser and seller of real estate under certain circumstances to contain certain information; defining certain terms; providing for the construction and application of this Act; and generally relating to escrow agents and residential real estate transactions.

BY adding to
Article – Real Property
Section 10–802
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Real Property

10–802.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BENEFICIAL OWNER" MEANS A PERSON OTHER THAN THE OWNER OF THE TRUST MONEY FOR WHOSE BENEFIT AN ESCROW AGENT IS ENTRUSTED TO HOLD TRUST MONEY.

(3) "ESCROW AGENT" MEANS A PERSON ENGAGED IN THE BUSINESS OF RECEIVING ESCROWS FOR DEPOSIT OR DELIVERY.

(4) "TRUST MONEY" MEANS A DEPOSIT, ~~PAYMENT, OR OTHER MONEY~~ AN ADDITIONAL DEPOSIT, OR A DOWN PAYMENT MADE BY A PURCHASER THAT ~~A PERSON~~ THE PURCHASER ENTRUSTS TO AN ESCROW AGENT TO HOLD FOR:

(I) THE BENEFIT OF THE OWNER OR BENEFICIAL OWNER OF THE TRUST MONEY; AND

(II) A PURPOSE THAT RELATES TO ~~A REAL ESTATE TRANSACTION INVOLVING~~ THE PURCHASE OR SALE OF RESIDENTIAL REAL ESTATE IN THE STATE.

(B) (1) THIS SECTION APPLIES ONLY TO:

(I) REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE–FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION; AND

(II) UNIMPROVED REAL PROPERTY ZONED FOR RESIDENTIAL USE BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE REAL PROPERTY IS LOCATED.

(2) THIS SECTION DOES NOT APPLY TO:

(I) ~~A PERSON DOING BUSINESS UNDER A STATE OR FEDERAL LAW THAT RELATES TO BANKS~~ BANKS, TRUST COMPANIES, ~~BUILDING AND LOAN ASSOCIATIONS, OR~~ SAVINGS AND LOAN ASSOCIATIONS, SAVINGS BANKS, OR CREDIT UNIONS;

(II) A HOMEBUILDER REGISTERED UNDER TITLE 4.5 OF THE BUSINESS REGULATION ARTICLE WHO IS ENGAGED IN THE INITIAL SALE OF RESIDENTIAL REAL ESTATE; OR

(III) A REAL ESTATE SALESPERSON, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE BROKER LICENSED UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

~~(2) THIS SECTION APPLIES ONLY TO REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE–FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.~~

(C) (1) ~~BEFORE~~ WHEN AN ESCROW AGENT ~~MAY~~ AGREES TO HOLD TRUST MONEY IN ESCROW FOR A RESIDENTIAL REAL ESTATE TRANSACTION, THE ESCROW AGENT ~~MUST~~ SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE PURCHASER AND SELLER OF THE RESIDENTIAL REAL ESTATE.

(2) THE WRITTEN AGREEMENT UNDER THIS SUBSECTION MUST CONTAIN THE FOLLOWING INFORMATION:

(I) THE AMOUNT OF THE TRUST MONEY ENTRUSTED TO THE ESCROW AGENT;

(II) THE DATE THE TRUST MONEY WAS ENTRUSTED TO THE ESCROW AGENT;

(III) THE RESPONSIBILITY OF THE ESCROW AGENT TO NOTIFY THE PURCHASER AND SELLER OF TRUST MONEY RETURNED DUE TO ~~INSUFFICIENT~~ DISHONORED FUNDS;

(IV) THE CONDITIONS UNDER WHICH THE ESCROW AGENT MAY RELEASE THE TRUST MONEY; AND

(V) THE PROCESS TO ADDRESS DISPUTES OVER THE RELEASE OF THE TRUST MONEY.

(D) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PROHIBIT AN ESCROW AGENT FROM TRANSFERRING TRUST MONEY TO ANOTHER ESCROW AGENT IF THE PURCHASER OF THE RESIDENTIAL REAL ESTATE FOR WHICH THE TRUST MONEY IS HELD CHOOSES THE ESCROW AGENT TO WHOM THE TRUST MONEY IS TRANSFERRED.

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

Approved by the Governor, April 30, 2019.

Chapter 350

(House Bill 219)

AN ACT concerning

Prince George's County – New Homes – ~~Correction of~~ Drainage Defects

PG 408–19

FOR the purpose of requiring the governing body of Prince George's County to establish a program ~~for the correction~~ to evaluate complaints of drainage defects ~~in new homes~~ in the county under certain circumstances; requiring the program to include certain procedures; ~~requiring the county to arrange to complete and seek reimbursement for the correction of a drainage defect under certain circumstances;~~ defining certain terms; providing for a delayed effective date; and generally relating to drainage defects in new homes in Prince George's County.

BY adding to
Article – Local Government
Section 1–1313
Annotated Code of Maryland
(2013 Volume and 2018 Supplement)

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

Article – Local Government

1–1313.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DRAINAGE DEFECT" MEANS IMPROPER GRADING, POOR SOIL COMPOSITION, OR ANY OTHER DESIGN OR WORKMANSHIP DEFECT ATTRIBUTABLE TO A HOMEBUILDER THAT RESULTS IN A FLOODED YARD OR WATER IN THE BASEMENT OF A NEW HOME.

(3) "HOMEBUILDER" MEANS A PERSON THAT UNDERTAKES TO ERECT OR OTHERWISE CONSTRUCT A NEW HOME.

~~**(4) (I) "NEW HOME" MEANS A NEWLY CONSTRUCTED SINGLE–FAMILY DWELLING UNIT.**~~

~~**(II) "NEW HOME" INCLUDES:**~~

~~**1. A CUSTOM HOME AS DEFINED IN § 10–501 OF THE REAL PROPERTY ARTICLE; AND**~~

~~**2. A MOBILE HOME AS DEFINED IN § 8A–101 OF THE REAL PROPERTY ARTICLE.**~~

~~**(5)**~~ **(4) "OWNER" MEANS THE PURCHASER OF A NEW HOME WHO USES THE HOME PRIMARILY FOR RESIDENTIAL PURPOSES IN PRINCE GEORGE'S COUNTY.**

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY SHALL ESTABLISH A PROGRAM ~~FOR THE CORRECTION~~ TO EVALUATE COMPLAINTS OF DRAINAGE DEFECTS ~~IN NEW HOMES~~ IN THE COUNTY.

(C) THE PROGRAM REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE PROCEDURES FOR:

(1) ~~A CLAIMS PROCEDURE FOR~~ AN OWNER TO ~~FILE A COMPLAINT FOR THE CORRECTION~~ REQUEST AN EVALUATION OF A DRAINAGE DEFECT; AND

(2) ~~AN EVALUATION PROCEDURE FOR DETERMINING WHETHER THE HOMEBUILDER IS RESPONSIBLE FOR THE DRAINAGE DEFECT THAT IS THE BASIS OF A COMPLAINT~~ REQUIRING THE COUNTY TO COMPLETE A WRITTEN EVALUATION OF ALLEGED DRAINAGE DEFECTS; AND

(3) REQUIRING THE COUNTY TO COLLECT DATA REGARDING HOMEBUILDERS WHO HAVE BUILT HOMES WITH DRAINAGE DEFECTS.

~~(D) IF A HOMEBUILDER IS FOUND TO BE RESPONSIBLE FOR A DRAINAGE DEFECT, THE COUNTY SHALL:~~

~~(1) ARRANGE TO COMPLETE THE REQUIRED CORRECTION WITHIN 1 YEAR OF THE DATE OF THE FILING OF THE COMPLAINT; AND~~

~~(2) SEEK REIMBURSEMENT FROM THE HOMEBUILDER FOR THE CORRECTION OF THE DRAINAGE DEFECT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

Approved by the Governor, April 30, 2019.

Chapter 351

(House Bill 225)

AN ACT concerning

Prince George's County – School Facilities ~~Surcharge~~ *and Public Safety Surcharges* – ~~Exemptions – Transit Oriented Development – Workforce Housing~~ *Maryland Transit Administration Station*

PG 415–19

FOR the purpose of ~~altering the exemptions from the Prince George's County school facilities surcharge to include mixed retirement development or elderly housing, single–family attached dwelling units located in a certain Transforming Neighborhood Initiative area, and certain multi–family housing located within a certain distance of a Metro Station or a Purple Line station; repealing certain exemptions related to certain single–family dwelling units and certain multi–family housing;~~ *adding an exemption from the Prince George's County school facilities surcharge for certain student housing designated by Bowie State University and the governing body of Prince George's County; authorizing the governing body of Prince George's County, by resolution, to exempt some or all of the school facilities surcharge*

under certain circumstances; authorizing the governing body of Prince George's County, by resolution, to impose a school facilities surcharge on new residential construction for which a building permit is issued on or before a certain date and a public safety surcharge on certain new residential construction for which a building permit has been issued by the county; providing that the school facilities surcharge applies to certain multi–family housing; setting the amount of the public safety surcharge in Prince George's County for certain residential housing constructed in an area included in a certain plan that abuts an existing or planned mass transit rail station operated by the Maryland Transit Administration under certain circumstances; requiring Prince George's County to study and make recommendations concerning the school facilities surcharge and the public safety surcharge and report to certain persons on or before a certain date; providing for a certain reduction in the school facilities surcharge in Prince George's County for certain residential housing that is constructed within a certain distance of a MARC station; providing for an exemption from the school facilities surcharge for certain dwelling units that are constructed within the Regional Transit Districts and Local Centers as defined in the approved Prince George's County General Plan or within a certain distance of a MARC station; providing for the termination of certain provisions of this Act; repealing obsolete provisions; and generally relating to the school facilities surcharge in Prince George's County.

BY repealing and reenacting, ~~without~~ *with* amendments,
The Public Local Laws of Prince George's County
Section 10–192.01(a)(1) *and 10–192.11(a)*
Article 17 – Public Local Laws of Maryland
(2015 Edition, as amended)

~~BY repealing and reenacting, with amendments,~~
~~The Public Local Laws of Prince George's County~~
~~Section 10–192.01(b)(2)~~
~~Article 17 – Public Local Laws of Maryland~~
~~(2015 Edition, as amended)~~

~~BY repealing~~
~~The Public Local Laws of Prince George's County~~
~~Section 10–192.01(b)(3) and (5)~~
~~Article 17 – Public Local Laws of Maryland~~
~~(2015 Edition, as amended)~~

BY repealing *and reenacting, with amendments,*
The Public Local Laws of Prince George's County
Section ~~10–192.01(b)(4)~~ *10–192.01(b)(4)(A)*
Article 17 – Public Local Laws of Maryland
(2015 Edition, as amended)
(As enacted by Chapter 637 of the Acts of the General Assembly of 2014 and Chapter 733 of the Acts of the General Assembly of 2016)

~~BY repealing~~
~~The Public Local Laws of Prince George's County~~
~~Section 10–192.01(b)(6)~~
~~Article 17 – Public Local Laws of Maryland~~
~~(2015 Edition, as amended)~~
~~(As enacted by Chapter 637 of the Acts of the General Assembly of 2014)~~

BY repealing and reenacting, with amendments,
The Public Local Laws of Prince George's County
Section 10–192.11(b)
Article 17 – Public Local Laws of Maryland
(2015 Edition, as amended)
(As enacted by Chapter 684 of the Acts of the General Assembly of 2013)

BY adding to
The Public Local Laws of Prince George's County
Section 10–192.01(b)(4)(D) and (b–1)
Article 17 – Public Local Laws of Maryland
(2015 Edition, as amended)

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

Article 17 – Prince George's County

10–192.01.

(a) (1) The ~~County Council~~ ***GOVERNING BODY OF PRINCE GEORGE'S COUNTY***, by ~~ordinance~~ ***RESOLUTION***, shall impose a school facilities surcharge on new residential construction for which a building permit is issued on or after July 1, 2003.

(b) ~~(2) The school facilities surcharge does not apply to~~ **[**a**]:**

~~**(A) A** mixed retirement development or elderly housing~~**; OR**

~~**(B) A SINGLE–FAMILY ATTACHED DWELLING UNIT IF THE SINGLE–FAMILY DWELLING UNIT IS LOCATED IN A TRANSFORMING NEIGHBORHOOD INITIATIVE (TNI) AREA; OR**~~

~~**(C) MULTI–FAMILY HOUSING THAT IS LOCATED WITHIN ONE–QUARTER MILE OF A METRO STATION OR A PURPLE LINE STATION IF THE MULTI–FAMILY HOUSING IS CONSTRUCTED UNDER A GOVERNMENT REGULATION OR BINDING AGREEMENT THAT DESIGNATES AT LEAST 25% OF THE DWELLING UNITS FOR AT LEAST 30 YEARS AS AFFORDABLE HOUSING FOR RESIDENTS WHOSE INCOME DOES NOT EXCEED 80% OF THE AREA MEDIAN INCOME FOR PRINCE GEORGE'S**~~

~~COUNTY ESTABLISHED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.~~

~~[(3) The school facilities surcharge does not apply to a single–family detached dwelling that is to be built or subcontracted by an individual owner in a minor subdivision and that is intended to be used as the owner's personal residence.~~

(4) (A) The school facilities surcharge does not apply to multi–family housing ~~designated~~**:**

(I) ***DESIGNATED*** as student housing that is located in the area within the campus of Capitol Technology University located adjacent to and east of Springfield Road in Parcels 1 and 2 in the subdivision of land known as "Parcels 1 and 2, Capitol Institute of Technology", as per plat recorded in Plat Book NLP 115 at Plat 31 among the Land Records of Prince George's County, Maryland**;**

(II) DESIGNATED AS STUDENT HOUSING BY BOWIE STATE UNIVERSITY AND THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY THAT IS LOCATED WITHIN 1 MILE OF BOWIE STATE UNIVERSITY.

~~(B) (i) Subject to subsubparagraph (ii) of this subparagraph, the school facilities surcharge does not apply to multi–family housing that is located in the City of College Park and designated as graduate student housing by the City of College Park.~~

~~(ii) The County Council may, by Resolution, reverse a designation by the City of College Park of multi–family housing as graduate student housing within 60 days of the designation.~~

~~(C) If the housing is converted from student housing or graduate student housing to multi–family housing for the general population, the owner of the property shall pay, at the time of the conversion, the school facilities surcharge in accordance with the laws at the time of the conversion.~~

~~(5) The school facilities surcharge does not apply to a single–family dwelling unit that is to be built or subcontracted by an individual owner to replace on the same lot a previously existing single–family dwelling unit that was destroyed by fire, explosion, or a natural disaster if the single–family dwelling unit is:~~

~~(A) Similar to the previously existing single–family dwelling unit; and~~

~~(B) Owned and occupied by the same individual who owned and occupied the previously existing single–family dwelling unit.~~

~~(6) The school facilities surcharge does not apply to a single–family attached dwelling unit if the single–family dwelling unit is:~~

~~(A) Located in a residential revitalization project;~~

~~(B) Located in the Developed Tier as defined in the Prince George's County General Plan;~~

~~(C) Located in a Transforming Neighborhood Initiative (TNI) area;~~

~~(D) Located on the same property as previously existing multi–family dwelling units;~~

~~(E) Developed at a lower density than the previously existing multi–family dwelling units;~~

~~(F) Offered for sale only on a fee simple basis; and~~

~~(G) Located on a property that is less than 6 acres in size.~~**]**

(D) TO PROMOTE THE GOALS OF THE UNIVERSITY DISTRICT VISION 2020, AS THAT VISION OR PLAN MAY BE AMENDED FROM TIME TO TIME, ON RECOMMENDATION OF THE CITY OF COLLEGE PARK, THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY, BY RESOLUTION, MAY EXEMPT SOME OR ALL OF THE SCHOOL FACILITIES SURCHARGE FOR UNDERGRADUATE STUDENT HOUSING BUILT WEST OF U.S. ROUTE 1, NORTH OF KNOX ROAD, AND SOUTH OF METZEROTT ROAD.

10–192.11.

(a) The ***[****County Council****]*** ***GOVERNING BODY OF PRINCE GEORGE'S COUNTY****, by* ***[****ordinance****]*** ***RESOLUTION****, may impose a public safety surcharge on new residential construction for which a* ***[****Preliminary Plan has been approved on or after July 1, 2005****]*** ***BUILDING PERMIT IS ISSUED BY THE COUNTY****.*

(b) (1) Except as provided in paragraph (3) of this Subsection, a public safety surcharge imposed on a single–family detached dwelling, town house, or dwelling unit for any other building containing more than a single dwelling unit shall be in the amount of:

(A) Six Thousand Dollars ($6,000); or

(B) Two Thousand Dollars ($2,000) for construction in:

(i) The ***[****Developed Tier****]*** ***TRANSPORTATION SERVICE AREA 1****, as defined by the Maryland–National Capital Park and Planning Commission in the Prince George's County Approved General Plan; and*

(ii) An area included in a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington

Metropolitan Area Transit Authority ***OR BY THE MARYLAND TRANSIT ADMINISTRATION*** *and complies with the requirements of any sector plan, master plan, or overlay zone approved by the Prince George's County District Council.*

(2) The public safety surcharge does not apply to a single–family detached dwelling that is to be built or subcontracted by an individual owner in a minor subdivision and that is intended to be used as the owner's personal residence.

(3) The governing body of Prince George's County may waive any surcharge imposed under subsection (b)(1)(B) of this Section.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 17 – Prince George's County

10–192.01.

(B–1) (1) THE SCHOOL FACILITIES SURCHARGE UNDER THIS SECTION SHALL BE REDUCED BY 50% FOR MULTI–FAMILY HOUSING PROJECTS, WITH A BUILDING PERMIT ISSUED ON OR AFTER APRIL 1, 2019, CONSTRUCTED:

(A) WITHIN AN APPROVED TRANSIT DISTRICT OVERLAY ZONE; OR

(B) WHERE THERE IS NO APPROVED TRANSIT DISTRICT OVERLAY ZONE, WITHIN ONE–QUARTER MILE OF A METRO STATION OR A MARC STATION.

(2) THE SCHOOL FACILITIES SURCHARGE UNDER THIS SECTION DOES NOT APPLY TO A DWELLING UNIT THAT IS A STUDIO APARTMENT OR AN EFFICIENCY APARTMENT IF THE DWELLING UNIT IS LOCATED:

(A) WITHIN THE REGIONAL TRANSIT DISTRICTS AND LOCAL CENTERS (GROWTH POLICY AREAS), AS DEFINED IN THE APPROVED PRINCE GEORGE'S COUNTY GENERAL PLAN (PLAN 2035), INCLUDING IN THE AREA OF THE APPROVED 2010 CENTRAL US 1 CORRIDOR APPROVED SECTOR PLAN AND SECTIONAL MAP AMENDMENT;

(B) WITHIN AN APPROVED TRANSIT DISTRICT OVERLAY ZONE; OR

(C) WHERE THERE IS NO APPROVED TRANSIT DISTRICT OVERLAY ZONE, WITHIN ONE–QUARTER MILE OF A METRO STATION OR A MARC STATION.

(3) THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY MAY REDUCE THE SCHOOL FACILITIES SURCHARGE BY A PERCENTAGE NOT EXCEEDING 50% FOR DWELLING UNITS IN MULTI–FAMILY HOUSING CONSTRUCTED WHERE THERE IS NO APPROVED TRANSIT DISTRICT OVERLAY ZONE, WITHIN ONE–QUARTER MILE OF A PURPLE LINE STATION.

SECTION 3. AND BE IT FURTHER ENACTED, That Prince George's County shall:

(1) review and make recommendations on the impact of the school facilities surcharge and the public safety surcharge and the need for any changes to the surcharges, including whether changes to the school facilities surcharge and the public safety surcharge might have a positive impact on the ability to construct and maintain affordable housing; and

(2) on or before December 1, 2020, report its findings to the Prince George's County Council, the Prince George's County School Board, and, in accordance with § 2–1246 of the State Government Article, the members of the Prince George's County Delegation to the General Assembly.

SECTION ~~2.~~ *4.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019. *Sections 2 and 3 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2021, Sections 2 and 3 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.*

Approved by the Governor, April 30, 2019.

Chapter 352

(House Bill 1362)

AN ACT concerning

Prince George's County Environmental Justice Commission – Alterations and Extension

PG 421–19

FOR the purpose of altering the composition of the Prince George's County Environmental Justice Commission to include ~~the Prince George's County State's Attorney or the State's Attorney's designee~~ certain individuals; altering the date by which the Commission is required to report certain findings and recommendations to the Prince George's County House Delegation; extending the termination date of the

Commission; and generally relating to the Prince George's County Environmental Justice Commission.

BY repealing and reenacting, with amendments,
Chapter 779 of the Acts of the General Assembly of 2018
Section 1 and 2

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

Chapter 779 of the Acts of 2018

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Prince George's County Environmental Justice Commission.

(b) The Commission consists of the following members:

(1) the County Executive of Prince George's County, or the County Executive's designee;

(2) the chair of the Prince George's County Council, or the chair's designee;

(3) THE PRINCE GEORGE'S COUNTY STATE'S ATTORNEY, OR THE STATE'S ATTORNEY'S DESIGNEE;

[(3)**]** **(4)** the Director of the Prince George's County Department of the Environment, or the Director's designee;

[(4)**]** **(5)** the Director of the Prince George's County Department of Permitting, Inspections and Enforcement, or the Director's designee;

(6) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;

(7) ONE REPRESENTATIVE OF THE PRINCE GEORGE'S COUNTY DEPARTMENT OF HEALTH, ENVIRONMENTAL HEALTH/DISEASE CONTROL DIVISION, APPOINTED BY THE CHAIR OF THE COMMISSION;

(8) ONE REPRESENTATIVE OF THE BUSINESS COMMUNITY OPERATING IN PRINCE GEORGE'S COUNTY, DESIGNATED BY THE PRINCE GEORGE'S COUNTY CHAMBER OF COMMERCE;

[(5)**]** ~~**(6)**~~ **(9)** one representative of an environmental organization that works on environmental justice issues in Prince George's County, appointed by the chair of the Commission; and

[(6)**]** ~~**(7)**~~ **(10)** two members of the public who reside in Prince George's County, appointed by the chair of the Commission.

(c) The chair of the Prince George's County House Delegation shall designate the chair of the Commission.

(d) The Prince George's County Department of the Environment shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Commission shall:

(1) study environmental justice issues in Prince George's County; and

(2) make recommendations regarding:

(i) actions that should be taken to address environmental justice issues in Prince George's County; and

(ii) whether the duration of the Commission should be extended.

(g) On or before December 31, **[**2018**]** **2019**, the Commission shall report its findings and recommendations **WITH A PLAN OF ACTION** to the Prince George's County House Delegation in accordance with § 2–1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018. It shall remain effective for a period of **[**1 year**]** **2 YEARS** and 1 month and, at the end of June 30, **[**2019**]** **2020**, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

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

Approved by the Governor, April 30, 2019.

Chapter 353

(House Bill 1157)

AN ACT concerning

Prince George's County – ~~Alcoholic Beverages – Transfer of Class A Off–Sale Licenses and Permits~~ *Workgroup on Alcohol Outlet Density Zones*

PG 303–19

FOR the purpose of ~~repealing a limitation on the number of Sunday off–sale permits that the Board of License Commissioners for Prince George's County may issue; authorizing the Board of License Commissioners for Prince George's County to approve the transfer of a Class A beer, wine, and liquor license from a certain alcoholic beverages district any off–sale retail license from an alcohol outlet density zone in the county to another location in the county under certain circumstances;~~ establishing a Workgroup on Alcohol Outlet Density Zones in Prince George's County; providing for the membership, chair, and staffing of the Workgroup; prohibiting a member of the Workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; ~~requiring~~ *authorizing* the Workgroup to ~~designate~~ *identify* certain areas as alcohol outlet density zones; requiring the Workgroup to report its recommendations to the House and Senate delegations for Prince George's County and the Board of License Commissioners on or before a certain date; ~~requiring the Board of License Commissioners to adopt rules designating the alcohol outlet density zones on or before a certain date; providing for the effective date of certain provisions of this Act; making certain provisions of this Act subject to a certain contingency;~~ providing for the termination of ~~certain provisions of~~ this Act; and generally relating to alcoholic beverages ~~licenses and permits~~ in Prince George's County.

~~BY repealing and reenacting, without amendments,~~
~~Article – Alcoholic Beverages~~
~~Section 26–102~~
~~Annotated Code of Maryland~~
~~(2016 Volume and 2018 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Alcoholic Beverages~~
~~Section 26–1104 and 26–1603(a)~~
~~Annotated Code of Maryland~~
~~(2016 Volume and 2018 Supplement)~~

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

~~**Article – Alcoholic Beverages**~~

~~26–102.~~

~~This title applies only in Prince George's County.~~

~~26–1104.~~

~~(a) There is a Sunday off–sale permit.~~

~~(b) (1) (i) Subject to [subsection (f) of this section and] subparagraphs (ii) and (iii) of this paragraph, and except as provided in paragraph (2) of this subsection, the Board may issue the permit to the holder of:~~

~~1. a Class A beer, wine, and liquor license; or~~

~~2. a Class B beer, wine, and liquor license with an off–sale privilege.~~

~~(ii) Five Sunday off–sale permits may be issued only to holders of a Class B beer, wine, and liquor license with an off–sale privilege that acquired the license on or after January 1, 2016.~~

~~(iii) Sunday off–sale permits may be issued to holders of a Class A beer, wine, and liquor license that acquired the license on or after January 1, 2016.~~

~~(2) The Board may not issue a Sunday off–sale permit to a license holder that the Board finds to have sold liquor on Sunday without a Sunday off–sale permit.~~

~~(c) The permit authorizes the holder to sell alcoholic beverages for off–premises consumption on Sunday from 8 a.m. to midnight.~~

~~(d) (1) Except as provided in paragraph (2) of this subsection, an applicant for the permit shall commit in the application to reinvesting a minimum of $50,000 in the business within 1 year after the permit is issued.~~

~~(2) (i) The Board may waive the reinvestment requirement.~~

~~(ii) The Board shall waive the reinvestment requirement for a holder of a Class B beer, wine, and liquor license with an off–sale privilege that acquired the license on or after January 1, 2016, if the holder can show that a minimum of $50,000 was reinvested in the business within the 3–year period immediately preceding the submission of the application.~~

~~(3) The Board shall revoke the permit if:~~

~~(i) the Board did not waive the reinvestment requirement under paragraph (2) of this subsection; and~~

~~(ii) the permit holder fails to make the required reinvestment.~~

~~(e) If the permit is issued to the holder of a Class B beer, wine, and liquor license with an off–sale privilege, the holder need not comply with any restaurant or food requirement.~~

~~(f) [Not more than 105 Sunday off–sale permits may be in effect at any one time.~~

~~(g)]~~ ~~(1) The application fee for the permit is $750.~~

~~(2) The annual fees for the permit are:~~

~~(i) $2,590 for the holder of a Class A beer, wine, and liquor license; and~~

~~(ii) $1,080 for the holder of a Class B beer, wine, and liquor license with an off–sale privilege.~~

~~(3) The fees listed in paragraphs (1) and (2) of this subsection are in addition to the annual fee for the Class A beer, wine, and liquor license or Class B beer, wine, and liquor license to which it is attached.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article – Alcoholic Beverages~~

~~26–1603.~~

~~(a) (1) Except as provided in paragraphs (2)~~ **[**~~and (3)~~**]** **THROUGH (4)** ~~of this subsection, the Board may not issue a new license with an off–sale privilege in, or approve the transfer of a license with an off–sale privilege into, a part of the 21st, 22nd, 23rd, 24th, 25th, 26th, 27th, or 47th alcoholic beverages district in the county.~~

~~(2) The Board may issue a license in or approve the transfer of a license into an area specified in paragraph (1) of this subsection if the off–sale privilege of the license is waived.~~

~~(3) The Board may convert one Class D (on–sale) beer and wine license issued for premises in the 7100 block of Baltimore Avenue in College Park to a Class D (on– and off–sale) beer and wine license for premises in the 7100 to 7200 block of Baltimore Avenue in College Park.~~

~~**(4) THE BOARD MAY APPROVE THE TRANSFER OF A CLASS A BEER, WINE, AND LIQUOR ANY RETAIL LICENSE WITH OFF–SALE PRIVILEGES FROM THE 24TH ALCOHOLIC BEVERAGES DISTRICT AN ALCOHOL OUTLET DENSITY ZONE IN THE COUNTY TO ANOTHER LOCATION IN THE COUNTY IF:**~~

~~**(I) THE APPLICANT HAS A CAPITAL INVESTMENT OF AT LEAST $500,000 IN INTERIOR IMPROVEMENTS IN THE ESTABLISHMENT AT THE NEW LOCATION; AND**~~

~~**(II) THE TRANSFER IS APPROVED BY THE COUNTY EXECUTIVE THE LICENSE IS NOT TRANSFERRED INTO ANOTHER ALCOHOL OUTLET DENSITY ZONE.**~~

~~SECTION 3. AND BE IT FURTHER ENACTED~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Workgroup on Alcohol Outlet Density Zones in Prince George's County.

(b) The Workgroup consists of the following members:

(1) the County Executive for Prince George's County, or the County Executive's designee;

(2) the Director of the Prince George's County Department of Health, or the Director's designee;

(3) *the Dean of the University of Maryland School of Public Health, or the Dean's designee;*

(4) the Chair of the Board of License Commissioners, or the Chair's designee;

~~(4)~~ *(5)* two community members, one each appointed by the House and Senate delegations for Prince George's County;

~~(5)~~ *(6)* one member of the House of Delegates, appointed by the Speaker of the House;

~~(6)~~ *(7)* one member of the Senate of Maryland, appointed by the President of the Senate;

~~(7)~~ *(8)* the Prince George's County Police Chief, or the Chief's designee; and

~~(8)~~ *(9)* the Director of the Department of Permitting, Inspections, and Enforcement, or the Director's designee.

(c) The Chair of the Prince George's County House Delegation shall designate the chair of the Workgroup.

(d) The Maryland National Capital Park and Planning Commission shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) (1) In accordance with the Centers for Disease Control and Prevention's Guide for Measuring Alcohol Outlet Density, the Workgroup ~~shall designate~~ *may identify potential* areas with a high concentration of off–sale retail licenses as alcohol outlet density zones.

(2) In making the ~~designation~~ *identification of potential areas* under paragraph (1) of this subsection, the Workgroup ~~shall~~ *may*:

(i) ~~designate~~ *propose* as an alcohol outlet density zone ~~each~~ *any* area that has 1.15 off–sale retail license holders or more per square mile; and

(ii) consider any other relevant factors determined by the Workgroup.

(g) On or before December 1, 2019, the Workgroup shall submit its recommendations, in accordance with § 2–1246 of the State Government Article, to the House and Senate delegations for Prince George's County and the Board of License Commissioners for Prince George's County.

~~(h) On or before June 1, 2020, the Board of License Commissioners shall adopt rules designating the alcohol outlet density zones in accordance with the recommendations of the Workgroup.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act is contingent on the adoption of rules by the Board of License Commissioners for Prince George's County designating the alcohol outlet density zones. The Board of License Commissioners shall notify the Department of Legislative Services within 5 days after the rules are adopted. If the Department of Legislative Services does not receive notice of the adoption of the rules on or before December 31, 2020, Section 2 of this Act, with no further action required by the General Assembly, shall be null and void.~~

~~SECTION 2. 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2019. Section 3 of this Act shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2020, Section 3 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019. It shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, April 30, 2019.

Chapter 354

(House Bill 1279)

AN ACT concerning

Maryland–National Capital Park and Planning Commission – Procurement – Source Selection

MC/PG 112–19

FOR the purpose of requiring the Maryland–National Capital Park and Planning Commission to adopt certain procurement regulations relating to source selection; authorizing the Commission to adopt certain regulations establishing a minority business enterprise program ~~under certain circumstances~~ *if the Commission makes a certain determination*; authorizing the Commission to adopt certain regulations establishing a local small business enterprise program; requiring the Commission to report each year to certain persons on the effectiveness of certain programs; repealing certain provisions relating to a minority business enterprise program in the Commission on a certain date; ~~requiring the Special Secretary for the Office of Small, Minority, and Women Business Affairs and the Secretary of Transportation to ensure that the Commission is provided with certain technical assistance to implement this Act~~ *requiring the Commission, in consultation with a certain certification agency, to complete a study to evaluate whether there is a compelling interest to implement certain remedial measures to assist minorities and women in participating in Commission procurement contracts; requiring a certain certification agency to consult with the Commission to identify information necessary to make a certain determination; requiring the Commission to obtain and provide certain information to the certification agency; requiring the Commission to make certain evaluations; requiring the Commission to report the findings of a certain study to certain persons on or before a certain date*; authorizing the governing bodies of

Montgomery County and Prince George's County to provide certain funding for the implementation of this Act in a certain manner; defining certain terms; providing for a delayed effective date for certain provisions of this Act; and generally relating to procurement activities of the Maryland–National Capital Park and Planning Commission.

BY adding to
Article – Land Use
Section 15–201 through 15–205 to be under the new subtitle "Subtitle 2. Procurement"
Annotated Code of Maryland
(2012 Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Land Use
Section 15–201 and 15–205
Annotated Code of Maryland
(2012 Volume and 2018 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, without amendments,
Article – Land Use
Section 15–202 and 15–204
Annotated Code of Maryland
(2012 Volume and 2018 Supplement)
(As enacted by Section 1 of this Act)

BY repealing
Article – Land Use
Section 15–203
Annotated Code of Maryland
(2012 Volume and 2018 Supplement)
(As enacted by Section 1 of this Act)

Preamble

WHEREAS, As provided by Chapter 340 of the Acts of the General Assembly of 2017, the General Assembly has received and reviewed the disparity study entitled "Business Disparities in the Maryland Market Area", published February 8, 2017; and

WHEREAS, Based on a review of the disparity study, the General Assembly found that there are substantial adverse disparities that are consistent with discrimination against businesses owned by minorities and women; and

WHEREAS, The General Assembly finds that the elimination of discrimination against businesses owned by minorities and women is of paramount importance to the future welfare of the State; and

WHEREAS, The State of Maryland wishes to provide all of its citizens with equal access to business formation and growth opportunities; and

WHEREAS, The Maryland–National Capital Park and Planning Commission is an independent bicounty agency of the State that procures goods and services within a geographical marketplace of particular interest to the State; and

WHEREAS, The Commission has reported that utilization of businesses owned by minorities and women declined after it ceased operating a minority business enterprise program on the abrogation of the authority provided under Chapter 256 of the Acts of the General Assembly of 1995; and

~~WHEREAS, The General Assembly desires for the Commission to assess, based on the disparity study and other legally relevant data, whether the Commission has underutilized minority business enterprises relative to their availability to perform work in the procurement categories in which the State does business; and~~

~~WHEREAS, Subject to the Commission's determination that such a legally significant disparity or underutilization exists, the General Assembly desires to authorize~~

WHEREAS, The General Assembly desires for the Commission to assess whether there is a basis for the Commission to implement remedial measures for minority– and women–owned businesses; and

WHEREAS, Subject to the Commission's determination that there is a basis for the Commission to implement remedial measures for minority– and women–owned firms that seek to do business with the Commission, the General Assembly desires to authorize the Commission to adopt and implement a minority business enterprise procurement program to augment the efforts of the State under Chapter 340 of the Acts of the General Assembly of 2017; and

WHEREAS, The General Assembly further desires to authorize the Commission to implement a local small business enterprise program as a method of enhancing the participation of employers that are based locally within Montgomery County and Prince George's County; now, therefore,

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

Article – Land Use

SUBTITLE 2. PROCUREMENT.

15–201.

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

(B) "CERTIFICATION" MEANS THE DETERMINATION THAT A LEGAL ENTITY IS A MINORITY BUSINESS ENTERPRISE UNDER TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) "CERTIFICATION AGENCY" MEANS THE AGENCY DESIGNATED BY THE BOARD OF PUBLIC WORKS UNDER § 14–303(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE TO CERTIFY AND DECERTIFY MINORITY BUSINESS ENTERPRISES.

(D) "CERTIFIED MINORITY BUSINESS ENTERPRISE" MEANS A MINORITY BUSINESS ENTERPRISE THAT HOLDS A VALID CERTIFICATION ISSUED BY THE CERTIFICATION AGENCY.

(E) "LOCAL SMALL BUSINESS ENTERPRISE" MEANS A BUSINESS ENTERPRISE THAT:

(1) HAS ITS PRINCIPAL PLACE OF OPERATION IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY; AND

(2) HAS BEEN CERTIFIED AS A SMALL BUSINESS ENTERPRISE BY A UNIT OF COUNTY GOVERNMENT THAT HAS JURISDICTION OVER PROCUREMENT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(F) "MINORITY BUSINESS ENTERPRISE" HAS THE SAME MEANING AS PROVIDED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

~~**(G) "STUDY" MEANS THE DISPARITY STUDY COMMISSIONED BY THE GENERAL ASSEMBLY OF MARYLAND ENTITLED "BUSINESS DISPARITIES IN THE MARYLAND MARKET AREA" PUBLISHED ON FEBRUARY 8, 2017.**~~

15–202.

THE COMMISSION SHALL ADOPT PROCUREMENT REGULATIONS CONSISTENT WITH THE STANDARDS AND METHODS FOR SOURCE SELECTION PROVIDED IN TITLE 13, SUBTITLE 1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

15–203.

(A) THE PROCUREMENT REGULATIONS ADOPTED IN ACCORDANCE WITH § 15–202 OF THIS SUBTITLE MAY INCLUDE A MINORITY BUSINESS ENTERPRISE ~~**PROGRAM IF THE COMMISSION DETERMINES, BASED ON THE STUDY AND OTHER**~~

~~LEGALLY RELEVANT DATA, THAT THE COMMISSION HAS UNDERUTILIZED MINORITY BUSINESS ENTERPRISES RELATIVE TO THEIR AVAILABILITY TO PERFORM WORK IN THE PROCUREMENT CATEGORIES IN WHICH THE STATE DOES BUSINESS, INCLUDING GOODS, SERVICES, AND CONSTRUCTION.~~ *PROGRAM IF THE COMMISSION DETERMINES THAT THERE IS A COMPELLING INTEREST TO IMPLEMENT REMEDIAL MEASURES TO ASSIST MINORITY– AND WOMEN–OWNED BUSINESSES WHO WISH TO PARTICIPATE IN COMMISSION PROCUREMENT CONTRACTS.*

(B) THE REGULATIONS TO ESTABLISH A MINORITY BUSINESS ENTERPRISE PROGRAM MAY INCLUDE:

(1) PROCEDURES TO BE FOLLOWED BY STAFF, PROSPECTIVE CONTRACTORS, AND SUCCESSFUL BIDDERS OR OFFERORS TO MAXIMIZE NOTICE TO, AND THE OPPORTUNITY TO PARTICIPATE IN THE PROCUREMENT PROCESS BY, A BROAD RANGE OF MINORITY BUSINESS ENTERPRISES;

~~**(2) PROVISIONS TO EXTEND REASONABLE COMPETITIVE PREFERENCES FOR CERTIFIED MINORITY BUSINESS ENTERPRISES OR GOALS FOR UTILIZATION OF CERTIFIED MINORITY BUSINESS ENTERPRISES IN PARTICULAR PROCUREMENT ACTIVITIES UNDER APPROPRIATE CIRCUMSTANCES; AND**~~

(2) TO THE EXTENT AUTHORIZED BY STATE AND FEDERAL LAW BASED ON THE FINDINGS OF AN APPROPRIATE STUDY OR ANALYSIS, PROVISIONS TO EXTEND REASONABLE COMPETITIVE PREFERENCES FOR CERTIFIED MINORITY BUSINESS ENTERPRISES OR GOALS FOR UTILIZATION OF CERTIFIED MINORITY BUSINESS ENTERPRISES IN PARTICULAR PROCUREMENT ACTIVITIES UNDER APPROPRIATE CIRCUMSTANCES; AND

(3) TO THE EXTENT APPLICABLE TO COMMISSION PROCUREMENT ACTIVITIES, PROVISIONS COMPARABLE IN PURPOSE AND EFFECT TO ANY REGULATIONS ADOPTED BY THE STATE IN ACCORDANCE WITH § 14–303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

15–204.

(A) THE COMMISSION'S PROCUREMENT REGULATIONS MAY ESTABLISH A LOCAL SMALL BUSINESS ENTERPRISE PROGRAM TO ENCOURAGE LOCAL SMALL BUSINESS ENTERPRISE PARTICIPATION IN APPROPRIATE PROCUREMENT ACTIVITIES.

(B) THE REGULATIONS ADOPTED IN ACCORDANCE WITH THIS SECTION MAY INCLUDE:

(1) PROCEDURES FOR RELIABLE DOCUMENTATION OF A BUSINESS ENTITY'S OFFICIAL DESIGNATION BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY AS A LOCAL SMALL BUSINESS ENTERPRISE;

(2) PROCEDURES TO BE FOLLOWED BY STAFF, PROSPECTIVE CONTRACTORS, AND SUCCESSFUL BIDDERS OR OFFERORS TO MAXIMIZE NOTICE TO, AND THE OPPORTUNITY TO PARTICIPATE IN THE PROCUREMENT PROCESS BY, A BROAD RANGE OF LOCAL SMALL BUSINESS ENTERPRISES; AND

(3) PROVISIONS TO:

(I) EXTEND REASONABLE COMPETITIVE PREFERENCES FOR LOCAL SMALL BUSINESS ENTERPRISES;

(II) ESTABLISH PROCUREMENT GOALS OF UTILIZATION OF LOCAL SMALL BUSINESS ENTERPRISES; AND

(III) RESERVE PARTICULAR PROCUREMENT ACTIVITIES FOR LOCAL SMALL BUSINESS ENTERPRISES UNDER APPROPRIATE CIRCUMSTANCES.

15–205.

ON OR BEFORE OCTOBER 31 EACH YEAR, THE COMMISSION SHALL REPORT TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY DELEGATIONS TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE EFFECTIVENESS OF ANY MINORITY BUSINESS ENTERPRISE PROGRAM OR LOCAL SMALL BUSINESS ENTERPRISE PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Land Use

15–201.

[(a)**]** In this **[**subtitle the following words have the meanings indicated.

(b) "Certification" means the determination that a legal entity is a minority business enterprise under Title 14, Subtitle 3 of the State Finance and Procurement Article.

(c) "Certification agency" means the agency designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article to certify and decertify minority business enterprises.

(d) "Certified minority business enterprise" means a minority business enterprise that holds a valid certification issued by the certification agency.

(e) "Local**]** **SUBTITLE, "LOCAL** small business enterprise" means a business enterprise that:

(1) has its principal place of operation in Montgomery County or Prince George's County; and

(2) has been certified as a small business enterprise by a unit of county government that has jurisdiction over procurement in Montgomery County or Prince George's County.

~~**[**(f) "Minority business enterprise" has the same meaning as provided in § 14–301 of the State Finance and Procurement Article.~~

~~(g) "Study" means the disparity study commissioned by the General Assembly of Maryland entitled "Business Disparities in the Maryland Market Area" published on February 8, 2017.**]**~~

15–202.

The Commission shall adopt procurement regulations consistent with the standards and methods for source selection provided in Title 13, Subtitle 1 of the State Finance and Procurement Article.

[15–203.

(a) The procurement regulations adopted in accordance with § 15–202 of this subtitle may include a minority business enterprise program if the Commission determines~~, based on the study and other legally relevant data, that the Commission has underutilized minority business enterprises relative to their availability to perform work in the procurement categories in which the State does business, including goods, services, and construction~~ *that there is a compelling interest to implement remedial measures to assist minority– and women–owned businesses who wish to participate in Commission procurement contracts*.

(b) The regulations to establish a minority business enterprise program may include:

(1) procedures to be followed by staff, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises;

~~(2) provisions to extend reasonable competitive preferences for certified minority business enterprises or goals for utilization of certified minority business enterprises in particular procurement activities under appropriate circumstances; and~~

(2) to the extent permitted by State and federal law based on the findings of an appropriate study or analysis, provisions to extend reasonable competitive preferences for certified minority business enterprises or goals for utilization of certified minority business enterprises in particular procurement activities under appropriate circumstances; and

(3) to the extent applicable to Commission procurement activities, provisions comparable in purpose and effect to any regulations adopted by the State in accordance with § 14–303 of the State Finance and Procurement Article.**]**

15–204.

(a) The Commission's procurement regulations may establish a local small business enterprise program to encourage local small business enterprise participation in appropriate procurement activities.

(b) The regulations adopted in accordance with this section may include:

(1) procedures for reliable documentation of a business entity's official designation by Montgomery County or Prince George's County as a local small business enterprise;

(2) procedures to be followed by staff, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of local small business enterprises; and

(3) provisions to:

(i) extend reasonable competitive preferences for local small business enterprises;

(ii) establish procurement goals of utilization of local small business enterprises; and

(iii) reserve particular procurement activities for local small business enterprises under appropriate circumstances.

15–205.

On or before October 31 each year, the Commission shall report to the Montgomery County and Prince George's County Delegations to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the effectiveness of any **[**minority business enterprise program or**]** local small business enterprise program established under this subtitle.

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Special Secretary for the Office of Small, Minority, and Women Business Affairs and the Secretary of Transportation~~

~~shall ensure that the Commission is provided with appropriate technical assistance to implement this Act, including providing any information relating to the disparity study entitled "Business Disparities in the Maryland Market Area" published on February 8, 2017, that may be necessary or appropriate for the Commission to evaluate whether or the extent to which minority business enterprises may have been underutilized.~~

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Commission, in consultation with the certification agency designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article and the Office of the Attorney General, shall complete a study, which may include an analysis of the disparity study as set forth in subsection (b) of this section, to evaluate whether there is a compelling interest to implement remedial measures, including a program comparable to the State Minority Business Enterprise Program under Title 14, Subtitle 3 of the State Finance and Procurement Article, to assist minorities and women in participating in Commission procurement contracts.

(b) (1) The certification agency shall consult with the Commission to identify the information necessary to determine whether the disparity study entitled "Business Disparities in the Maryland Market Area", published on February 8, 2017, applies to the types of goods and services procured by the Commission.

(2) The Commission shall obtain and provide information to the certification agency that the certification agency requires to make the determination under paragraph (1) of this subsection.

(c) In performing the study required under subsection (a) of this section, the Commission shall evaluate race–neutral programs or other methods that may be used to address the needs of minority– and women–owned businesses seeking to participate in Commission procurement contracts.

(d) On or before January 1, 2020, the Commission shall report to the Montgomery County and Prince George's County delegations to the General Assembly and the Legislative Policy Committee, in accordance with § 2–1246 of the State Government Article, on the findings of the study required under subsection (a) of this section.

SECTION 4. AND BE IT FURTHER ENACTED, That the governing bodies of Montgomery County and Prince George's County may provide for the funding necessary to implement this Act, including funding required for the Commission to conduct any study or analysis required to determine whether *there is discrimination against* minority business enterprises or *whether* local small business enterprises have been underutilized, through the operating budget of the Commission.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2022.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect June 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 355

(House Bill 127)

AN ACT concerning

Health Insurance – Health Benefit Plans – Special Enrollment Period for Pregnancy

FOR the purpose of requiring certain health benefit plans and certain carriers to provide a special enrollment period during which certain individuals who become pregnant may enroll in a health benefit plan; establishing the duration of the special enrollment period; establishing certain effective dates of coverage for certain individuals enrolled in certain health benefit plans during the special enrollment period; defining a certain term; providing for the application of this Act; requiring the Maryland Health Benefit Exchange to report to certain committees of the General Assembly on or before a certain date; making conforming changes; and generally relating to health benefit plans offered to individuals and small employers.

BY renumbering
Article – Insurance
Section 15–1201(j) through (aa), respectively
to be Section 15–1201(k) through (bb), respectively
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Insurance
Section 15–1201(j)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–1208.1(c), (e), and (f) and 15–1316
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 15–1201(j) through (aa), respectively, of Article – Insurance of the

Annotated Code of Maryland be renumbered to be Section(s) 15–1201(k) through (bb), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

15–1201.

(J) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN § 1–301 OF THE HEALTH OCCUPATIONS ARTICLE.

15–1208.1.

(c) All small employer health benefit plans shall provide a special enrollment period during which the following individuals may be enrolled under the health benefit plan:

(1) an individual who becomes a dependent of the eligible employee through marriage, birth, adoption, placement for adoption, or placement for foster care;

(2) an eligible employee who acquires a new dependent through marriage, birth, adoption, placement for adoption, placement for foster care, or through a child support order or other court order;

(3) the spouse of an eligible employee at the birth or adoption of a child, placement of a child for foster care, or through a child support order or other court order, provided the spouse is otherwise eligible for coverage; **[**and**]**

(4) at the option of the SHOP Exchange, an enrollee who is the eligible employee or the spouse of the eligible employee, if:

(i) the enrollee loses a dependent or is no longer considered to be a dependent due to divorce or legal separation; or

(ii) the employee or the employee's dependent dies**; AND**

(5) (I) AN ELIGIBLE EMPLOYEE WHO BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER; AND

(II) AN ELIGIBLE EMPLOYEE'S SPOUSE OR DEPENDENT WHO BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER, PROVIDED THE SPOUSE OR DEPENDENT IS OTHERWISE ELIGIBLE FOR COVERAGE.

(e) **(1)** The special enrollment period under subsection **[**(c)**] (C)(1) THROUGH (4)** of this section shall be a period of not less than 31 days and shall begin on the later of:

[(1)**] (I)** the date dependent coverage is made available; or

[(2)**] (II)** the date of the marriage, birth, adoption, placement for adoption, placement for foster care, child support order or other court order, divorce, legal separation, or death, whichever is applicable.

(2) THE SPECIAL ENROLLMENT PERIOD UNDER SUBSECTION (C)(5) OF THIS SECTION SHALL:

~~**(I) ALLOW FOR ENROLLMENT OF THE PREGNANT INDIVIDUAL IN A HEALTH BENEFIT PLAN AT ANY TIME AFTER THE COMMENCEMENT OF PREGNANCY, AS CERTIFIED BY A HEALTH CARE PRACTITIONER; AND**~~

~~**(II) REMAIN OPEN FOR THE DURATION OF THE PREGNANCY.**~~

(I) BE OPEN FOR A PERIOD OF 90 DAYS; AND

(II) BEGIN ON THE DATE A HEALTH CARE PRACTITIONER CONFIRMS THE PREGNANCY.

(f) **(1)** If an eligible employee enrolls any of the individuals described in subsection **[**(c)**] (C)(1) THROUGH (4)** of this section during the first 31 days of the special enrollment period, the coverage shall become effective as follows:

[(1)**] (I)** in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

[(2)**] (II)** in the case of a dependent's birth, as of the date of the dependent's birth;

[(3)**] (III)** in the case of a dependent's adoption or placement for adoption, the date of adoption or placement for adoption, whichever occurs first;

[(4)**] (IV)** in the case of a dependent's placement for foster care, the date of placement; and

[(5)**] (V)** in the case of a dependent added due to a child support order or any other court order:

[(i)**] 1.** the date the child support order or other court order is effective; or

[(ii)**]** **2.** for SHOP Exchange plans, if the SHOP Exchange permits the eligible employee to select an effective date based on the date the plan selection is received by the SHOP Exchange:

[1.**] A.** the first day of the month following receipt of the plan selection, if the plan selection is received between the first and fifteenth day, inclusive, of the month; and

[2.**] B.** the first day of the second month following receipt of the plan selection, if the plan selection is received between the sixteenth and the last day, inclusive, of the month.

(2) IF AN ELIGIBLE EMPLOYEE ENROLLS AN INDIVIDUAL DESCRIBED IN SUBSECTION (C)(5) OF THIS SECTION IN A HEALTH BENEFIT PLAN, THE COVERAGE SHALL BECOME EFFECTIVE ~~NOT LATER THAN~~ ON THE FIRST DAY OF THE MONTH IN WHICH THE INDIVIDUAL RECEIVES ~~CERTIFICATION~~ CONFIRMATION OF PREGNANCY.

15–1316.

(a) (1) In this section the following words have the meanings indicated.

(2) "Dependent" means an individual who is or who may become eligible for coverage under the terms of a health benefit plan because of a relationship with another individual.

(3) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN § 1–301 OF THE HEALTH OCCUPATIONS ARTICLE.

[(3)**] (4)** "Qualifying coverage in an eligible employer–sponsored plan" has the meaning stated in 45 C.F.R. § 155.300.

(b) (1) Beginning November 15, 2014, unless an alternative date is adopted by the federal Department of Health and Human Services, a carrier that sells health benefit plans to individuals in the State shall establish an annual open enrollment period.

(2) The annual open enrollment period for 2014 shall begin on November 15, 2014, and extend through January 15, 2015, unless alternative dates are adopted by the federal Department of Health and Human Services.

(3) The annual open enrollment period for years beginning on and after January 1, 2015, shall be the dates adopted by the federal Department of Health and Human Services.

(4) During the annual open enrollment period, an individual shall be permitted to:

(i) enroll in a health benefit plan offered by the carrier;

(ii) discontinue enrollment in a health benefit plan offered by the carrier; or

(iii) change enrollment in a health benefit plan offered by the carrier to a different health benefit plan offered by the carrier.

(5) If an individual enrolls in a health benefit plan offered by the carrier during the annual open enrollment period for 2014, the effective date of coverage shall be:

(i) January 1, 2015, if the application is received by the carrier on or before December 15, 2014, unless an alternative date is adopted by the federal Department of Health and Human Services;

(ii) February 1, 2015, if the application is received by the carrier from December 16, 2014, through January 15, 2015, unless an alternative date is adopted by the federal Department of Health and Human Services; and

(iii) March 1, 2015, if the application is received by the carrier from January 16, 2015, through February 15, 2015, unless an alternative date is adopted by the federal Department of Health and Human Services.

(6) If an individual enrolls in a health benefit plan offered by the carrier during the annual open enrollment period for years beginning on and after January 1, 2015, the effective date of coverage shall be the date adopted by the federal Department of Health and Human Services.

(c) A carrier participating in the Individual Exchange shall provide**:**

(1) the special enrollment periods specified in 45 C.F.R. § 155.420 for individuals who purchase coverage through the Individual Exchange**; AND**

(2) A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO PURCHASES COVERAGE THROUGH THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER.

(d) A carrier shall provide**:**

(1) the special enrollment periods specified in 45 C.F.R. § 147.104(b)(2) for individuals who purchase coverage outside the Individual Exchange**; AND**

(2) A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO PURCHASES COVERAGE OUTSIDE THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL

OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER.

(E) ~~THE~~ A SPECIAL ENROLLMENT ~~PERIODS~~ PERIOD DESCRIBED IN ~~SUBSECTIONS~~ SUBSECTION (C)(2) ~~AND~~ OR (D)(2) OF THIS SECTION SHALL:

~~**(1) ALLOW FOR ENROLLMENT OF THE PREGNANT INDIVIDUAL IN A HEALTH BENEFIT PLAN AT ANY TIME AFTER THE COMMENCEMENT OF PREGNANCY, AS CERTIFIED BY A HEALTH CARE PRACTITIONER; AND**~~

~~**(2) REMAIN OPEN FOR THE DURATION OF THE PREGNANCY.**~~

(1) BE OPEN FOR A PERIOD OF 90 DAYS; AND

(2) BEGIN ON THE DATE THE HEALTH CARE PRACTITIONER CONFIRMS THE PREGNANCY.

[(e)**] (F) (1)** If an individual enrolls for coverage during one of the open enrollment **PERIODS DESCRIBED IN SUBSECTION (B) OF THIS SECTION** or **DURING ONE OF THE** special open enrollment periods described in **SUBSECTIONS (C)(1) AND (D)(1) OF** this section, coverage shall be effective in accordance with the requirements in 45 C.F.R. § 155.420.

(2) IF AN INDIVIDUAL ENROLLS FOR COVERAGE OR ENROLLS A DEPENDENT FOR COVERAGE DURING ~~ONE OF THE~~ A SPECIAL ENROLLMENT ~~PERIODS~~ PERIOD DESCRIBED IN ~~SUBSECTIONS~~ SUBSECTION (C)(2) ~~AND~~ OR (D)(2) OF THIS SECTION, THE COVERAGE SHALL BECOME EFFECTIVE ~~NOT LATER THAN~~ ON THE FIRST DAY OF THE MONTH IN WHICH THE INDIVIDUAL ~~ENROLLED IN COVERAGE~~ RECEIVES ~~CERTIFICATION~~ CONFIRMATION OF PREGNANCY.

[(f)**] (G)** (1) A health maintenance organization may:

(i) limit the individuals who may apply for coverage to those who live or reside in the health maintenance organization's service area; and

(ii) deny coverage to individuals if the health maintenance organization has demonstrated to the Commissioner that:

1. it will not have the capacity to deliver services adequately to any additional individuals because of its obligations to existing enrollees; and

2. it is applying the provisions of this paragraph uniformly to all individuals without regard to the claims experience of those individuals and their dependents or any health status–related factor relating to the individuals and their dependents.

(2) A health maintenance organization that denies coverage to an individual in accordance with paragraph (1) of this subsection may not offer coverage in the individual market within the service area to any individual for a period of 180 days after the date the coverage is denied.

(3) Paragraph (2) of this subsection does not:

(i) limit the health maintenance organization's ability to renew coverage already in force; or

(ii) relieve the health maintenance organization of the responsibility to renew coverage already in force.

[(g)**] (H)** (1) A carrier may deny a health benefit plan to an individual if the carrier has demonstrated to the Commissioner that:

(i) it does not have the financial reserves necessary to offer additional coverage; and

(ii) it is applying the provisions of this paragraph uniformly to all individuals in the individual market in the State without regard to the claims experience of those individuals and their dependents or any health status–related factor relating to the individuals and their dependents.

(2) A carrier that denies a health benefit plan to an individual in the State under paragraph (1) of this subsection may not offer coverage in the individual market before the later of:

(i) the 181st day after the date the carrier denies coverage; and

(ii) the date the carrier demonstrates to the Commissioner that the carrier has sufficient financial reserves to underwrite additional coverage.

(3) Paragraph (2) of this subsection does not:

(i) limit the carrier's ability to renew coverage already in force; or

(ii) relieve the carrier of the responsibility to renew coverage already in force.

(4) Health benefit plans offered after the time period described in paragraph (2) of this subsection are subject to the requirements of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all health benefit plans issued, delivered, or renewed in the State on or after January 1, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1, 2022, the Maryland Health Benefit Exchange shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the use of the special enrollment periods as enacted by Section 1 of this Act.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 356

(House Bill 478)

AN ACT concerning

Procurement – Qualification Based Selection – Land Surveying Services

FOR the purpose of authorizing a procurement officer in the Department of General Services or the Department of Transportation to use qualification based selection as a method of procuring land surveying services; applying certain parameters, standards, and requirements of qualification based selection to land surveying services; and generally relating to qualification based selection for land surveying services.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–102 and 13–112
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Finance and Procurement

13–102.

(a) The following procurement methods are authorized at the procurement officer's discretion, where applicable:

(1) competitive sealed bids under § 13–103 of this subtitle;

(2) competitive sealed proposals under § 13–104 or § 13–105 of this subtitle;

(3) noncompetitive negotiation under § 13–106 of this subtitle;

(4) sole source procurement under § 13–107 of this subtitle;

(5) emergency or expedited procurement under § 13–108 of this subtitle;

(6) small procurement under § 13–109 of this subtitle;

(7) an intergovernmental cooperative purchasing agreement under § 13–110 of this subtitle;

(8) auction bids under § 13–111 of this subtitle;

(9) architectural **[**and**],** engineering**, AND LAND SURVEYING** services qualification based selection under § 13–112 of this subtitle; or

(10) master contracting under § 13–113 of this subtitle.

(b) (1) In awarding a procurement contract for human, social, cultural, or educational service, the preferred method is by competitive sealed proposals under § 13–104 of this subtitle.

(2) In awarding a procurement contract for a lease of real property, the preferred method is by competitive sealed proposals under § 13–105 of this subtitle.

(3) Procurement under an intergovernmental cooperative purchasing agreement is appropriate in situations where the State is expected to achieve a better price as the result of economies of scale or to otherwise benefit by purchasing in cooperation with another governmental entity.

13–112.

(a) In this section, "Department" means the Department of General Services or the Department of Transportation.

(b) Qualification based selection shall only be used by the Department if the procurement:

(1) is for architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES**;

(2) is made on a competitive basis;

(3) includes an evaluation of the technical proposals and qualifications of at least two persons; and

(4) the services cannot be provided feasibly and economically by existing in–house resources.

(c) (1) Whenever a procurement is based on qualification based selection, a procurement officer shall seek proposals by issuing a request for architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES**.

(2) A request for architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** shall include a statement:

(i) describing generally the architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** that are the subject of the procurement; and

(ii) indicating how an interested person may receive information about the procurement, including a comprehensive description of the nature and scope of the architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES**.

(d) The Department shall publish reasonable and timely notice of a request for architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** in eMaryland Marketplace.

(e) The Department shall:

(1) evaluate the technical proposals and qualifications of the persons submitting the proposals; and

(2) determine an order of priority based on those evaluations.

(f) (1) From the results of the selection process under this section, the Department shall:

(i) begin negotiations with the most qualified persons; and

(ii) try to negotiate a procurement contract with that person at a rate of compensation that is fair, competitive, and reasonable.

(2) In determining the rate of compensation under this subsection, the Department shall:

(i) consider the scope and complexity of the architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** required; and

(ii) conduct a detailed analysis of the cost of those services.

(3) (i) In determining the rate of compensation under this subsection, the Department of Transportation also shall comply with limits on costs reimbursement, including overhead limits established by the Department.

(ii) In setting the limits under subparagraph (i) of this paragraph, the Department of Transportation shall consider the goal of the selection process as well as the reasonable cost of architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES**.

(g) If the Department is unable to negotiate a satisfactory procurement contract at a rate of compensation that is fair, competitive, and reasonable, it shall:

(1) terminate negotiations with the most qualified person; and

(2) negotiate in the same manner with the next most qualified person and, if necessary, continue negotiations in accordance with the procedures under this section until the agency reaches an agreement.

(h) After obtaining any approval required by law, the procurement officer shall award a procurement contract to the most qualified person with whom an agreement was reached on compensation that is fair, competitive, and reasonable.

(i) Not more than 30 days after the execution and approval of a procurement contract awarded under this section, the Department shall publish in eMaryland Marketplace notice of the award.

(j) All documents relating to the award of a procurement contract are to be made available to the public, including:

(1) technical resumes;

(2) technical proposals;

(3) the procurement contract;

(4) scope of services;

(5) programs/projects;

(6) staff reports;

(7) internal worksheets; and

(8) all other information relating to the negotiation and award of a procurement contract under this section.

(k) (1) The Department shall waive the requirements in subsections (b), (e), (f), (g), and (j) of this section if:

(i) the Department determines that:

1. the architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** cannot be defined so completely as to carry out those requirements; or

2. the specifications require architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** that are available only from a bona fide single source or a proprietary product or process;

(ii) the Governor declares an emergency;

(iii) after a natural disaster, public health and safety are endangered; or

(iv) on the recommendation of the Secretary of the Department and a finding by the Governor that extraordinary circumstances exist, the Board of Public Works determines that:

1. for a particular project, urgent circumstances require the selection of a contractor on an expedited basis;

2. expedited selection best serves the public interest; and

3. the need for an expedited selection outweighs the benefits of carrying out those requirements.

(2) A waiver and the reasons for it shall be documented and:

(i) immediately reported to eMaryland Marketplace for publication; and

(ii) reported to the Legislative Policy Committee within 30 days after the waiver occurs.

(l) (1) The Department may not award a procurement contract to a person under this subtitle unless:

(i) the person submits:

1. an affidavit of noncollusion; and

2. a price quotation; and

(ii) for a procurement contract costing more than $200,000, the person has executed a truth–in–negotiation certificate.

(2) The truth–in–negotiation certificate shall state that:

(i) wage rates and other factual unit costs supporting wages are accurate, complete, and current as of the time of contracting; and

(ii) the original price of the procurement contract and any additions to the procurement contract will be adjusted to exclude any significant price increase if the Department determines that the price increase is due to wage rates or other factual unit costs that were inaccurate, incomplete, or not current as of the time of contracting.

(3) An adjustment to the procurement contract shall be made within 1 year after the procurement contract is completed.

(m) The Department may not award a procurement contract for architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** that:

(1) is a cost–plus–a–percentage–of–cost contract; or

(2) includes fee schedules that are based on a percentage of construction costs.

(n) (1) The State may postaudit the rates of contractors performing architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES**.

(2) All rates used in a cost–plus–fixed–fee procurement contract shall be verified by postaudit if:

(i) the compensation is more than $50,000 and the procurement contract involves a unit other than a transportation unit; and

(ii) the compensation is more than $25,000 and the procurement contract involves a transportation unit.

(3) On request by a procuring authority of any political subdivision of the State that is considering an architect **[**or**], AN** engineer**, OR A LAND SURVEYOR** for a specific project, any State audit of the architect **[**or**],** engineer**, OR LAND SURVEYOR** shall be made available.

(o) (1) The Department may terminate without liability a procurement contract for architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** if:

(i) there has been a conviction of a crime arising out of or in connection with the procurement contract or any payment to be made under the procurement contract; or

(ii) there has been a breach or violation of any provision of this subtitle.

(2) Subject to subsection (a) of this section, the Department may deduct from the procurement contract price or otherwise recover the full amount of any fee, commission, gift, percentage, or other consideration paid in violation of this subtitle.

(3) If a procurement contract is terminated under this section, the contractor:

(i) is entitled only to the earned value of the work completed as of the date of termination, plus termination costs;

(ii) is liable for any costs incurred for completion of the work over the maximum amount payable to the contractor under the procurement contract; and

(iii) shall refund all profits or fixed fees realized under the procurement contract.

(4) (i) The provisions of this section are in addition to any other right or remedy allowed by law.

(ii) By carrying out this section, the Department does not waive any other right or remedy provided by law.

(p) A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding $20,000 or imprisonment not exceeding 10 years or both.

(q) (1) The Department of General Services and the Department of Transportation shall adopt regulations that provide substantially similar procedures to carry out this section.

(2) The procedures of the Department shall ensure that a recommendation to the Board of Public Works for the award of a procurement contract for architectural services **[**or**],** engineering services**, OR LAND SURVEYING SERVICES** costing over $200,000 is made on a competitive basis and includes an evaluation of the technical proposals and qualifications of at least two persons.

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

Approved by the Governor, April 30, 2019.

Chapter 357

(Senate Bill 631)

AN ACT concerning

Health Insurance – Coverage for Mental Health Benefits and Substance Use Disorder Benefits – ~~Requirements and Reports~~ Treatment Criteria

FOR the purpose of ~~requiring certain carriers, on or before a certain date each year, to submit a report to the Maryland Insurance Commissioner to demonstrate the carrier's compliance with the federal Mental Health Parity and Addiction Equity Act; requiring certain carriers, on or before a certain date each year, to submit a report to the Commissioner on data for certain benefits by certain classification; requiring the reports to include certain information and be submitted in a certain manner; requiring the reports to be prepared in coordination with certain entities, contain a certain statement, and be made available to certain persons in a certain manner; requiring the reports to exclude certain identifiable information; requiring the Commissioner to review the reports, notify a carrier of noncompliance with certain federal law, and require the carrier to take certain actions under certain circumstances; requiring the Commissioner to impose a certain penalty for each day a carrier fails to submit a certain report; requiring that certain funds be used only for certain purposes; requiring the Commissioner, on or before a certain date, to develop certain forms and, in consultation with certain persons, adopt certain regulations;~~ requiring an insurer, nonprofit health service plan, or health maintenance organization to use certain criteria for all medical necessity and utilization management determinations for substance use disorder benefits; repealing a certain limitation on the amount of copayment that an insurer, nonprofit health service plan, or health maintenance organization may charge under certain circumstances; ~~requiring certain carriers to include certain information in a certain notice of an adverse decision or grievance by a carrier; requiring certain carriers to include certain information in certain notice of a coverage decision or appeal decision by a carrier;~~ defining ~~certain terms~~ a certain term; making ~~stylistic changes~~ a stylistic change; providing for a delayed effective date ~~for certain provisions of this Act~~; providing for the application of ~~certain provisions of~~ this Act; and generally relating to coverage for mental health benefits and substance use disorder benefits.

~~BY adding to~~
~~Article – Insurance~~
~~Section 15–144~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–802~~, 15–10A–02, and 15–10D–02~~

Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

~~**Article – Insurance**~~

~~**15–144.**~~

~~**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(2) "CARRIER" MEANS:**~~

~~**(I) AN INSURER;**~~

~~**(II) A NONPROFIT HEALTH SERVICE PLAN; OR**~~

~~**(III) A HEALTH MAINTENANCE ORGANIZATION.**~~

~~**(3) (I) "FINANCIAL REQUIREMENTS" INCLUDES:**~~

~~**1. DEDUCTIBLES;**~~

~~**2. COPAYMENTS;**~~

~~**3. COINSURANCE; AND**~~

~~**4. ANY OUT–OF–POCKET MAXIMUMS.**~~

~~**(II) "FINANCIAL REQUIREMENTS" DOES NOT INCLUDE AGGREGATED LIFETIME OR ANNUAL DOLLAR LIMITS.**~~

~~**(4) "MEDICAL/SURGICAL BENEFITS" HAS THE MEANING STATED IN 45 C.F.R. § 146.136(A) AND 29 C.F.R. 2590.712(A).**~~

~~**(5) "MENTAL HEALTH BENEFITS" HAS THE MEANING STATED IN 45 C.F.R. § 146.136(A) AND 29 C.F.R. 2590.712(A).**~~

~~**(6) "NONQUANTITATIVE TREATMENT LIMITATION" HAS THE MEANING STATED IN 45 C.F.R. § 146.136(A) AND 29 C.F.R. 2590.712(A).**~~

~~(7) "PARITY ACT" MEANS THE PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008 AND 45 C.F.R. 146.136 AND 45 C.F.R. 147.160.~~

~~(8) "PARITY ACT CLASSIFICATIONS" MEANS:~~

~~(I) IN–NETWORK BENEFITS;~~

~~(II) INPATIENT OUT–OF–NETWORK BENEFITS;~~

~~(III) OUTPATIENT IN–NETWORK BENEFITS;~~

~~(IV) OUTPATIENT OUT–OF–NETWORK BENEFITS;~~

~~(V) PRESCRIPTION DRUG BENEFITS; AND~~

~~(VI) EMERGENCY CARE BENEFITS.~~

~~(9) "QUANTITATIVE TREATMENT LIMITATIONS" MEANS NUMERICAL FACTORS THAT LIMIT THE TREATMENT OR BENEFIT OFFERED UNDER A PLAN OR COVERAGE.~~

~~(10) "SUBSTANCE USE DISORDER BENEFITS" HAS THE MEANING STATED IN 45 C.F.R. § 146.136(A) AND 29 C.F.R. 2590.712(A).~~

~~(11) "TREATMENT LIMITATIONS" INCLUDES LIMITS BASED ON:~~

~~(I) THE FREQUENCY OF TREATMENT;~~

~~(II) NUMBER OF VISITS;~~

~~(III) DAYS OF COVERAGE; AND~~

~~(IV) DAYS IN A WAITING PERIOD.~~

~~(B) THIS SECTION APPLIES TO A CARRIER THAT DELIVERS, OR ISSUES FOR DELIVERY, AN INDIVIDUAL, GROUP, OR BLANKET HEALTH BENEFIT PLAN IN THE STATE.~~

~~(C) (1) ON OR BEFORE JULY 1 EACH YEAR, EACH CARRIER SHALL SUBMIT A REPORT TO THE COMMISSIONER TO DEMONSTRATE THE CARRIER'S COMPLIANCE WITH THE PARITY ACT.~~

~~(2) THE REPORT SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:~~

~~(I) LIST ALL MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER AND THE PLACE THAT EACH BENEFIT IS OFFERED IN THE APPLICABLE PARITY ACT CLASSIFICATION OR SUBCLASSIFICATION;~~

~~(II) LIST ALL MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS THAT ARE EXCLUDED FROM COVERAGE BY THE CARRIER AND A DETAILED EXPLANATION FOR THE EXCLUSION;~~

~~(III) LIST ANY ANNUAL OR LIFETIME DOLLAR LIMITS ON MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER AND PROVIDE AN ACTUARIAL DEMONSTRATION THAT ANY ANNUAL OR LIFETIME DOLLAR LIMIT COMPLIES WITH THE PARITY ACT;~~

~~(IV) LIST ALL FINANCIAL REQUIREMENTS FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER BY CLASSIFICATION AND SUBCLASSIFICATION AND PROVIDE AN ACTUARIAL DEMONSTRATION THAT THE FINANCIAL REQUIREMENTS SATISFY THE SUBSTANTIALLY ALL AND PREDOMINANT STANDARDS OF THE PARITY ACT, INCLUDING:~~

~~1. A DESCRIPTION OF THE METHODOLOGY USED TO DETERMINE THE DOLLAR AMOUNT OF ALL PLAN PAYMENTS FOR THE SUBSTANTIALLY ALL AND PREDOMINANT ANALYSIS; AND~~

~~2. AN IDENTIFICATION OF ANY CUMULATIVE FINANCIAL REQUIREMENTS FOR MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS AND VERIFICATION OF COMPLIANCE WITH THE PARITY ACT;~~

~~(V) LIST ALL QUANTITATIVE TREATMENT LIMITATIONS FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER BY CLASSIFICATION AND SUBCLASSIFICATION AND PROVIDE AN ACTUARIAL DEMONSTRATION THAT THE QUANTITATIVE TREATMENT LIMITATIONS SATISFY THE SUBSTANTIALLY ALL AND PREDOMINANT STANDARDS OF THE PARITY ACT, INCLUDING:~~

~~1. A DESCRIPTION OF THE METHODOLOGY USED TO DETERMINE THE DOLLAR AMOUNT OF ALL PLAN PAYMENTS FOR SUBSTANTIALLY ALL AND PREDOMINANT ANALYSIS; AND~~

~~2. AN IDENTIFICATION OF ANY CUMULATIVE FINANCIAL REQUIREMENTS FOR MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS AND VERIFICATION OF COMPLIANCE WITH THE PARITY ACT;~~

~~(VI) LIST ALL NONQUANTITATIVE TREATMENT LIMITATIONS THAT APPLY TO MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER BY CLASSIFICATION AND IDENTIFY THE DESCRIPTION OF THE NONQUANTITATIVE TREATMENT LIMITATIONS IN THE CARRIER'S PLAN DOCUMENTS;~~

~~(VII) LIST THE FACTORS CONSIDERED IN THE DESIGN OF EACH NONQUANTITATIVE TREATMENT LIMITATION LISTED UNDER ITEM (VI) OF THIS PARAGRAPH;~~

~~(VIII) IDENTIFY THE SOURCES USED TO DEFINE OR ESTABLISH A THRESHOLD FOR APPLYING THE FACTORS LISTED UNDER ITEM (VII) OF THIS PARAGRAPH, INCLUDING:~~

~~1. THE TITLE AND QUALIFICATIONS OF THE EMPLOYEE WHO MAKES THE DECISIONS RELATED TO THE ADOPTION AND IMPLEMENTATION OF THE FACTORS;~~

~~2. A DESCRIPTION OF HOW THE FACTORS WERE USED TO APPLY EACH NONQUANTITATIVE TREATMENT LIMITATION TO MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS;~~

~~3. AN EXPLANATION ABOUT WHETHER ANY FACTOR WAS GIVEN MORE WEIGHT THAN ANOTHER FACTOR; AND~~

~~4. IF A FACTOR WAS GIVEN MORE WEIGHT THAN ANOTHER FACTOR, THE REASON FOR THE DIFFERENCE IN WEIGHTING;~~

~~(IX) AN ANALYSIS THAT DEMONSTRATES, FOR THE PLAN AS WRITTEN AND IN OPERATION, THE PROCESSES, STRATEGIES, AND EVIDENTIARY STANDARDS USED IN DEVELOPING AND APPLYING EACH NONQUANTITATIVE TREATMENT LIMITATION IS COMPARABLE TO AND APPLIED NO MORE STRINGENTLY TO MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS THAN TO MEDICAL/SURGICAL BENEFITS, INCLUDING:~~

~~1. THE ANALYSIS, AUDIT, OR METHOD USED TO ASSESS COMPARABILITY UNDER THIS ITEM;~~

~~2. ANY FACTORS USED, EVIDENTIARY STANDARDS RELIED ON, AND THE PROCESS EMPLOYED IN DEVELOPING AND APPLYING A~~

~~NONQUANTITATIVE TREATMENT LIMITATION FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS; AND~~

~~3. ANY IDENTIFICATION MEASURES THAT WERE USED TO ENSURE COMPARABLE APPLICATION OF NONQUANTITATIVE TREATMENT LIMITATIONS THAT ARE IMPLEMENTED BY THE CARRIER AND ANY ENTITY DELEGATED TO MANAGE MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, OR MEDICAL/SURGICAL BENEFITS ON BEHALF OF THE CARRIER;~~

~~(X) INCLUDE A RECORD OF ALL CLAIMS SUBMITTED FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS AND THE NUMBER OF CLAIMS DENIED FOR EACH BENEFIT BY CLASSIFICATION; AND~~

~~(XI) IDENTIFY THE PROCESS USED TO COMPLY WITH THE PARITY ACT DISCLOSURE REQUIREMENTS FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS, INCLUDING:~~

~~1. THE CRITERIA FOR A MEDICAL NECESSITY DETERMINATION;~~

~~2. REASONS FOR A DENIAL OF BENEFITS; AND~~

~~3. IN CONNECTION WITH INTERNAL CLAIMS AND APPEALS, PLAN DOCUMENTS THAT CONTAIN INFORMATION ABOUT PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, AND ANY OTHER FACTORS USED TO APPLY A NONQUANTITATIVE TREATMENT LIMITATION.~~

~~(D) ON OR BEFORE JULY 1 EACH YEAR, EACH CARRIER SHALL SUBMIT A REPORT TO THE COMMISSIONER ON THE CARRIER'S DATA FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS BY PARITY ACT CLASSIFICATION, INCLUDING:~~

~~(1) THE DELIVERY OF MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES, INCLUDING THE TOTAL NUMBER OF MEMBERS WHO RECEIVED SERVICES FOR A COVERED BENEFIT UNDER § 18–840 OF THIS ARTICLE IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, REPORTED SEPARATELY FOR A PRIMARY DIAGNOSIS OF MENTAL ILLNESS OR MENTAL DISORDER AND A PRIMARY DIAGNOSIS OF ALCOHOL OR DRUG MISUSE BASED ON THE FOLLOWING LEVELS OF CARE:~~

~~(I) OUTPATIENT;~~

~~(II) INTENSIVE OUTPATIENT;~~

~~(III) OPIOID TREATMENT SERVICES;~~

~~(IV) PARTIAL HOSPITALIZATION;~~

~~(V) RESIDENTIAL TREATMENT;~~

~~(VI) INPATIENT TREATMENT; AND~~

~~(VII) CRISIS RESIDENTIAL SERVICES;~~

~~(2) THE TOTAL NUMBER OF MEMBERS RECEIVING SERVICES FOR WHICH DATA IS PROVIDED UNDER ITEM (1) OF THIS SUBSECTION CALCULATED PER 1,000 MEMBERS;~~

~~(3) UTILIZATION MANAGEMENT REQUIREMENTS AND PLAN DECISIONS RELATED TO PRIOR AUTHORIZATION AND CONCURRENT OR CONTINUING REVIEW BY PARITY ACT CLASSIFICATION, INCLUDING:~~

~~(I) THE NUMBER AND PERCENT OF COVERED SERVICES AND PRESCRIPTION DRUGS SUBJECT TO EACH LEVEL OF REVIEW;~~

~~(II) THE NUMBER AND PERCENT OF REQUESTED SERVICES AND PRESCRIPTION DRUGS APPROVED AT EACH LEVEL OF REVIEW;~~

~~(III) THE NUMBER AND PERCENT OF REQUESTED SERVICES AND PRESCRIPTION DRUGS DENIED AT EACH LEVEL OF REVIEW;~~

~~(IV) THE NUMBER AND PERCENT OF REQUESTED SERVICES DENIED WITH AN APPROVAL FOR A LOWER LEVEL OF CARE OF A DIFFERENT PRESCRIPTION DRUG;~~

~~(V) THE NUMBER AND PERCENT OF REQUESTED SERVICES DENIED BASED ON NONCOVERED SERVICE, MEDICAL NECESSITY CRITERIA, EXPERIMENTAL, INVESTIGATIVE SERVICE, INCOMPLETE SUBMISSION, DUPLICATE SUBMISSION, OR ANY ADDITIONAL REASON; AND~~

~~(VI) FOR CONCURRENT OR CONTINUING REVIEW, THE AVERAGE NUMBER OF DAYS AUTHORIZED FOR EACH REVIEW PERIOD AND AVERAGE INTERVAL FOR REQUIRING REVIEW, EXPRESSED IN THE NUMBER OF DAYS;~~

~~(4) DENIALS AND APPEALS OF ADVERSE AND COVERAGE DECISIONS BY PARITY ACT CLASSIFICATION, INCLUDING:~~

~~(I) THE NUMBER AND PERCENT OF DENIALS OF A REQUESTED SERVICE;~~

~~(II) THE NUMBER AND PERCENT OF DECISIONS FOR WHICH A PEER–TO–PEER REVIEW WAS REQUESTED;~~

~~(III) THE NUMBER AND PERCENT OF DECISIONS THAT WERE APPEALED AND THE RESULT OF THE APPEAL; AND~~

~~(IV) THE NUMBER AND PERCENT OF DECISIONS THAT WENT TO EXTERNAL REVIEW AT THE ADMINISTRATION AND THE RESULT OF THE APPEAL;~~

~~(5) NETWORK UTILIZATION REPORTED SEPARATELY FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS, INCLUDING THE NUMBER AND PERCENT OF CLAIMS PAID FOR OUT–OF–NETWORK USE OF:~~

~~(I) OUTPATIENT VISITS;~~

~~(II) INPATIENT HOSPITALIZATION; AND~~

~~(III) NONHOSPITAL RESIDENTIAL FACILITIES; AND~~

~~(6) DETAILS ON CLAIM REIMBURSEMENT, INCLUDING:~~

~~(I) CLAIM EXPENSES FOR EACH MEMBER FOR EACH MONTH FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS;~~

~~(II) THE AVERAGE REIMBURSEMENT RATE FOR PSYCHIATRISTS AND NONPSYCHIATRIST PHYSICIANS FOR EACH EVALUATION AND MANAGEMENT COMMON PROCEDURAL TECHNOLOGY CODE;~~

~~(III) THE NETWORK PROVIDER REIMBURSEMENT RATE METHODOLOGY BY PARITY ACT CLASSIFICATION AND THE AUDITS CONDUCTED TO ASSESS COMPLIANCE WITH THE RATE METHODOLOGY; AND~~

~~(IV) THE METHODOLOGY FOR DETERMINING THE ALLOWABLE AMOUNT FOR OUT–OF–NETWORK MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS, INCLUDING ANY REDUCTIONS MADE IN ALLOWABLE AMOUNTS FOR SPECIFIED PROVIDERS OR SERVICES AND THE AUDITS CONDUCTED TO ASSESS COMPLIANCE WITH METHODOLOGIES.~~

~~(E) THE REPORTS REQUIRED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION SHALL:~~

~~(1) BE SUBMITTED ON A STANDARD FORM DEVELOPED BY THE COMMISSIONER;~~

~~(2) BE SUBMITTED BY THE CARRIER THAT ISSUES OR DELIVERS THE HEALTH BENEFIT PLAN;~~

~~(3) BE PREPARED IN COORDINATION WITH ANY ENTITY THE CARRIER CONTRACTS WITH TO PROVIDE MENTAL HEALTH BENEFITS AND SUBSTANCE DISORDER BENEFITS;~~

~~(4) CONTAIN A STATEMENT, SIGNED BY THE CARRIER'S CHIEF EXECUTIVE OFFICER, ATTESTING TO THE ACCURACY OF THE INFORMATION CONTAINED IN THE REPORT;~~

~~(5) BE MADE AVAILABLE TO ALL PLAN MEMBERS AND BENEFICIARIES ON THE CARRIER'S WEBSITE AND ON REQUEST;~~

~~(6) BE AVAILABLE TO PLAN MEMBERS AND THE PUBLIC ON THE CARRIER'S WEBSITE IN A SUMMARY FORM DEVELOPED BY THE COMMISSIONER; AND~~

~~(7) EXCLUDE ANY IDENTIFYING INFORMATION OF ANY PLAN MEMBERS.~~

~~(F) THE COMMISSIONER SHALL:~~

~~(1) REVIEW EACH REPORT SUBMITTED IN ACCORDANCE WITH SUBSECTIONS (C) AND (D) OF THIS SECTION TO ASSESS EACH CARRIER'S COMPLIANCE WITH THE PARITY ACT;~~

~~(2) NOTIFY A CARRIER OF ANY NONCOMPLIANCE WITH THE PARITY ACT;~~

~~(3) REQUIRE THE CARRIER TO ADDRESS ANY NONCOMPLIANCE WITH THE PARITY ACT WITHIN 90 DAYS AFTER THE CARRIER IS NOTIFIED UNDER ITEM (2) OF THIS SUBSECTION;~~

~~(4) REQUIRE THE CARRIER TO SEND NOTIFICATION TO MEMBERS AND BENEFICIARIES OF THE CARRIER'S NONCOMPLIANCE;~~

~~(5) REQUIRE REIMBURSEMENT TO MEMBERS AND BENEFICIARIES FOR COSTS INCURRED AS A RESULT OF ANY NONCOMPLIANCE WITH THE PARITY ACT; AND~~

~~(6) AS APPROPRIATE, IMPOSE A PENALTY FOR EACH VIOLATION.~~

~~(G) (1) THE COMMISSIONER SHALL IMPOSE A PENALTY OF $5,000 FOR EACH DAY FOR WHICH A CARRIER FAILS TO SUBMIT A REPORT REQUIRED UNDER SUBSECTION (C) OR (D) OF THIS SECTION.~~

~~(2) THE PENALTIES COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE USED BY THE COMMISSIONER ONLY FOR ENFORCEMENT OF A CARRIER'S COMPLIANCE WITH THE PARITY ACT.~~

~~(H) THE COMMISSIONER SHALL:~~

~~(1) ON OR BEFORE DECEMBER 31, 2019, CREATE A STANDARD FORM FOR ENTITIES TO SUBMIT THE REPORTS IN ACCORDANCE WITH SUBSECTION (E)(1) OF THIS SECTION; AND~~

~~(2) ON OR BEFORE DECEMBER 31, 2019, CREATE A SUMMARY FORM FOR ENTITIES TO POST WITH THEIR REPORTS IN ACCORDANCE WITH SUBSECTION (E)(6) OF THIS SECTION.~~

~~(I) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSIONER SHALL, IN CONSULTATION WITH INTERESTED STAKEHOLDERS, ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

Article – Insurance

15–802.

(a) (1) In this section the following words have the meanings indicated.

(2) "Alcohol misuse" has the meaning stated in § 8–101 of the Health – General Article.

(3) "ASAM CRITERIA" MEANS THE MOST RECENT EDITION OF THE AMERICAN SOCIETY OF ADDICTION MEDICINE TREATMENT CRITERIA FOR ADDICTIVE, SUBSTANCE–RELATED, AND CO–OCCURRING CONDITIONS THAT ESTABLISHES GUIDELINES FOR PLACEMENT, CONTINUED STAY AND TRANSFER OR DISCHARGE OF PATIENTS WITH ADDICTION AND CO–OCCURRING CONDITIONS.

[(3)**] (4)** "Drug misuse" has the meaning stated in § 8–101 of the Health – General Article.

[(4)**] (5)** "Grandfathered health plan coverage" has the meaning stated in 45 C.F.R. § 147.140.

[(5)**] (6)** "Health benefit plan":

(i) for a group or blanket plan, has the meaning stated in § 15–1401 of this title; and

(ii) for an individual plan, has the meaning stated in § 15–1301 of this title.

[(6)**] (7)** "Managed care system" means a system of cost containment methods that a carrier uses to review and preauthorize a treatment plan developed by a health care provider for a covered individual in order to control utilization, quality, and claims.

[(7)**] (8)** "Partial hospitalization" means the provision of medically directed intensive or intermediate short–term treatment:

(i) to an insured, subscriber, or member;

(ii) in a licensed or certified facility or program;

(iii) for mental illness, emotional disorders, drug misuse, or alcohol misuse; and

(iv) for a period of less than 24 hours but more than 4 hours in a day.

[(8)**] (9)** "Small employer" has the meaning stated in § 31–101 of this article.

(b) With the exception of small employer grandfathered health plan coverage, this section applies to each individual, group, and blanket health benefit plan that is delivered or issued for delivery in the State by an insurer, a nonprofit health service plan, or a health maintenance organization.

(c) A health benefit plan subject to this section shall provide at least the following benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug use disorder, or alcohol use disorder:

(1) inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient and residential treatment center benefits;

(2) partial hospitalization benefits; and

(3) outpatient and intensive outpatient benefits, including all office visits, diagnostic evaluation, opioid treatment services, medication evaluation and management, and psychological and neuropsychological testing for diagnostic purposes.

(d) (1) The benefits under this section are required only for expenses arising from the treatment of mental illnesses, emotional disorders, drug misuse, or alcohol misuse if, in the professional judgment of health care providers:

(i) the mental illness, emotional disorder, drug misuse, or alcohol misuse is treatable; and

(ii) the treatment is medically necessary.

(2) The benefits required under this section:

(i) shall be provided as one set of benefits covering mental illnesses, emotional disorders, drug misuse, and alcohol misuse;

(ii) shall comply with 45 C.F.R. § 146.136(a) through (d) and 29 C.F.R. § 2590.712(a) through (d);

(iii) subject to paragraph (3) of this subsection, may be delivered under a managed care system; and

(iv) for partial hospitalization under subsection (c)(2) of this section, may not be less than 60 days.

(3) The benefits required under this section may be delivered under a managed care system only if the benefits for physical illnesses covered under the health benefit plan are delivered under a managed care system.

(4) The processes, strategies, evidentiary standards, or other factors used to manage the benefits required under this section must be comparable as written and in operation to, and applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used to manage the benefits for physical illnesses covered under the health benefit plan.

(5) An insurer, nonprofit health service plan, or health maintenance organization **[**may not charge a copayment for methadone maintenance treatment that is greater than 50% of the daily cost for methadone maintenance treatment**]** **SHALL USE THE ASAM CRITERIA FOR ALL MEDICAL NECESSITY AND UTILIZATION MANAGEMENT DETERMINATIONS FOR SUBSTANCE USE DISORDER BENEFITS**.

(e) An entity that issues or delivers a health benefit plan subject to this section shall provide on its **[**Web site**]** **WEBSITE** and annually in print to its insureds or members:

(1) notice about the benefits required under this section and the federal Mental Health Parity and Addiction Equity Act; and

(2) notice that the insured or member may contact the Administration for further information about the benefits.

(f) An entity that issues or delivers a health benefit plan subject to this section shall:

(1) post a release of information authorization form on its **[**Web site**]** **WEBSITE**; and

(2) provide a release of information authorization form by standard mail within 10 business days after a request for the form is received.

~~15–10A–02.~~

~~(a) Each carrier shall establish an internal grievance process for its members.~~

~~(b) (1) An internal grievance process shall meet the same requirements established under Subtitle 10B of this title.~~

~~(2) In addition to the requirements of Subtitle 10B of this title, an internal grievance process established by a carrier under this section shall:~~

~~(i) include an expedited procedure for use in an emergency case for purposes of rendering a grievance decision within 24 hours of the date a grievance is filed with the carrier;~~

~~(ii) provide that a carrier render a final decision in writing on a grievance within 30 working days after the date on which the grievance is filed unless:~~

~~1. the grievance involves an emergency case under item (i) of this paragraph;~~

~~2. the member, the member's representative, or a health care provider filing a grievance on behalf of a member agrees in writing to an extension for a period of no longer than 30 working days; or~~

~~3. the grievance involves a retrospective denial under item (iv) of this paragraph;~~

~~(iii) allow a grievance to be filed on behalf of a member by a health care provider or the member's representative;~~

~~(iv) provide that a carrier render a final decision in writing on a grievance within 45 working days after the date on which the grievance is filed when the grievance involves a retrospective denial; and~~

~~(v) for a retrospective denial, allow a member, the member's representative, or a health care provider on behalf of a member to file a grievance for at least 180 days after the member receives an adverse decision.~~

~~(3) For purposes of using the expedited procedure for an emergency case that a carrier is required to include under paragraph (2)(i) of this subsection, the Commissioner shall define by regulation the standards required for a grievance to be considered an emergency case.~~

~~(c) Except as provided in subsection (d) of this section, the carrier's internal grievance process shall be exhausted prior to filing a complaint with the Commissioner under this subtitle.~~

~~(d) (1) (i) A member, the member's representative, or a health care provider filing a complaint on behalf of a member may file a complaint with the Commissioner without first filing a grievance with a carrier and receiving a final decision on the grievance if:~~

~~1. the carrier waives the requirement that the carrier's internal grievance process be exhausted before filing a complaint with the Commissioner;~~

~~2. the carrier has failed to comply with any of the requirements of the internal grievance process as described in this section; or~~

~~3. the member, the member's representative, or the health care provider provides sufficient information and supporting documentation in the complaint that demonstrates a compelling reason to do so.~~

~~(ii) The Commissioner shall define by regulation the standards that the Commissioner shall use to decide what demonstrates a compelling reason under subparagraph (i) of this paragraph.~~

~~(2) Subject to subsections (b)(2)(ii) and (h) of this section, a member, a member's representative, or a health care provider may file a complaint with the Commissioner if the member, the member's representative, or the health care provider does not receive a grievance decision from the carrier on or before the 30th working day on which the grievance is filed.~~

~~(3) Whenever the Commissioner receives a complaint under paragraph (1) or (2) of this subsection, the Commissioner shall notify the carrier that is the subject of the complaint within 5 working days after the date the complaint is filed with the Commissioner.~~

~~(e) Each carrier shall:~~

~~(1) file for review with the Commissioner and submit to the Health Advocacy Unit a copy of its internal grievance process established under this subtitle; and~~

~~(2) file any revision to the internal grievance process with the Commissioner and the Health Advocacy Unit at least 30 days before its intended use.~~

~~(f) For nonemergency cases, when a carrier renders an adverse decision, the carrier shall:~~

~~(1) document the adverse decision in writing after the carrier has provided oral communication of the decision to the member, the member's representative, or the health care provider acting on behalf of the member; and~~

~~(2) send, within 5 working days after the adverse decision has been made, a written notice to the member, the member's representative, and a health care provider acting on behalf of the member that:~~

~~(i) states in detail in clear, understandable language the specific factual bases for the carrier's decision;~~

~~(ii) references the specific criteria and standards, including interpretive guidelines, on which the decision was based, and may not solely use generalized terms such as "experimental procedure not covered", "cosmetic procedure not covered", "service included under another procedure", or "not medically necessary";~~

~~(iii) states the name, business address, and business telephone number of:~~

~~1. the medical director or associate medical director, as appropriate, who made the decision if the carrier is a health maintenance organization; or~~

~~2. the designated employee or representative of the carrier who has responsibility for the carrier's internal grievance process if the carrier is not a health maintenance organization;~~

~~(iv) gives written details of the carrier's internal grievance process and procedures under this subtitle; and~~

~~(v) includes the following information:~~

~~1. that the member, the member's representative, or a health care provider on behalf of the member has a right to file a complaint with the Commissioner within 4 months after receipt of a carrier's grievance decision;~~

~~2. that a complaint may be filed without first filing a grievance if the member, the member's representative, or a health care provider filing a grievance on behalf of the member can demonstrate a compelling reason to do so as determined by the Commissioner;~~

~~3. the Commissioner's address, telephone number, and facsimile number;~~

~~4. a statement that the Health Advocacy Unit is available to assist the member or the member's representative in both mediating and filing a grievance under the carrier's internal grievance process; [and]~~

~~5. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit; AND~~

~~6. FOR A COVERAGE DECISION FOR MENTAL HEALTH BENEFITS OR SUBSTANCE USE DISORDER BENEFITS, NOTICE REGARDING THE BENEFITS REQUIRED UNDER § 15–802 OF THIS ARTICLE AND THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT AND NOTICE THAT THE MEMBER MAY CONTACT THE COMMISSIONER FOR FURTHER INFORMATION ABOUT BENEFITS.~~

~~(g) If within 5 working days after a member, the member's representative, or a health care provider, who has filed a grievance on behalf of a member, files a grievance with the carrier, and if the carrier does not have sufficient information to complete its internal grievance process, the carrier shall:~~

~~(1) notify the member, the member's representative, or the health care provider that it cannot proceed with reviewing the grievance unless additional information is provided; and~~

~~(2) assist the member, the member's representative, or the health care provider in gathering the necessary information without further delay.~~

~~(h) A carrier may extend the 30–day or 45–day period required for making a final grievance decision under subsection (b)(2)(ii) of this section with the written consent of the member, the member's representative, or the health care provider who filed the grievance on behalf of the member.~~

~~(i) (1) For nonemergency cases, when a carrier renders a grievance decision, the carrier shall:~~

~~(i) document the grievance decision in writing after the carrier has provided oral communication of the decision to the member, the member's representative, or the health care provider acting on behalf of the member; and~~

~~(ii) send, within 5 working days after the grievance decision has been made, a written notice to the member, the member's representative, and a health care provider acting on behalf of the member that:~~

~~1. states in detail in clear, understandable language the specific factual bases for the carrier's decision;~~

~~2. references the specific criteria and standards, including interpretive guidelines, on which the grievance decision was based;~~

~~3. states the name, business address, and business telephone number of:~~

~~A. the medical director or associate medical director, as appropriate, who made the grievance decision if the carrier is a health maintenance organization; or~~

~~B. the designated employee or representative of the carrier who has responsibility for the carrier's internal grievance process if the carrier is not a health maintenance organization; and~~

~~4. includes the following information:~~

~~A. that the member or the member's representative has a right to file a complaint with the Commissioner within 4 months after receipt of a carrier's grievance decision;~~

~~B. the Commissioner's address, telephone number, and facsimile number;~~

~~C. a statement that the Health Advocacy Unit is available to assist the member or the member's representative in filing a complaint with the Commissioner; [and]~~

~~D. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit; AND~~

~~E. FOR A COVERAGE DECISION FOR MENTAL HEALTH BENEFITS OR SUBSTANCE USE DISORDER BENEFITS, NOTICE REGARDING THE BENEFITS REQUIRED UNDER § 15–802 OF THIS ARTICLE AND THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT AND NOTICE THAT THE MEMBER MAY CONTACT THE COMMISSIONER FOR FURTHER INFORMATION ABOUT BENEFITS.~~

~~(2) A carrier may not use solely in a notice sent under paragraph (1) of this subsection generalized terms such as "experimental procedure not covered", "cosmetic~~

~~procedure not covered", "service included under another procedure", or "not medically necessary" to satisfy the requirements of this subsection.~~

~~(j) (1) For an emergency case under subsection (b)(2)(i) of this section, within 1 day after a decision has been orally communicated to the member, the member's representative, or the health care provider, the carrier shall send notice in writing of any adverse decision or grievance decision to:~~

~~(i) the member and the member's representative, if any; and~~

~~(ii) if the grievance was filed on behalf of the member under subsection (b)(2)(iii) of this section, the health care provider.~~

~~(2) A notice required to be sent under paragraph (1) of this subsection shall include the following:~~

~~(i) for an adverse decision, the information required under subsection (f) of this section; and~~

~~(ii) for a grievance decision, the information required under subsection (i) of this section.~~

~~(k) (1) Each carrier shall include the information required by subsection (f)(2)(iii), (iv), and (v) of this section in the policy, plan, certificate, enrollment materials, or other evidence of coverage that the carrier provides to a member at the time of the member's initial coverage or renewal of coverage.~~

~~(2) Each carrier shall include as part of the information required by paragraph (1) of this subsection a statement indicating that, when filing a complaint with the Commissioner, the member or the member's representative will be required to authorize the release of any medical records of the member that may be required to be reviewed for the purpose of reaching a decision on the complaint.~~

~~(l) (1) Nothing in this subtitle prohibits a carrier from delegating its internal grievance process to a private review agent that has a certificate issued under Subtitle 10B of this title and is acting on behalf of the carrier.~~

~~(2) If a carrier delegates its internal grievance process to a private review agent, the carrier shall be:~~

~~(i) bound by the grievance decision made by the private review agent acting on behalf of the carrier; and~~

~~(ii) responsible for a violation of any provision of this subtitle regardless of the delegation made by the carrier under paragraph (1) of this subsection.~~

~~15–10D–02.~~

~~(a) (1) Each carrier shall establish an internal appeal process for use by its members, its members' representatives, and health care providers to dispute coverage decisions made by the carrier.~~

~~(2) The carrier may use the internal grievance process established under Subtitle 10A of this title to comply with the requirement of paragraph (1) of this subsection.~~

~~(b) A carrier under this section shall render a final decision in writing to a member, a member's representative, and a health care provider acting on behalf of the member within 60 working days after the date on which the appeal is filed.~~

~~(c) Except as provided in subsection (d) of this section, the carrier's internal appeal process shall be exhausted prior to filing a complaint with the Commissioner under this subtitle.~~

~~(d) A member, a member's representative, or a health care provider filing a complaint on behalf of a member may file a complaint with the Commissioner without first filing an appeal with a carrier only if the coverage decision involves an urgent medical condition, as defined by regulation adopted by the Commissioner, for which care has not been rendered.~~

~~(e) (1) Within 30 calendar days after a coverage decision has been made, a carrier shall send a written notice of the coverage decision to the member and the member's representative, if any, and, in the case of a health maintenance organization, the treating health care provider.~~

~~(2) Notice of the coverage decision required to be sent under paragraph (1) of this subsection shall:~~

~~(i) state in detail in clear, understandable language, the specific factual bases for the carrier's decision; and~~

~~(ii) include the following information:~~

~~1. that the member, the member's representative, or a health care provider acting on behalf of the member has a right to file an appeal with the carrier;~~

~~2. that the member, the member's representative, or a health care provider acting on behalf of the member may file a complaint with the Commissioner without first filing an appeal, if the coverage decision involves an urgent medical condition for which care has not been rendered;~~

~~3. the Commissioner's address, telephone number, and facsimile number;~~

~~4. that the Health Advocacy Unit is available to assist the member or the member's representative in both mediating and filing an appeal under the carrier's internal appeal process; [and]~~

~~5. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit; AND~~

~~**6. FOR A COVERAGE DECISION FOR MENTAL HEALTH BENEFITS OR SUBSTANCE USE DISORDER BENEFITS, NOTICE REGARDING THE BENEFITS REQUIRED UNDER § 15–802 OF THIS ARTICLE AND THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT AND NOTICE THAT THE MEMBER MAY CONTACT THE COMMISSIONER FOR FURTHER INFORMATION ABOUT BENEFITS.**~~

~~(f) (1) Within 30 calendar days after the appeal decision has been made, each carrier shall send to the member, the member's representative, and the health care provider acting on behalf of the member a written notice of the appeal decision.~~

~~(2) Notice of the appeal decision required to be sent under paragraph (1) of this subsection shall:~~

~~(i) state in detail in clear, understandable language the specific factual bases for the carrier's decision; and~~

~~(ii) include the following information:~~

~~1. that the member, the member's representative, or a health care provider acting on behalf of the member has a right to file a complaint with the Commissioner within 4 months after receipt of a carrier's appeal decision;~~

~~2. the Commissioner's address, telephone number, and facsimile number;~~

~~3. a statement that the Health Advocacy Unit is available to assist the member in filing a complaint with the Commissioner; [and]~~

~~4. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit; AND~~

~~**5. FOR A COVERAGE DECISION FOR MENTAL HEALTH BENEFITS, NOTICE REGARDING THE BENEFITS REQUIRED UNDER § 15–802 OF THIS ARTICLE AND THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT AND NOTICE THAT THE MEMBER MAY CONTACT THE COMMISSIONER FOR FURTHER INFORMATION ABOUT BENEFITS.**~~

~~(g) The Commissioner may request the member that filed the complaint or a legally authorized designee of the member to sign a consent form authorizing the release~~

~~of the member's medical records to the Commissioner or the Commissioner's designee that are needed in order for the Commissioner to make a final decision on the complaint.~~

~~(h) (1) A carrier shall have the burden of persuasion that its coverage decision or appeal decision, as applicable, is correct:~~

~~(i) during the review of a complaint by the Commissioner or a designee of the Commissioner; and~~

~~(ii) in any hearing held in accordance with Title 10, Subtitle 2 of the State Government Article to contest a final decision of the Commissioner made and issued under this subtitle.~~

~~(2) As part of the review of a complaint, the Commissioner or a designee of the Commissioner may consider all of the facts of the case and any other evidence that the Commissioner or designee of the Commissioner considers appropriate.~~

~~(i) The Commissioner shall:~~

~~(1) make and issue in writing a final decision on all complaints filed with the Commissioner under this subtitle that are within the Commissioner's jurisdiction; and~~

~~(2) provide notice in writing to all parties to a complaint of the opportunity and time period for requesting a hearing to be held in accordance with Title 10, Subtitle 2 of the State Government Article to contest a final decision of the Commissioner made and issued under this subtitle.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2020, and shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2020.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2019.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2020.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2020.

Approved by the Governor, April 30, 2019.

Chapter 358

(House Bill 599)

AN ACT concerning

Health Insurance – Coverage for Mental Health Benefits and Substance Use Disorder Benefits – ~~Requirements and Reports~~ Treatment Criteria

FOR the purpose of ~~requiring certain carriers, on or before a certain date each year, to submit a report to the Maryland Insurance Commissioner to demonstrate the carrier's compliance with the federal Mental Health Parity and Addiction Equity Act; requiring certain carriers, on or before a certain date each year, to submit a report to the Commissioner on data for certain benefits by certain classification; requiring the reports to include certain information and be submitted in a certain manner; requiring the reports to be prepared in coordination with certain entities, contain a certain statement, and be made available to certain persons in a certain manner; requiring the reports to exclude certain identifiable information; requiring the Commissioner to review the reports, notify a carrier of noncompliance with certain federal law, and require the carrier to take certain actions under certain circumstances; requiring the Commissioner to impose a certain penalty for each day a carrier fails to submit a certain report; requiring that certain funds be used only for certain purposes; requiring the Commissioner, on or before a certain date, to develop certain forms and, in consultation with certain persons, adopt certain regulations;~~ requiring an insurer, nonprofit health service plan, or health maintenance organization to use certain criteria for all medical necessity and utilization management determinations for substance use disorder benefits; repealing a certain limitation on the amount of copayment that an insurer, nonprofit health service plan, or health maintenance organization may charge under certain circumstances; ~~requiring certain carriers to include certain information in a certain notice of an adverse decision or grievance by a carrier; requiring certain carriers to include certain information in certain notice of a coverage decision or appeal decision by a carrier;~~ defining ~~certain terms~~ a certain term; making ~~stylistic changes~~ a stylistic change; providing for a delayed effective date ~~for certain provisions of this Act~~; providing for the application of ~~certain provisions of~~ this Act; and generally relating to coverage for mental health benefits and substance use disorder benefits.

~~BY adding to~~
~~Article – Insurance~~
~~Section 15–144~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–802~~, 15–10A–02, and 15–10D–02~~
Annotated Code of Maryland

(2017 Replacement Volume and 2018 Supplement)

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

~~Article – Insurance~~

~~15–144.~~

~~(a) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "CARRIER" MEANS:~~

~~(I) AN INSURER;~~

~~(II) A NONPROFIT HEALTH SERVICE PLAN; OR~~

~~(III) A HEALTH MAINTENANCE ORGANIZATION.~~

~~(3) (I) "FINANCIAL REQUIREMENTS" INCLUDES:~~

~~1. DEDUCTIBLES;~~

~~2. COPAYMENTS;~~

~~3. COINSURANCE; AND~~

~~4. ANY OUT–OF–POCKET MAXIMUMS.~~

~~(II) "FINANCIAL REQUIREMENTS" DOES NOT INCLUDE AGGREGATED LIFETIME OR ANNUAL DOLLAR LIMITS.~~

~~(4) "MEDICAL/SURGICAL BENEFITS" HAS THE MEANING STATED IN 45 C.F.R. § 146.136(A) AND 29 C.F.R. 2590.712(A).~~

~~(5) "MENTAL HEALTH BENEFITS" HAS THE MEANING STATED IN 45 C.F.R. § 146.136(A) AND 29 C.F.R. 2590.712(A).~~

~~(6) "NONQUANTITATIVE TREATMENT LIMITATION" HAS THE MEANING STATED IN 45 C.F.R. § 146.136(A) AND 29 C.F.R. 2590.712(A).~~

~~(7) "PARITY ACT" MEANS THE PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008 AND 45 C.F.R. 146.136 AND 45 C.F.R. 147.160.~~

~~(8) "PARITY ACT CLASSIFICATIONS" MEANS:~~

~~(I) IN–NETWORK BENEFITS;~~

~~(II) INPATIENT OUT–OF–NETWORK BENEFITS;~~

~~(III) OUTPATIENT IN–NETWORK BENEFITS;~~

~~(IV) OUTPATIENT OUT–OF–NETWORK BENEFITS;~~

~~(V) PRESCRIPTION DRUG BENEFITS; AND~~

~~(VI) EMERGENCY CARE BENEFITS.~~

~~(9) "QUANTITATIVE TREATMENT LIMITATIONS" MEANS NUMERICAL FACTORS THAT LIMIT THE TREATMENT OR BENEFIT OFFERED UNDER A PLAN OR COVERAGE.~~

~~(10) "SUBSTANCE USE DISORDER BENEFITS" HAS THE MEANING STATED IN 45 C.F.R. § 146.136(A) AND 29 C.F.R. 2590.712(A).~~

~~(11) "TREATMENT LIMITATIONS" INCLUDES LIMITS BASED ON:~~

~~(I) THE FREQUENCY OF TREATMENT;~~

~~(II) NUMBER OF VISITS;~~

~~(III) DAYS OF COVERAGE; AND~~

~~(IV) DAYS IN A WAITING PERIOD.~~

~~(B) THIS SECTION APPLIES TO A CARRIER THAT DELIVERS, OR ISSUES FOR DELIVERY, AN INDIVIDUAL, GROUP, OR BLANKET HEALTH BENEFIT PLAN IN THE STATE.~~

~~(C) (1) ON OR BEFORE JULY 1 EACH YEAR, EACH CARRIER SHALL SUBMIT A REPORT TO THE COMMISSIONER TO DEMONSTRATE THE CARRIER'S COMPLIANCE WITH THE PARITY ACT.~~

~~(2) THE REPORT SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:~~

~~(I) LIST ALL MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE~~

~~CARRIER AND THE PLACE THAT EACH BENEFIT IS OFFERED IN THE APPLICABLE PARITY ACT CLASSIFICATION OR SUBCLASSIFICATION;~~

~~(II) LIST ALL MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS THAT ARE EXCLUDED FROM COVERAGE BY THE CARRIER AND A DETAILED EXPLANATION FOR THE EXCLUSION;~~

~~(III) LIST ANY ANNUAL OR LIFETIME DOLLAR LIMITS ON MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER AND PROVIDE AN ACTUARIAL DEMONSTRATION THAT ANY ANNUAL OR LIFETIME DOLLAR LIMIT COMPLIES WITH THE PARITY ACT;~~

~~(IV) LIST ALL FINANCIAL REQUIREMENTS FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER BY CLASSIFICATION AND SUBCLASSIFICATION AND PROVIDE AN ACTUARIAL DEMONSTRATION THAT THE FINANCIAL REQUIREMENTS SATISFY THE SUBSTANTIALLY ALL AND PREDOMINANT STANDARDS OF THE PARITY ACT, INCLUDING:~~

~~1. A DESCRIPTION OF THE METHODOLOGY USED TO DETERMINE THE DOLLAR AMOUNT OF ALL PLAN PAYMENTS FOR THE SUBSTANTIALLY ALL AND PREDOMINANT ANALYSIS; AND~~

~~2. AN IDENTIFICATION OF ANY CUMULATIVE FINANCIAL REQUIREMENTS FOR MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS AND VERIFICATION OF COMPLIANCE WITH THE PARITY ACT;~~

~~(V) LIST ALL QUANTITATIVE TREATMENT LIMITATIONS FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER BY CLASSIFICATION AND SUBCLASSIFICATION AND PROVIDE AN ACTUARIAL DEMONSTRATION THAT THE QUANTITATIVE TREATMENT LIMITATIONS SATISFY THE SUBSTANTIALLY ALL AND PREDOMINANT STANDARDS OF THE PARITY ACT, INCLUDING:~~

~~1. A DESCRIPTION OF THE METHODOLOGY USED TO DETERMINE THE DOLLAR AMOUNT OF ALL PLAN PAYMENTS FOR SUBSTANTIALLY ALL AND PREDOMINANT ANALYSIS; AND~~

~~2. AN IDENTIFICATION OF ANY CUMULATIVE FINANCIAL REQUIREMENTS FOR MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS AND VERIFICATION OF COMPLIANCE WITH THE PARITY ACT;~~

~~(VI) LIST ALL NONQUANTITATIVE TREATMENT LIMITATIONS THAT APPLY TO MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS OFFERED BY THE CARRIER BY CLASSIFICATION AND IDENTIFY THE DESCRIPTION OF THE NONQUANTITATIVE TREATMENT LIMITATIONS IN THE CARRIER'S PLAN DOCUMENTS;~~

~~(VII) LIST THE FACTORS CONSIDERED IN THE DESIGN OF EACH NONQUANTITATIVE TREATMENT LIMITATION LISTED UNDER ITEM (VI) OF THIS PARAGRAPH;~~

~~(VIII) IDENTIFY THE SOURCES USED TO DEFINE OR ESTABLISH A THRESHOLD FOR APPLYING THE FACTORS LISTED UNDER ITEM (VII) OF THIS PARAGRAPH, INCLUDING:~~

~~1. THE TITLE AND QUALIFICATIONS OF THE EMPLOYEE WHO MAKES THE DECISIONS RELATED TO THE ADOPTION AND IMPLEMENTATION OF THE FACTORS;~~

~~2. A DESCRIPTION OF HOW THE FACTORS WERE USED TO APPLY EACH NONQUANTITATIVE TREATMENT LIMITATION TO MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS;~~

~~3. AN EXPLANATION ABOUT WHETHER ANY FACTOR WAS GIVEN MORE WEIGHT THAN ANOTHER FACTOR; AND~~

~~4. IF A FACTOR WAS GIVEN MORE WEIGHT THAN ANOTHER FACTOR, THE REASON FOR THE DIFFERENCE IN WEIGHTING;~~

~~(IX) AN ANALYSIS THAT DEMONSTRATES, FOR THE PLAN AS WRITTEN AND IN OPERATION, THE PROCESSES, STRATEGIES, AND EVIDENTIARY STANDARDS USED IN DEVELOPING AND APPLYING EACH NONQUANTITATIVE TREATMENT LIMITATION IS COMPARABLE TO AND APPLIED NO MORE STRINGENTLY TO MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS THAN TO MEDICAL/SURGICAL BENEFITS, INCLUDING:~~

~~1. THE ANALYSIS, AUDIT, OR METHOD USED TO ASSESS COMPARABILITY UNDER THIS ITEM;~~

~~2. ANY FACTORS USED, EVIDENTIARY STANDARDS RELIED ON, AND THE PROCESS EMPLOYED IN DEVELOPING AND APPLYING A NONQUANTITATIVE TREATMENT LIMITATION FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS; AND~~

~~3. ANY IDENTIFICATION MEASURES THAT WERE USED TO ENSURE COMPARABLE APPLICATION OF NONQUANTITATIVE TREATMENT LIMITATIONS THAT ARE IMPLEMENTED BY THE CARRIER AND ANY ENTITY DELEGATED TO MANAGE MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, OR MEDICAL/SURGICAL BENEFITS ON BEHALF OF THE CARRIER;~~

~~(X) INCLUDE A RECORD OF ALL CLAIMS SUBMITTED FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS AND THE NUMBER OF CLAIMS DENIED FOR EACH BENEFIT BY CLASSIFICATION; AND~~

~~(XI) IDENTIFY THE PROCESS USED TO COMPLY WITH THE PARITY ACT DISCLOSURE REQUIREMENTS FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS, INCLUDING:~~

~~1. THE CRITERIA FOR A MEDICAL NECESSITY DETERMINATION;~~

~~2. REASONS FOR A DENIAL OF BENEFITS; AND~~

~~3. IN CONNECTION WITH INTERNAL CLAIMS AND APPEALS, PLAN DOCUMENTS THAT CONTAIN INFORMATION ABOUT PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, AND ANY OTHER FACTORS USED TO APPLY A NONQUANTITATIVE TREATMENT LIMITATION.~~

~~(D) ON OR BEFORE JULY 1 EACH YEAR, EACH CARRIER SHALL SUBMIT A REPORT TO THE COMMISSIONER ON THE CARRIER'S DATA FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS BY PARITY ACT CLASSIFICATION, INCLUDING:~~

~~(1) THE DELIVERY OF MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES, INCLUDING THE TOTAL NUMBER OF MEMBERS WHO RECEIVED SERVICES FOR A COVERED BENEFIT UNDER § 18–840 OF THIS ARTICLE IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, REPORTED SEPARATELY FOR A PRIMARY DIAGNOSIS OF MENTAL ILLNESS OR MENTAL DISORDER AND A PRIMARY DIAGNOSIS OF ALCOHOL OR DRUG MISUSE BASED ON THE FOLLOWING LEVELS OF CARE:~~

~~(I) OUTPATIENT;~~

~~(II) INTENSIVE OUTPATIENT;~~

~~(III) OPIOID TREATMENT SERVICES;~~

~~(IV) PARTIAL HOSPITALIZATION;~~

~~(V) RESIDENTIAL TREATMENT;~~

~~(VI) INPATIENT TREATMENT; AND~~

~~(VII) CRISIS RESIDENTIAL SERVICES;~~

~~(2) THE TOTAL NUMBER OF MEMBERS RECEIVING SERVICES FOR WHICH DATA IS PROVIDED UNDER ITEM (1) OF THIS SUBSECTION CALCULATED PER 1,000 MEMBERS;~~

~~(3) UTILIZATION MANAGEMENT REQUIREMENTS AND PLAN DECISIONS RELATED TO PRIOR AUTHORIZATION AND CONCURRENT OR CONTINUING REVIEW BY PARITY ACT CLASSIFICATION, INCLUDING:~~

~~(I) THE NUMBER AND PERCENT OF COVERED SERVICES AND PRESCRIPTION DRUGS SUBJECT TO EACH LEVEL OF REVIEW;~~

~~(II) THE NUMBER AND PERCENT OF REQUESTED SERVICES AND PRESCRIPTION DRUGS APPROVED AT EACH LEVEL OF REVIEW;~~

~~(III) THE NUMBER AND PERCENT OF REQUESTED SERVICES AND PRESCRIPTION DRUGS DENIED AT EACH LEVEL OF REVIEW;~~

~~(IV) THE NUMBER AND PERCENT OF REQUESTED SERVICES DENIED WITH AN APPROVAL FOR A LOWER LEVEL OF CARE OF A DIFFERENT PRESCRIPTION DRUG;~~

~~(V) THE NUMBER AND PERCENT OF REQUESTED SERVICES DENIED BASED ON NONCOVERED SERVICE, MEDICAL NECESSITY CRITERIA, EXPERIMENTAL, INVESTIGATIVE SERVICE, INCOMPLETE SUBMISSION, DUPLICATE SUBMISSION, OR ANY ADDITIONAL REASON; AND~~

~~(VI) FOR CONCURRENT OR CONTINUING REVIEW, THE AVERAGE NUMBER OF DAYS AUTHORIZED FOR EACH REVIEW PERIOD AND AVERAGE INTERVAL FOR REQUIRING REVIEW, EXPRESSED IN THE NUMBER OF DAYS;~~

~~(4) DENIALS AND APPEALS OF ADVERSE AND COVERAGE DECISIONS BY PARITY ACT CLASSIFICATION, INCLUDING:~~

~~(I) THE NUMBER AND PERCENT OF DENIALS OF A REQUESTED SERVICE;~~

~~(II) THE NUMBER AND PERCENT OF DECISIONS FOR WHICH A PEER–TO–PEER REVIEW WAS REQUESTED;~~

~~(III) THE NUMBER AND PERCENT OF DECISIONS THAT WERE APPEALED AND THE RESULT OF THE APPEAL; AND~~

~~(IV) THE NUMBER AND PERCENT OF DECISIONS THAT WENT TO EXTERNAL REVIEW AT THE ADMINISTRATION AND THE RESULT OF THE APPEAL;~~

~~(5) NETWORK UTILIZATION REPORTED SEPARATELY FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS, INCLUDING THE NUMBER AND PERCENT OF CLAIMS PAID FOR OUT–OF–NETWORK USE OF:~~

~~(I) OUTPATIENT VISITS;~~

~~(II) INPATIENT HOSPITALIZATION; AND~~

~~(III) NONHOSPITAL RESIDENTIAL FACILITIES; AND~~

~~(6) DETAILS ON CLAIM REIMBURSEMENT, INCLUDING:~~

~~(I) CLAIM EXPENSES FOR EACH MEMBER FOR EACH MONTH FOR MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS;~~

~~(II) THE AVERAGE REIMBURSEMENT RATE FOR PSYCHIATRISTS AND NONPSYCHIATRIST PHYSICIANS FOR EACH EVALUATION AND MANAGEMENT COMMON PROCEDURAL TECHNOLOGY CODE;~~

~~(III) THE NETWORK PROVIDER REIMBURSEMENT RATE METHODOLOGY BY PARITY ACT CLASSIFICATION AND THE AUDITS CONDUCTED TO ASSESS COMPLIANCE WITH THE RATE METHODOLOGY; AND~~

~~(IV) THE METHODOLOGY FOR DETERMINING THE ALLOWABLE AMOUNT FOR OUT–OF–NETWORK MENTAL HEALTH BENEFITS, SUBSTANCE USE BENEFITS, AND MEDICAL/SURGICAL BENEFITS, INCLUDING ANY REDUCTIONS MADE IN ALLOWABLE AMOUNTS FOR SPECIFIED PROVIDERS OR SERVICES AND THE AUDITS CONDUCTED TO ASSESS COMPLIANCE WITH METHODOLOGIES.~~

~~(E) THE REPORTS REQUIRED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION SHALL:~~

~~(1) BE SUBMITTED ON A STANDARD FORM DEVELOPED BY THE COMMISSIONER;~~

~~(2) BE SUBMITTED BY THE CARRIER THAT ISSUES OR DELIVERS THE HEALTH BENEFIT PLAN;~~

~~(3) BE PREPARED IN COORDINATION WITH ANY ENTITY THE CARRIER CONTRACTS WITH TO PROVIDE MENTAL HEALTH BENEFITS AND SUBSTANCE DISORDER BENEFITS;~~

~~(4) CONTAIN A STATEMENT, SIGNED BY THE CARRIER'S CHIEF EXECUTIVE OFFICER, ATTESTING TO THE ACCURACY OF THE INFORMATION CONTAINED IN THE REPORT;~~

~~(5) BE MADE AVAILABLE TO ALL PLAN MEMBERS AND BENEFICIARIES ON THE CARRIER'S WEBSITE AND ON REQUEST;~~

~~(6) BE AVAILABLE TO PLAN MEMBERS AND THE PUBLIC ON THE CARRIER'S WEBSITE IN A SUMMARY FORM DEVELOPED BY THE COMMISSIONER; AND~~

~~(7) EXCLUDE ANY IDENTIFYING INFORMATION OF ANY PLAN MEMBERS.~~

~~(F) THE COMMISSIONER SHALL:~~

~~(1) REVIEW EACH REPORT SUBMITTED IN ACCORDANCE WITH SUBSECTIONS (C) AND (D) OF THIS SECTION TO ASSESS EACH CARRIER'S COMPLIANCE WITH THE PARITY ACT;~~

~~(2) NOTIFY A CARRIER OF ANY NONCOMPLIANCE WITH THE PARITY ACT;~~

~~(3) REQUIRE THE CARRIER TO ADDRESS ANY NONCOMPLIANCE WITH THE PARITY ACT WITHIN 90 DAYS AFTER THE CARRIER IS NOTIFIED UNDER ITEM (2) OF THIS SUBSECTION;~~

~~(4) REQUIRE THE CARRIER TO SEND NOTIFICATION TO MEMBERS AND BENEFICIARIES OF THE CARRIER'S NONCOMPLIANCE;~~

~~(5) REQUIRE REIMBURSEMENT TO MEMBERS AND BENEFICIARIES FOR COSTS INCURRED AS A RESULT OF ANY NONCOMPLIANCE WITH THE PARITY ACT; AND~~

~~(6) AS APPROPRIATE, IMPOSE A PENALTY FOR EACH VIOLATION.~~

~~(G) (1) THE COMMISSIONER SHALL IMPOSE A PENALTY OF $5,000 FOR EACH DAY FOR WHICH A CARRIER FAILS TO SUBMIT A REPORT REQUIRED UNDER SUBSECTION (C) OR (D) OF THIS SECTION.~~

~~(2) THE PENALTIES COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE USED BY THE COMMISSIONER ONLY FOR ENFORCEMENT OF A CARRIER'S COMPLIANCE WITH THE PARITY ACT.~~

~~(II) THE COMMISSIONER SHALL:~~

~~(1) ON OR BEFORE DECEMBER 31, 2019, CREATE A STANDARD FORM FOR ENTITIES TO SUBMIT THE REPORTS IN ACCORDANCE WITH SUBSECTION (E)(1) OF THIS SECTION; AND~~

~~(2) ON OR BEFORE DECEMBER 31, 2019, CREATE A SUMMARY FORM FOR ENTITIES TO POST WITH THEIR REPORTS IN ACCORDANCE WITH SUBSECTION (E)(6) OF THIS SECTION.~~

~~(I) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSIONER SHALL, IN CONSULTATION WITH INTERESTED STAKEHOLDERS, ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

Article – Insurance

15–802.

(a) (1) In this section the following words have the meanings indicated.

(2) "Alcohol misuse" has the meaning stated in § 8–101 of the Health – General Article.

(3) "ASAM CRITERIA" MEANS THE MOST RECENT EDITION OF THE AMERICAN SOCIETY OF ADDICTION MEDICINE TREATMENT CRITERIA FOR ADDICTIVE, SUBSTANCE–RELATED, AND CO–OCCURRING CONDITIONS THAT ESTABLISHES GUIDELINES FOR PLACEMENT, CONTINUED STAY AND TRANSFER OR DISCHARGE OF PATIENTS WITH ADDICTION AND CO–OCCURRING CONDITIONS.

[(3)**] (4)** "Drug misuse" has the meaning stated in § 8–101 of the Health – General Article.

[(4)**] (5)** "Grandfathered health plan coverage" has the meaning stated in 45 C.F.R. § 147.140.

[(5)**] (6)** "Health benefit plan":

(i) for a group or blanket plan, has the meaning stated in § 15–1401 of this title; and

(ii) for an individual plan, has the meaning stated in § 15–1301 of this title.

[(6)**] (7)** "Managed care system" means a system of cost containment methods that a carrier uses to review and preauthorize a treatment plan developed by a health care provider for a covered individual in order to control utilization, quality, and claims.

[(7)**] (8)** "Partial hospitalization" means the provision of medically directed intensive or intermediate short–term treatment:

(i) to an insured, subscriber, or member;

(ii) in a licensed or certified facility or program;

(iii) for mental illness, emotional disorders, drug misuse, or alcohol misuse; and

(iv) for a period of less than 24 hours but more than 4 hours in a day.

[(8)**] (9)** "Small employer" has the meaning stated in § 31–101 of this article.

(b) With the exception of small employer grandfathered health plan coverage, this section applies to each individual, group, and blanket health benefit plan that is delivered or issued for delivery in the State by an insurer, a nonprofit health service plan, or a health maintenance organization.

(c) A health benefit plan subject to this section shall provide at least the following benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug use disorder, or alcohol use disorder:

(1) inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient and residential treatment center benefits;

(2) partial hospitalization benefits; and

(3) outpatient and intensive outpatient benefits, including all office visits, diagnostic evaluation, opioid treatment services, medication evaluation and management, and psychological and neuropsychological testing for diagnostic purposes.

(d) (1) The benefits under this section are required only for expenses arising from the treatment of mental illnesses, emotional disorders, drug misuse, or alcohol misuse if, in the professional judgment of health care providers:

(i) the mental illness, emotional disorder, drug misuse, or alcohol misuse is treatable; and

(ii) the treatment is medically necessary.

(2) The benefits required under this section:

(i) shall be provided as one set of benefits covering mental illnesses, emotional disorders, drug misuse, and alcohol misuse;

(ii) shall comply with 45 C.F.R. § 146.136(a) through (d) and 29 C.F.R. § 2590.712(a) through (d);

(iii) subject to paragraph (3) of this subsection, may be delivered under a managed care system; and

(iv) for partial hospitalization under subsection (c)(2) of this section, may not be less than 60 days.

(3) The benefits required under this section may be delivered under a managed care system only if the benefits for physical illnesses covered under the health benefit plan are delivered under a managed care system.

(4) The processes, strategies, evidentiary standards, or other factors used to manage the benefits required under this section must be comparable as written and in operation to, and applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used to manage the benefits for physical illnesses covered under the health benefit plan.

(5) An insurer, nonprofit health service plan, or health maintenance organization **[**may not charge a copayment for methadone maintenance treatment that is greater than 50% of the daily cost for methadone maintenance treatment**]** **SHALL USE THE ASAM CRITERIA FOR ALL MEDICAL NECESSITY AND UTILIZATION MANAGEMENT DETERMINATIONS FOR SUBSTANCE USE DISORDER BENEFITS**.

(e) An entity that issues or delivers a health benefit plan subject to this section shall provide on its **[**Web site**]** **WEBSITE** and annually in print to its insureds or members:

(1) notice about the benefits required under this section and the federal Mental Health Parity and Addiction Equity Act; and

(2) notice that the insured or member may contact the Administration for further information about the benefits.

(f) An entity that issues or delivers a health benefit plan subject to this section shall:

(1) post a release of information authorization form on its **[**Web site**]** **WEBSITE**; and

(2) provide a release of information authorization form by standard mail within 10 business days after a request for the form is received.

~~15–10A–02.~~

~~(a) Each carrier shall establish an internal grievance process for its members.~~

~~(b) (1) An internal grievance process shall meet the same requirements established under Subtitle 10B of this title.~~

~~(2) In addition to the requirements of Subtitle 10B of this title, an internal grievance process established by a carrier under this section shall:~~

~~(i) include an expedited procedure for use in an emergency case for purposes of rendering a grievance decision within 24 hours of the date a grievance is filed with the carrier;~~

~~(ii) provide that a carrier render a final decision in writing on a grievance within 30 working days after the date on which the grievance is filed unless:~~

~~1. the grievance involves an emergency case under item (i) of this paragraph;~~

~~2. the member, the member's representative, or a health care provider filing a grievance on behalf of a member agrees in writing to an extension for a period of no longer than 30 working days; or~~

~~3. the grievance involves a retrospective denial under item (iv) of this paragraph;~~

~~(iii) allow a grievance to be filed on behalf of a member by a health care provider or the member's representative;~~

~~(iv) provide that a carrier render a final decision in writing on a grievance within 45 working days after the date on which the grievance is filed when the grievance involves a retrospective denial; and~~

~~(v) for a retrospective denial, allow a member, the member's representative, or a health care provider on behalf of a member to file a grievance for at least 180 days after the member receives an adverse decision.~~

~~(3) For purposes of using the expedited procedure for an emergency case that a carrier is required to include under paragraph (2)(i) of this subsection, the Commissioner shall define by regulation the standards required for a grievance to be considered an emergency case.~~

~~(c) Except as provided in subsection (d) of this section, the carrier's internal grievance process shall be exhausted prior to filing a complaint with the Commissioner under this subtitle.~~

~~(d) (1) (i) A member, the member's representative, or a health care provider filing a complaint on behalf of a member may file a complaint with the Commissioner without first filing a grievance with a carrier and receiving a final decision on the grievance if:~~

~~1. the carrier waives the requirement that the carrier's internal grievance process be exhausted before filing a complaint with the Commissioner;~~

~~2. the carrier has failed to comply with any of the requirements of the internal grievance process as described in this section; or~~

~~3. the member, the member's representative, or the health care provider provides sufficient information and supporting documentation in the complaint that demonstrates a compelling reason to do so.~~

~~(ii) The Commissioner shall define by regulation the standards that the Commissioner shall use to decide what demonstrates a compelling reason under subparagraph (i) of this paragraph.~~

~~(2) Subject to subsections (b)(2)(ii) and (h) of this section, a member, a member's representative, or a health care provider may file a complaint with the Commissioner if the member, the member's representative, or the health care provider does not receive a grievance decision from the carrier on or before the 30th working day on which the grievance is filed.~~

~~(3) Whenever the Commissioner receives a complaint under paragraph (1) or (2) of this subsection, the Commissioner shall notify the carrier that is the subject of the complaint within 5 working days after the date the complaint is filed with the Commissioner.~~

~~(e) Each carrier shall:~~

~~(1) file for review with the Commissioner and submit to the Health Advocacy Unit a copy of its internal grievance process established under this subtitle; and~~

~~(2) file any revision to the internal grievance process with the Commissioner and the Health Advocacy Unit at least 30 days before its intended use.~~

~~(f) For nonemergency cases, when a carrier renders an adverse decision, the carrier shall:~~

~~(1) document the adverse decision in writing after the carrier has provided oral communication of the decision to the member, the member's representative, or the health care provider acting on behalf of the member; and~~

~~(2) send, within 5 working days after the adverse decision has been made, a written notice to the member, the member's representative, and a health care provider acting on behalf of the member that:~~

~~(i) states in detail in clear, understandable language the specific factual bases for the carrier's decision;~~

~~(ii) references the specific criteria and standards, including interpretive guidelines, on which the decision was based, and may not solely use generalized terms such as "experimental procedure not covered", "cosmetic procedure not covered", "service included under another procedure", or "not medically necessary";~~

~~(iii) states the name, business address, and business telephone number of:~~

~~1. the medical director or associate medical director, as appropriate, who made the decision if the carrier is a health maintenance organization; or~~

~~2. the designated employee or representative of the carrier who has responsibility for the carrier's internal grievance process if the carrier is not a health maintenance organization;~~

~~(iv) gives written details of the carrier's internal grievance process and procedures under this subtitle; and~~

~~(v) includes the following information:~~

~~1. that the member, the member's representative, or a health care provider on behalf of the member has a right to file a complaint with the Commissioner within 4 months after receipt of a carrier's grievance decision;~~

~~2. that a complaint may be filed without first filing a grievance if the member, the member's representative, or a health care provider filing a grievance on behalf of the member can demonstrate a compelling reason to do so as determined by the Commissioner;~~

~~3. the Commissioner's address, telephone number, and facsimile number;~~

~~4. a statement that the Health Advocacy Unit is available to assist the member or the member's representative in both mediating and filing a grievance under the carrier's internal grievance process; [and]~~

~~5. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit; AND~~

~~6. FOR A COVERAGE DECISION FOR MENTAL HEALTH BENEFITS OR SUBSTANCE USE DISORDER BENEFITS, NOTICE REGARDING THE BENEFITS REQUIRED UNDER § 15–802 OF THIS ARTICLE AND THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT AND NOTICE THAT THE MEMBER MAY CONTACT THE COMMISSIONER FOR FURTHER INFORMATION ABOUT BENEFITS.~~

~~(g) If within 5 working days after a member, the member's representative, or a health care provider, who has filed a grievance on behalf of a member, files a grievance with the carrier, and if the carrier does not have sufficient information to complete its internal grievance process, the carrier shall:~~

~~(1) notify the member, the member's representative, or the health care provider that it cannot proceed with reviewing the grievance unless additional information is provided; and~~

~~(2) assist the member, the member's representative, or the health care provider in gathering the necessary information without further delay.~~

~~(h) A carrier may extend the 30–day or 45–day period required for making a final grievance decision under subsection (b)(2)(ii) of this section with the written consent of the member, the member's representative, or the health care provider who filed the grievance on behalf of the member.~~

~~(i) (1) For nonemergency cases, when a carrier renders a grievance decision, the carrier shall:~~

~~(i) document the grievance decision in writing after the carrier has provided oral communication of the decision to the member, the member's representative, or the health care provider acting on behalf of the member; and~~

~~(ii) send, within 5 working days after the grievance decision has been made, a written notice to the member, the member's representative, and a health care provider acting on behalf of the member that:~~

~~1. states in detail in clear, understandable language the specific factual bases for the carrier's decision;~~

~~2. references the specific criteria and standards, including interpretive guidelines, on which the grievance decision was based;~~

~~3. states the name, business address, and business telephone number of:~~

~~A. the medical director or associate medical director, as appropriate, who made the grievance decision if the carrier is a health maintenance organization; or~~

~~B. the designated employee or representative of the carrier who has responsibility for the carrier's internal grievance process if the carrier is not a health maintenance organization; and~~

~~4. includes the following information:~~

~~A. that the member or the member's representative has a right to file a complaint with the Commissioner within 4 months after receipt of a carrier's grievance decision;~~

~~B. the Commissioner's address, telephone number, and facsimile number;~~

~~C. a statement that the Health Advocacy Unit is available to assist the member or the member's representative in filing a complaint with the Commissioner; [and]~~

~~D. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit; AND~~

~~**E. FOR A COVERAGE DECISION FOR MENTAL HEALTH BENEFITS OR SUBSTANCE USE DISORDER BENEFITS, NOTICE REGARDING THE BENEFITS REQUIRED UNDER § 15–802 OF THIS ARTICLE AND THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT AND NOTICE THAT THE MEMBER MAY CONTACT THE COMMISSIONER FOR FURTHER INFORMATION ABOUT BENEFITS.**~~

~~(2) A carrier may not use solely in a notice sent under paragraph (1) of this subsection generalized terms such as "experimental procedure not covered", "cosmetic~~

~~procedure not covered", "service included under another procedure", or "not medically necessary" to satisfy the requirements of this subsection.~~

~~(j) (1) For an emergency case under subsection (b)(2)(i) of this section, within 1 day after a decision has been orally communicated to the member, the member's representative, or the health care provider, the carrier shall send notice in writing of any adverse decision or grievance decision to:~~

~~(i) the member and the member's representative, if any; and~~

~~(ii) if the grievance was filed on behalf of the member under subsection (b)(2)(iii) of this section, the health care provider.~~

~~(2) A notice required to be sent under paragraph (1) of this subsection shall include the following:~~

~~(i) for an adverse decision, the information required under subsection (f) of this section; and~~

~~(ii) for a grievance decision, the information required under subsection (i) of this section.~~

~~(k) (1) Each carrier shall include the information required by subsection (f)(2)(iii), (iv), and (v) of this section in the policy, plan, certificate, enrollment materials, or other evidence of coverage that the carrier provides to a member at the time of the member's initial coverage or renewal of coverage.~~

~~(2) Each carrier shall include as part of the information required by paragraph (1) of this subsection a statement indicating that, when filing a complaint with the Commissioner, the member or the member's representative will be required to authorize the release of any medical records of the member that may be required to be reviewed for the purpose of reaching a decision on the complaint.~~

~~(l) (1) Nothing in this subtitle prohibits a carrier from delegating its internal grievance process to a private review agent that has a certificate issued under Subtitle 10B of this title and is acting on behalf of the carrier.~~

~~(2) If a carrier delegates its internal grievance process to a private review agent, the carrier shall be:~~

~~(i) bound by the grievance decision made by the private review agent acting on behalf of the carrier; and~~

~~(ii) responsible for a violation of any provision of this subtitle regardless of the delegation made by the carrier under paragraph (1) of this subsection.~~

~~15–10D–02.~~

~~(a) (1) Each carrier shall establish an internal appeal process for use by its members, its members' representatives, and health care providers to dispute coverage decisions made by the carrier.~~

~~(2) The carrier may use the internal grievance process established under Subtitle 10A of this title to comply with the requirement of paragraph (1) of this subsection.~~

~~(b) A carrier under this section shall render a final decision in writing to a member, a member's representative, and a health care provider acting on behalf of the member within 60 working days after the date on which the appeal is filed.~~

~~(c) Except as provided in subsection (d) of this section, the carrier's internal appeal process shall be exhausted prior to filing a complaint with the Commissioner under this subtitle.~~

~~(d) A member, a member's representative, or a health care provider filing a complaint on behalf of a member may file a complaint with the Commissioner without first filing an appeal with a carrier only if the coverage decision involves an urgent medical condition, as defined by regulation adopted by the Commissioner, for which care has not been rendered.~~

~~(e) (1) Within 30 calendar days after a coverage decision has been made, a carrier shall send a written notice of the coverage decision to the member and the member's representative, if any, and, in the case of a health maintenance organization, the treating health care provider.~~

~~(2) Notice of the coverage decision required to be sent under paragraph (1) of this subsection shall:~~

~~(i) state in detail in clear, understandable language, the specific factual bases for the carrier's decision; and~~

~~(ii) include the following information:~~

~~1. that the member, the member's representative, or a health care provider acting on behalf of the member has a right to file an appeal with the carrier;~~

~~2. that the member, the member's representative, or a health care provider acting on behalf of the member may file a complaint with the Commissioner without first filing an appeal, if the coverage decision involves an urgent medical condition for which care has not been rendered;~~

~~3. the Commissioner's address, telephone number, and facsimile number;~~

~~4. that the Health Advocacy Unit is available to assist the member or the member's representative in both mediating and filing an appeal under the carrier's internal appeal process; [and]~~

~~5. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit; AND~~

~~6. FOR A COVERAGE DECISION FOR MENTAL HEALTH BENEFITS OR SUBSTANCE USE DISORDER BENEFITS, NOTICE REGARDING THE BENEFITS REQUIRED UNDER § 15–802 OF THIS ARTICLE AND THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT AND NOTICE THAT THE MEMBER MAY CONTACT THE COMMISSIONER FOR FURTHER INFORMATION ABOUT BENEFITS.~~

~~(f) (1) Within 30 calendar days after the appeal decision has been made, each carrier shall send to the member, the member's representative, and the health care provider acting on behalf of the member a written notice of the appeal decision.~~

~~(2) Notice of the appeal decision required to be sent under paragraph (1) of this subsection shall:~~

~~(i) state in detail in clear, understandable language the specific factual bases for the carrier's decision; and~~

~~(ii) include the following information:~~

~~1. that the member, the member's representative, or a health care provider acting on behalf of the member has a right to file a complaint with the Commissioner within 4 months after receipt of a carrier's appeal decision;~~

~~2. the Commissioner's address, telephone number, and facsimile number;~~

~~3. a statement that the Health Advocacy Unit is available to assist the member in filing a complaint with the Commissioner; [and]~~

~~4. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit; AND~~

~~5. FOR A COVERAGE DECISION FOR MENTAL HEALTH BENEFITS, NOTICE REGARDING THE BENEFITS REQUIRED UNDER § 15–802 OF THIS ARTICLE AND THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT AND NOTICE THAT THE MEMBER MAY CONTACT THE COMMISSIONER FOR FURTHER INFORMATION ABOUT BENEFITS.~~

~~(g) The Commissioner may request the member that filed the complaint or a legally authorized designee of the member to sign a consent form authorizing the release~~

~~of the member's medical records to the Commissioner or the Commissioner's designee that are needed in order for the Commissioner to make a final decision on the complaint.~~

~~(h) (1) A carrier shall have the burden of persuasion that its coverage decision or appeal decision, as applicable, is correct:~~

~~(i) during the review of a complaint by the Commissioner or a designee of the Commissioner; and~~

~~(ii) in any hearing held in accordance with Title 10, Subtitle 2 of the State Government Article to contest a final decision of the Commissioner made and issued under this subtitle.~~

~~(2) As part of the review of a complaint, the Commissioner or a designee of the Commissioner may consider all of the facts of the case and any other evidence that the Commissioner or designee of the Commissioner considers appropriate.~~

~~(i) The Commissioner shall:~~

~~(1) make and issue in writing a final decision on all complaints filed with the Commissioner under this subtitle that are within the Commissioner's jurisdiction; and~~

~~(2) provide notice in writing to all parties to a complaint of the opportunity and time period for requesting a hearing to be held in accordance with Title 10, Subtitle 2 of the State Government Article to contest a final decision of the Commissioner made and issued under this subtitle.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2020, and shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2020.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2019.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2020.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2020.

Approved by the Governor, April 30, 2019.

Chapter 359

(Senate Bill 403)

AN ACT concerning

Behavioral Health Administration – Outpatient Civil Commitment Pilot Program – ~~Statewide Expansion~~ Revisions

FOR the purpose of ~~repealing the authority of the Behavioral Health Administration to establish a certain outpatient civil commitment pilot program; requiring the Administration to establish a statewide outpatient civil commitment program; authorizing a local behavioral health authority to choose whether to participate in the program; requiring a local behavioral health authority that chooses to participate in the program to coordinate certain treatment for certain individuals; requiring the Administration to adopt certain regulations; establishing the Outpatient Civil Commitment Advisory Committee; providing for the composition, chair, terms, and staffing of the Advisory Committee; providing for the staggering of the initial terms of the appointed members of the Advisory Committee; prohibiting a member of the Advisory Committee from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Advisory Committee to review and approve certain changes to the program; requiring the Administration to submit a certain report to certain committees of the General Assembly on or before a certain date each year~~ requiring the Behavioral Health Administration to allow an eligible individual to request enrollment into a certain outpatient civil commitment pilot program; requiring the Administration to allow an immediate family member of an eligible individual to request that the individual be voluntarily enrolled into a certain outpatient civil commitment pilot program; making conforming and technical changes; and generally relating to ~~a statewide~~ an outpatient civil commitment pilot program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 7.5–205.1
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

Preamble

WHEREAS, Outpatient civil commitment is one approach to serve a small population of hard–to–engage individuals with serious mental illness; and

WHEREAS, The General Assembly passed legislation in 2017 authorizing the establishment of an outpatient civil commitment pilot program to improve access to services for individuals who have not been well–served by the public behavioral health system; and

WHEREAS, An outpatient civil commitment pilot program has been established in Baltimore City; and

WHEREAS, The pilot program in Baltimore City offers a comprehensive range of community–based and client–centered services and supports to individuals committed involuntarily to an inpatient psychiatric hospital, either through voluntary engagement or as a condition of release; and

WHEREAS, Individuals served by the pilot program are being effectively engaged, have experienced positive results, and have continued to participate in services; now, therefore,

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

Article – Health – General

7.5–205.1.

(a) ~~(1)~~ The Administration [~~may~~] ~~SHALL~~ establish [~~an~~] ~~A STATEWIDE~~ outpatient civil commitment [~~pilot~~] program to allow for the release of an individual who is involuntarily admitted for inpatient treatment under § 10–632 of this article on condition of the individual's admission into the [~~pilot~~] program.

~~(2) A LOCAL BEHAVIORAL HEALTH AUTHORITY MAY CHOOSE WHETHER TO PARTICIPATE IN THE OUTPATIENT CIVIL COMMITMENT PROGRAM ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) IF A LOCAL BEHAVIORAL HEALTH AUTHORITY CHOOSES TO PARTICIPATE IN THE OUTPATIENT CIVIL COMMITMENT PROGRAM ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE LOCAL BEHAVIORAL HEALTH AUTHORITY SHALL COORDINATE COMMUNITY–BASED TREATMENT FOR INDIVIDUALS ADMITTED TO THE PROGRAM.~~

[~~(~~](b) If the Administration establishes a pilot program under subsection (a) of this section, the Administration shall:

(1) Adopt criteria an individual must meet in order to be admitted into the pilot program;

(2) Establish application, hearing, and notice requirements; ~~and~~

(3) Specify the rights of an individual who may be or who has been admitted into the pilot program**;**

(4) ALLOW AN ELIGIBLE INDIVIDUAL TO REQUEST ENROLLMENT INTO THE PILOT PROGRAM; AND

(5) ALLOW AN IMMEDIATE FAMILY MEMBER OF AN ELIGIBLE INDIVIDUAL TO REQUEST THAT THE INDIVIDUAL BE VOLUNTARILY ENROLLED INTO THE PILOT PROGRAM.~~]~~

~~**(B) (1) THE ADMINISTRATION SHALL ADOPT REGULATIONS IMPLEMENTING THIS SECTION, IN CONSULTATION WITH THE OUTPATIENT CIVIL COMMITMENT ADVISORY COMMITTEE ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.**~~

~~**(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**~~

~~**(I) ESTABLISH THE REQUIRED CRITERIA FOR AN INDIVIDUAL TO BE ADMITTED INTO THE PROGRAM;**~~

~~**(II) ESTABLISH APPLICATION, HEARING, AND NOTICE REQUIREMENTS;**~~

~~**(III) SPECIFY THE RIGHTS OF AN INDIVIDUAL WHO MAY BE OR WHO HAS BEEN ADMITTED INTO THE PROGRAM; AND**~~

~~**(IV) ALLOW AN INDIVIDUAL OR AN IMMEDIATE FAMILY MEMBER OF AN INDIVIDUAL TO PETITION FOR THE INDIVIDUAL'S VOLUNTARY ADMISSION INTO THE PROGRAM.**~~

~~**(C) (1) THERE IS AN OUTPATIENT CIVIL COMMITMENT ADVISORY COMMITTEE.**~~

~~**(2) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:**~~

~~**(I) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH, OR THE DEPUTY SECRETARY'S DESIGNEE;**~~

~~**(II) ONE REPRESENTATIVE OF A LOCAL BEHAVIORAL HEALTH AUTHORITY PARTICIPATING IN THE PROGRAM;**~~

~~**(III) ONE REPRESENTATIVE OF THE STATE-DESIGNATED PROTECTION AND ADVOCACY AGENCY;**~~

~~(IV) ONE REPRESENTATIVE OF THE MENTAL HEALTH ASSOCIATION OF MARYLAND;~~

~~(V) ONE REPRESENTATIVE OF THE NATIONAL ALLIANCE ON MENTAL ILLNESS OF MARYLAND; AND~~

~~(VI) ONE REPRESENTATIVE OF THE OFFICE OF ADMINISTRATIVE HEARINGS.~~

~~(3) THE ADMINISTRATION SHALL APPOINT THE MEMBERS OF THE ADVISORY COMMITTEE LISTED IN PARAGRAPH (2)(II) THROUGH (VI) OF THIS SUBSECTION.~~

~~(4) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH, OR THE DEPUTY SECRETARY'S DESIGNEE, SHALL SERVE AS CHAIR OF THE ADVISORY COMMITTEE.~~

~~(5) (I) THE TERM OF AN APPOINTED MEMBER OF THE ADVISORY COMMITTEE IS 3 YEARS.~~

~~(II) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE ADVISORY COMMITTEE MEMBERS AS OF OCTOBER 1, 2019.~~

~~(III) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(6) THE ADMINISTRATION SHALL PROVIDE STAFF FOR THE ADVISORY COMMITTEE.~~

~~(7) A MEMBER OF THE ADVISORY COMMITTEE:~~

~~(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY COMMITTEE; BUT~~

~~(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

~~(8) THE ADVISORY COMMITTEE SHALL REVIEW AND APPROVE ALL CHANGES TO THE PROGRAM, INCLUDING CHANGES TO FORMS AND REGULATIONS.~~

~~[~~(c)~~]~~ ~~(D)~~ ~~[~~If the Administration establishes a pilot program under subsection (a) of this section, on~~]~~ ~~ON~~ or before December 1 each year ~~[~~the pilot program is in existence~~]~~,

the Administration shall submit to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, a report that includes~~, FOR EACH LOCAL BEHAVIORAL HEALTH AUTHORITY PARTICIPATING IN THE PROGRAM~~:

(1) The number of individuals admitted into the ~~[~~pilot~~]~~ program during the immediately preceding 12–month period;

(2) The number of applications for admission into the ~~[~~pilot~~]~~ program submitted during the immediately preceding 12–month period;

(3) The cost of administering the ~~[~~pilot~~]~~ program for the immediately preceding 12–month period;

(4) **FOR INDIVIDUALS ADMITTED INTO THE PROGRAM VOLUNTARILY AND INVOLUNTARILY:**

(I) The percentage of individuals ~~[~~admitted into the pilot program~~]~~ who adhered to the treatment plan established for the individual under the ~~[~~pilot~~]~~ program;

[(5)**]** **(II)** Treatment outcomes; **AND**

[(6)**]** **(III)** The type, intensity, and frequency of services provided to individuals admitted into the ~~[~~pilot~~]~~ program; and

[(7)**] (5)** Any other information that may be useful in determining whether ~~[~~a permanent~~]~~ ~~THE~~ outpatient civil commitment **[**process**]** **PROGRAM** should be ~~[~~established~~]~~ ~~CONTINUED~~.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Outpatient Civil Commitment Advisory Committee shall expire as follows:~~

~~(1) two members in 2021; and~~

~~(2) three members in 2022.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 360

(House Bill 427)

AN ACT concerning

Behavioral Health Administration – Outpatient Civil Commitment Pilot Program – ~~Statewide Expansion~~ Revisions

FOR the purpose of ~~repealing the authority of the Behavioral Health Administration to establish a certain outpatient civil commitment pilot program; requiring the Administration to establish a statewide outpatient civil commitment program; authorizing a local behavioral health authority to choose whether to participate in the program; requiring a local behavioral health authority that chooses to participate in the program to coordinate certain treatment for certain individuals; requiring the Administration to adopt certain regulations; establishing the Outpatient Civil Commitment Advisory Committee; providing for the composition, chair, terms, and staffing of the Advisory Committee; providing for the staggering of the initial terms of the appointed members of the Advisory Committee; prohibiting a member of the Advisory Committee from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Advisory Committee to review and approve certain changes to the program; requiring the Administration to submit a certain report to certain committees of the General Assembly on or before a certain date each year~~ requiring the Behavioral Health Administration to allow an eligible individual to request enrollment into a certain outpatient civil commitment pilot program; requiring the Administration to allow an immediate family member of an eligible individual to request that the individual be voluntarily enrolled into a certain outpatient civil commitment pilot program; making conforming and technical changes; and generally relating to ~~a statewide~~ an outpatient civil commitment pilot program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 7.5–205.1
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

Preamble

WHEREAS, Outpatient civil commitment is one approach to serve a small population of hard–to–engage individuals with serious mental illness; and

WHEREAS, The General Assembly passed legislation in 2017 authorizing the establishment of an outpatient civil commitment pilot program to improve access to services for individuals who have not been well–served by the public behavioral health system; and

WHEREAS, An outpatient civil commitment pilot program has been established in Baltimore City; and

WHEREAS, The pilot program in Baltimore City offers a comprehensive range of community–based and client–centered services and supports to individuals committed involuntarily to an inpatient psychiatric hospital, either through voluntary engagement or as a condition of release; and

WHEREAS, Individuals served by the pilot program are being effectively engaged, have experienced positive results, and have continued to participate in services; now, therefore,

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

Article – Health – General

7.5–205.1.

(a) ~~(1)~~ The Administration **[**may**]** ~~SHALL~~ establish **[**an**]** ~~A STATEWIDE~~ outpatient civil commitment **[**pilot**]** program to allow for the release of an individual who is involuntarily admitted for inpatient treatment under § 10–632 of this article on condition of the individual's admission into the **[**pilot**]** program.

~~(2) A LOCAL BEHAVIORAL HEALTH AUTHORITY MAY CHOOSE WHETHER TO PARTICIPATE IN THE OUTPATIENT CIVIL COMMITMENT PROGRAM ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) IF A LOCAL BEHAVIORAL HEALTH AUTHORITY CHOOSES TO PARTICIPATE IN THE OUTPATIENT CIVIL COMMITMENT PROGRAM ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE LOCAL BEHAVIORAL HEALTH AUTHORITY SHALL COORDINATE COMMUNITY–BASED TREATMENT FOR INDIVIDUALS ADMITTED TO THE PROGRAM.~~

[(b) If the Administration establishes a pilot program under subsection (a) of this section, the Administration shall:

(1) Adopt criteria an individual must meet in order to be admitted into the pilot program;

(2) Establish application, hearing, and notice requirements; ~~and~~

(3) Specify the rights of an individual who may be or who has been admitted into the pilot program**;**

(4) ALLOW AN ELIGIBLE INDIVIDUAL TO REQUEST ENROLLMENT INTO THE PILOT PROGRAM; AND

(5) ALLOW AN IMMEDIATE FAMILY MEMBER OF AN ELIGIBLE INDIVIDUAL TO REQUEST THAT THE INDIVIDUAL BE VOLUNTARILY ENROLLED INTO THE PILOT PROGRAM.~~]~~

~~**(B) (1) THE ADMINISTRATION SHALL ADOPT REGULATIONS IMPLEMENTING THIS SECTION, IN CONSULTATION WITH THE OUTPATIENT CIVIL COMMITMENT ADVISORY COMMITTEE ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.**~~

~~**(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**~~

~~**(I) ESTABLISH THE REQUIRED CRITERIA FOR AN INDIVIDUAL TO BE ADMITTED INTO THE PROGRAM;**~~

~~**(II) ESTABLISH APPLICATION, HEARING, AND NOTICE REQUIREMENTS;**~~

~~**(III) SPECIFY THE RIGHTS OF AN INDIVIDUAL WHO MAY BE OR WHO HAS BEEN ADMITTED INTO THE PROGRAM; AND**~~

~~**(IV) ALLOW AN INDIVIDUAL OR AN IMMEDIATE FAMILY MEMBER OF AN INDIVIDUAL TO PETITION FOR THE INDIVIDUAL'S VOLUNTARY ADMISSION INTO THE PROGRAM.**~~

~~**(C) (1) THERE IS AN OUTPATIENT CIVIL COMMITMENT ADVISORY COMMITTEE.**~~

~~**(2) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:**~~

~~**(I) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH, OR THE DEPUTY SECRETARY'S DESIGNEE;**~~

~~**(II) ONE REPRESENTATIVE OF A LOCAL BEHAVIORAL HEALTH AUTHORITY PARTICIPATING IN THE PROGRAM;**~~

~~**(III) ONE REPRESENTATIVE OF THE STATE-DESIGNATED PROTECTION AND ADVOCACY AGENCY;**~~

~~(IV) ONE REPRESENTATIVE OF THE MENTAL HEALTH ASSOCIATION OF MARYLAND;~~

~~(V) ONE REPRESENTATIVE OF THE NATIONAL ALLIANCE ON MENTAL ILLNESS OF MARYLAND; AND~~

~~(VI) ONE REPRESENTATIVE OF THE OFFICE OF ADMINISTRATIVE HEARINGS.~~

~~(3) THE ADMINISTRATION SHALL APPOINT THE MEMBERS OF THE ADVISORY COMMITTEE LISTED IN PARAGRAPH (2)(II) THROUGH (VI) OF THIS SUBSECTION.~~

~~(4) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH, OR THE DEPUTY SECRETARY'S DESIGNEE, SHALL SERVE AS CHAIR OF THE ADVISORY COMMITTEE.~~

~~(5) (I) THE TERM OF AN APPOINTED MEMBER OF THE ADVISORY COMMITTEE IS 3 YEARS.~~

~~(II) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE ADVISORY COMMITTEE MEMBERS AS OF OCTOBER 1, 2019.~~

~~(III) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(6) THE ADMINISTRATION SHALL PROVIDE STAFF FOR THE ADVISORY COMMITTEE.~~

~~(7) A MEMBER OF THE ADVISORY COMMITTEE:~~

~~(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY COMMITTEE; BUT~~

~~(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

~~(8) THE ADVISORY COMMITTEE SHALL REVIEW AND APPROVE ALL CHANGES TO THE PROGRAM, INCLUDING CHANGES TO FORMS AND REGULATIONS.~~

~~[~~(c)~~]~~ ~~(D)~~ ~~[~~If the Administration establishes a pilot program under subsection (a) of this section, on~~]~~ ~~ON~~ or before December 1 each year ~~[~~the pilot program is in existence~~]~~,

the Administration shall submit to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, a report that includes~~, FOR EACH LOCAL BEHAVIORAL HEALTH AUTHORITY PARTICIPATING IN THE PROGRAM~~:

(1) The number of individuals admitted into the ~~[~~pilot~~]~~ program during the immediately preceding 12–month period;

(2) The number of applications for admission into the ~~[~~pilot~~]~~ program submitted during the immediately preceding 12–month period;

(3) The cost of administering the ~~[~~pilot~~]~~ program for the immediately preceding 12–month period;

(4) **FOR INDIVIDUALS ADMITTED INTO THE PROGRAM VOLUNTARILY AND INVOLUNTARILY:**

(I) The percentage of individuals ~~[~~admitted into the pilot program~~]~~ who adhered to the treatment plan established for the individual under the ~~[~~pilot~~]~~ program;

[(5)**]** **(II)** Treatment outcomes; **AND**

[(6)**]** **(III)** The type, intensity, and frequency of services provided to individuals admitted into the ~~[~~pilot~~]~~ program; and

[(7)**] (5)** Any other information that may be useful in determining whether ~~[~~a permanent~~]~~ ~~THE~~ outpatient civil commitment **[**process**]** **PROGRAM** should be ~~[~~established~~]~~ ~~CONTINUED~~.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Outpatient Civil Commitment Advisory Committee shall expire as follows:~~

~~(1) two members in 2021; and~~

~~(2) three members in 2022.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 361

(House Bill 403)

AN ACT concerning

Income Tax Credit – Qualified Farms – Food Donation Pilot Program – Expansion and Extension

FOR the purpose of altering the definition of "qualified farms", for purposes of a certain credit against the State income tax for certain food donations, to include farm businesses located in ~~the State rather than certain counties~~ ~~Baltimore County~~ *the State rather than certain counties*; altering the taxable years for which a qualified farm may claim the credit; altering the maximum amount of tax credit certificates that may be issued for certain fiscal years; extending the period of time during which the State Department of Agriculture may issue certain tax credit certificates; extending the period of time for which the Secretary of Agriculture, in consultation with the Comptroller, shall submit a certain report; declaring the intent of the General Assembly with regard to the expenditure of certain funds by the Department for certain purposes; and generally relating to a tax credit for certain food donations.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–745
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Tax – General

10–745.

(a) (1) In this section the following words have the meanings indicated.

(2) "Certified organic produce" means an eligible food donation that is certified under Title 10, Subtitle 14 of the Agriculture Article as an organically produced commodity.

(3) "Eligible food donation" means fresh farm products for human consumption.

(4) "Qualified farm" means a farm business that is located in ~~[Anne Arundel County, **BALTIMORE COUNTY,** Calvert County, Charles County, Montgomery County, Prince George's County, or St. Mary's County~~ ***THE STATE***~~]~~ ~~**THE STATE**~~.

(5) "Secretary" means the Secretary of Agriculture or the Secretary's designee.

(6) "Tax credit certificate administrator" means a person or an organization that is authorized by the State Department of Agriculture under subsection (e) of this section to receive eligible food donations.

(b) (1) Subject to the limitations of this section, for a taxable year beginning after December 31, 2016, but before January 1, **[**2020**]** **2022**, a qualified farm may claim a credit against the State income tax in the amount stated on any tax credit certificates issued to the qualified farm during the taxable year.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, for any taxable year, the aggregate amount of credits authorized under this subsection for a qualified farm may not exceed $5,000.

(ii) For any taxable year, the Secretary may increase the credit limitation under subparagraph (i) of this paragraph for a qualified farm by an amount not to exceed $5,000.

(3) If the credit allowed under this section exceeds the State income tax, any unused credit may be carried forward and applied for succeeding taxable years until the earlier of:

(i) the date on which the full amount of the credit is used; or

(ii) the date of the expiration of the 5th year after the taxable year for which the credit was allowed.

(c) (1) A qualified farm that makes an eligible food donation is eligible for a tax credit certificate with a stated tax credit amount equal to 50% of the value of the eligible food donation.

(2) A qualified farm that makes a donation of certified organic produce is eligible for a tax credit certificate with a stated tax credit amount equal to 75% of the value of the donated certified organic produce.

(d) (1) Each week the Secretary shall establish and publish the categories and value of certified organic produce and eligible food donations.

(2) Except as provided in paragraph (3) of this subsection, the value of each category of certified organic produce and eligible food donations is the wholesale value of the category established by the State Department of Agriculture and based on United States Department of Agriculture reports on Maryland products sold at Maryland markets.

(3) If the Secretary determines that the value established under paragraph (2) of this subsection is insufficient to pay for the cost of harvesting a category of certified

organic produce or eligible food donation, the Secretary may establish a value in excess of the value under paragraph (2) of this subsection.

(e) (1) The Secretary, in consultation with the Comptroller, shall establish a process to certify a person or an organization to act as a tax credit certificate administrator.

(2) A tax credit certificate administrator that receives a donation of certified organic produce or an eligible food donation from a qualified farm shall issue the qualified farm a tax credit certificate.

(3) The tax credit certificate shall:

(i) state the date of the donation;

(ii) identify the qualified farm;

(iii) describe the type of donation;

(iv) state the weight of the donation;

(v) identify the value of the donation;

(vi) state the maximum amount of the tax credit for which the qualified farm is eligible; and

(vii) provide any other information the State Department of Agriculture or Comptroller requires.

(4) The Secretary, in consultation with the Comptroller, shall prepare tax credit certificate forms for the use of the tax credit certificate administrators.

(5) Within 30 days after issuing a tax credit certificate, the tax credit certificate administrator shall provide a copy of the tax credit certificate to the Secretary and the Comptroller.

(6) (i) The Secretary shall notify each tax credit certificate administrator to stop issuing tax credit certificates if the amount of tax credit certificates issued during the fiscal year equals or exceeds the amount of tax credit certificates authorized to be issued during the fiscal year under subsection (f) of this section less $50,000.

(ii) The Secretary, in consultation with the Comptroller, shall adopt regulations providing procedures to issue the remaining $50,000 of tax credit certificates under this paragraph.

(f) (1) For each fiscal year, the total amount of tax credit certificates issued under this section may not exceed ~~$250,000~~ **$100,000**.

(2) If the total amount of tax credit certificates issued during any fiscal year totals less than the maximum amount provided under paragraph (1) of this subsection, any excess amount may be carried forward and issued under tax credit certificates in a subsequent fiscal year.

(3) A tax credit certificate may not be issued after December 31, **[**2019**]** **2021**.

(g) On or before January 1, 2018, and January 1 each year thereafter until January 1, **[**2021**]** **2023**, the Secretary, in consultation with the Comptroller, shall submit a report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on the use and impact of the tax credit established under this section.

(h) The Secretary, in consultation with the Comptroller, shall adopt regulations to administer this section.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the State Department of Agriculture, in an amount consistent with the amount of funding expended by the Department before the effective date of this Act in administering the tax credit established under § 10–745 of the Tax – General Article, shall continue to fund the marketing of the credit program and facilitate the donation of eligible food donations by qualified farms in accordance with § 10–745 of the Tax – General Article, as enacted by Section 1 of this Act, through the reimbursement of transportation costs or direct assistance with the transportation of eligible food donations.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 362

(House Bill 406)

AN ACT concerning

Wetlands and Waterways Program – State–Owned ~~Lands~~ Lakes – Structural Shoreline Stabilization

FOR the purpose of specifying that a certain application fee for a structural shoreline stabilization project ~~that impacts a wetland or waterway of~~ located on or adjacent to a State–owned lake may not exceed a certain amount; requiring the Department of the Environment, in conjunction with the Department of Natural Resources, to identify certain structural shoreline stabilization practices that may be implemented

on ~~a wetland or waterway of~~ or adjacent to a State–owned lake; and generally relating to the Wetlands and Waterways Program and State–owned lakes.

BY repealing and reenacting, without amendments,
Article – Environment
Section 5–203.1(a)(1), (6), and (8)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 5–203.1(b) and (e)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

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

Article – Environment

5–203.1.

(a) (1) In this section the following words have the meanings indicated.

(6) "Major project" means a project that:

(i) Proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100–year floodplain;

(ii) Is located in an area identified as potentially impacting a nontidal wetland of special State concern by a geographical information system database that:

1. Has been developed and maintained by the Department of Natural Resources; and

2. Is used by the Department to screen incoming applications; or

(iii) Requires the issuance of a public notice by the Department.

(8) "Minor project" means a project that:

(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100–year floodplain; and

(ii) Does not meet the definition of a major project.

(b) (1) Except as provided under paragraphs (2) **[**and**],** (3)**, AND (6)** of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ 5–503 and 5–906 of this title and §§ 16–202, 16–302, and 16–307 of this article or wetlands licenses issued by the Board of Public Works under § 16–202 of this article shall be accompanied by an application fee as follows:

(i) For an application for a minor project or general permit.....$750;

(ii) For an application for a minor modification $250;

(iii) For an application for a major project with a proposed permanent impact of:

1. Less than 1/4 acre $1,500;

2. At least 1/4 acre, but less than 1/2 acre $3,000;

3. At least 1/2 acre, but less than 3/4 acre $4,500;

4. At least 3/4 acre, but less than 1 acre $6,000; and

5. 1 acre or more.....the impact area in acres multiplied by $7,500; and

(iv) For an application for a major modification $1,500.

(2) The following are exempt from the application fees established under paragraph (1) of this subsection:

(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under Division II of the Land Use Article or Division II of the Public Utilities Article, or a unit of the State, a municipal corporation, or a county;

(ii) Performance of agricultural best management practices contained in a soil conservation and water quality plan approved by the appropriate soil conservation district;

(iii) Performance of forestry best management practices contained in an erosion and sediment control plan:

1. Prepared by a registered forester; and

2. Approved by the appropriate soil conservation district;

(iv) Stream restoration, vegetative shoreline stabilization, wetland creation, or other project in which the primary effect is to enhance the State's wetland or water resources; and

(v) Aquacultural activities for which the Department of Natural Resources has issued a permit under Title 4, Subtitle 11A of the Natural Resources Article.

(3) Except as provided in paragraph (4) of this subsection, the following shall be minor projects and subject to the appropriate application fee under paragraph (1)(i) and (ii) of this subsection:

(i) A residential activity issued a permit under §§ 5–503 and 5–906 of this title and §§ 16–202, 16–302, and 16–307 of this article; and

(ii) A mining activity undertaken on affected land as identified in a permit issued under Title 15 of this article.

(4) Subject to paragraph (5) of this subsection, an application for the following minor projects shall be accompanied by the following application fees:

(i) Installation of:

1. One boat lift or hoist, not exceeding four boat lifts or hoists per pier;

2. One personal watercraft lift or hoist, not exceeding six personal watercraft lifts or hoists per pier; or

3. A combination of boat lifts or hoists and personal watercraft lifts or hoists, not exceeding six lifts or hoists per pier, of which not more than four lifts or hoists are boat lifts or hoists $300;

(ii) Installation of a maximum of six mooring pilings $300;

(iii) In–kind repair and replacement of structures $300;

(iv) Installation of a fixed or floating platform on an existing pier where the total platform area does not exceed 200 square feet $300;

(v) Construction of a nonhabitable structure that permanently impacts less than 1,000 square feet, such as a driveway, deck, pool, shed, or fence.....$300;

(vi) Replacement of an existing bulkhead where the replacement bulkhead does not exceed more than 18 inches channelward of the existing structure.....$500; and

(vii) In–kind repair and replacement of existing infrastructure.....$500.

(5) The Department may not require an application fee for:

(i) The installation of a boat lift, hoist, or personal watercraft lift on existing pilings; or

(ii) If the existing structure is functional and there is no increase in the original length, width, height, or channelward encroachment authorized under § 16–202, § 16–302, or § 16–307 of this article, the routine maintenance, repair, or replacement of:

1. A highway structure;

2. A pier;

3. A boathouse;

4. A structure on a pier;

5. A bulkhead;

6. A revetment;

7. A tidal impoundment dike;

8. A water control structure;

9. An aboveground transmission facility;

10. An agricultural drainage ditch; or

11. A highway drainage ditch.

(6) THE APPLICATION FEE FOR A STRUCTURAL SHORELINE STABILIZATION PROJECT ~~THAT IMPACTS A WETLAND OR WATERWAY OF~~ LOCATED ON OR ADJACENT TO A STATE–OWNED LAKE MAY NOT EXCEED $250.

[(6)**] (7)** The fees imposed under this subsection may not be modified without legislative enactment.

[(7)**] (8)** (i) Subject to paragraph **[**(6)**] (7)** of this subsection, the Department may adjust the fees established under paragraphs (1) **[**and**],** (4)**, AND (6)** of this subsection to reflect changes in the consumer price index for all "urban consumers" for the expenditure category "all items not seasonally adjusted", and for all regions.

(ii) The Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, shall be used to adjust the fees established under paragraphs (1) **[**and**],** (4)**, AND (6)** of this subsection.

(e) The Department shall:

(1) Prioritize the use of the Wetlands and Waterways Program Fund to improve the level of service to the regulated community; **[**and**]**

(2) Identify and implement measures that will reduce delays and duplication in the administration of the wetlands and waterways permit process, including the processing of applications for wetlands and waterways permits in accordance with § 1–607 of this article**; AND**

(3) IN CONJUNCTION WITH THE DEPARTMENT OF NATURAL RESOURCES, IDENTIFY UP TO THREE TYPES OF STRUCTURAL SHORELINE STABILIZATION PRACTICES THAT MAY BE IMPLEMENTED ON ~~A WETLAND OR WATERWAY OF~~ OR ADJACENT TO A STATE–OWNED LAKE.

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

Approved by the Governor, April 30, 2019.

Chapter 363

(House Bill 1410)

AN ACT concerning

Upper Potomac River Commission – Pension Plans

FOR the purpose of authorizing certain trustees or officers of the Upper Potomac River Commission to invest and reinvest certain money in their custody or control in accordance with certain rules or procedures; requiring any pension plan controlled by the Commission on or after a certain date to adhere to certain principles that address the investment and management of funds for a public pension system; providing for the application of this Act; and generally relating to pension plans controlled by the Upper Potomac River Commission.

BY repealing and reenacting, with amendments,
Article – Local Government

Section 17–102
Annotated Code of Maryland
(2013 Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 40–101
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Local Government

17–102.

(a) In this section, "other postemployment benefits" means:

(1) postemployment health care benefits; and

(2) postemployment benefits provided separately from a pension plan.

(b) Notwithstanding § 17–101 of this subtitle, the trustees or other officers in charge of a pension or retirement system or fund, other postemployment benefits fund, trust fund account, fund for self–insurance purposes, or facility closure reserve fund of a political subdivision of the State **[**or**],** a unit of a political subdivision of the State**, OR THE UPPER POTOMAC RIVER COMMISSION**:

(1) may:

(i) invest and reinvest money in their custody or control as provided by**:**

1. a law enacted by the governing body of the political subdivision; **OR**

2. IN THE CASE OF THE UPPER POTOMAC RIVER COMMISSION, RULES OR PROCEDURES ESTABLISHED BY THE COMMISSION; and

(ii) sell, redeem, or exchange an investment or reinvestment made under this item; and

(2) shall comply with fiduciary standards that at least meet the standards in Title 21, Subtitle 2 of the State Personnel and Pensions Article in connection with money in their custody or control.

(c) (1) Notwithstanding any other law, a political subdivision of the State or a unit of a political subdivision of the State may enter into an agreement with a third party contractor or vendor for the management or investment of money intended for other postemployment benefits.

(2) An agreement entered into under this subsection includes the authority to:

(i) create pooled investments under the stewardship of:

1. a political subdivision of the State or a unit of a political subdivision of the State; or

2. a separate body under an agreement with a political subdivision of the State;

(ii) create one or more accounts to be managed in coordination with other funds or investments by a third party under an agreement with a political subdivision of the State; and

(iii) create distinct funding accounts for payment on behalf of employees of a unit of a political subdivision of the State under an agreement with the political subdivision.

(d) (1) Notwithstanding any other law, a political subdivision of the State or a unit of a political subdivision of the State may enter into an agreement with a third party contractor or vendor for the management or investment of money in a facility closure reserve fund.

(2) An agreement entered into under this subsection includes the authority to:

(i) create pooled investments under the stewardship of:

1. a political subdivision of the State or a unit of a political subdivision of the State; or

2. a separate body under an agreement with a political subdivision of the State; and

(ii) create one or more accounts to be managed in coordination with other funds or investments by a third party under an agreement with a political subdivision of the State.

Article – State Personnel and Pensions

40–101.

(a) In this section, "local jurisdiction" means any county or municipal corporation in the State.

(b) **(1)** Subject to any other provision of State or federal law, a local jurisdiction that establishes a public pension system on or after July 1, 2005, is required to adhere to the principles incorporated in the Uniform Management of Public Employee Retirement Systems Act that address the investment and management of funds for a public pension system.

(2) SUBJECT TO ANY OTHER PROVISION OF STATE OR FEDERAL LAW, ANY PENSION PLAN CONTROLLED BY THE UPPER POTOMAC RIVER COMMISSION ON OR AFTER JULY 1, 2019, IS REQUIRED TO ADHERE TO THE PRINCIPLES INCORPORATED IN THE UNIFORM MANAGEMENT OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS ACT THAT ADDRESS THE INVESTMENT AND MANAGEMENT OF FUNDS FOR A PUBLIC PENSION SYSTEM.

(c) This section may not be construed to affect the authority of the legislative governing body of a local jurisdiction over the budget for a public pension system established on or after July 1, 2005.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any investment of funds made before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 364

(House Bill 466)

AN ACT concerning

Prescription Drug Monitoring Program – Program Evaluation

FOR the purpose of requiring the Prescription Drug Monitoring Program to provide prescription monitoring data to <u>the Office of the Attorney General on issuance of a subpoena for a certain purpose; requiring the Program to provide prescription monitoring data to</u> authorized users, rather than the authorized administrator, of another state's prescription drug monitoring program <u>or any other authorized local,</u>

state, territorial, or federal agency in connection with the provision of medical care; requiring the Program to provide prescription monitoring data to the medical director of a certain health care facility, or the medical director's designee, for a certain purpose; requiring the Program to provide prescription monitoring data to the Office of the Chief Medical Examiner in accordance with a certain provision of law; repealing the requirement that the issuance of a certain administrative subpoena be voted on by a quorum of the board of a licensing entity, or for the State Board of Physicians, a disciplinary panel, for the Program to be required to disclose prescription monitoring data to the licensing entity; repealing the termination date of the Program; repealing the requirement that the Department of Legislative Services conduct a certain evaluation of the Program under the Maryland Program Evaluation Act; requiring the Advisory Board on Prescription Drug Monitoring to include certain information in certain annual reports; and generally relating to the program evaluation of the Prescription Drug Monitoring Program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–2A–06(b)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing
Article – Health – General
Section 21–2A–10
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing
Article – State Government
Section 8–403(b)(44)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(45) through (56)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health – General

21–2A–06.

(b) The Program shall disclose prescription monitoring data, in accordance with regulations adopted by the Secretary, to:

(1) A prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;

(2) A dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;

(3) A federal law enforcement agency or a State or local law enforcement agency, on issuance of a subpoena, for the purpose of furthering an existing bona fide individual investigation;

(4) **[**The State Board of Physicians, on issuance of an administrative subpoena voted on by a quorum of a disciplinary panel, as defined in § 14–101 of the Health Occupations Article, for the purposes of furthering an existing bona fide investigation of an individual;

(5)**]** A licensing entity **[**other than the State Board of Physicians**]**, on issuance of an administrative subpoena **[**voted on by a quorum of the board of the licensing entity**]**, for the purposes of furthering an existing bona fide individual investigation;

[(6)**] (5)** A rehabilitation program under a health occupations board, on issuance of an administrative subpoena;

[(7)**] (6)** A patient with respect to prescription monitoring data about the patient;

(7) THE OFFICE OF THE ATTORNEY GENERAL, ON ISSUANCE OF A SUBPOENA FOR THE PURPOSE OF FURTHERING A BONA FIDE EXISTING INVESTIGATION;

~~**[**(8)**]** (7)~~ Subject to subsection (i) of this section, **[**the authorized administrator**]** **AUTHORIZED USERS** of another state's prescription drug monitoring program **OR ANY OTHER AUTHORIZED LOCAL, STATE, TERRITORIAL, OR FEDERAL AGENCY IN CONNECTION WITH THE PROVISION OF MEDICAL CARE**;

~~**[**(9)**]** (8)~~ The following units of the Department, on approval of the Secretary, for the purpose of furthering an existing bona fide individual investigation:

~~(i) The Office of the Chief Medical Examiner;~~

~~(ii)~~ **(I)** The Maryland Medical Assistance Program;

~~(iii)~~ **(II)** The Office of the Inspector General;

~~(iv)~~ **(III)** The Office of Health Care Quality; and

~~(v)~~ **(IV)** The Office of Controlled Substances Administration;

~~[~~(10)~~]~~ ~~(9)~~ The technical advisory committee established under § 21–2A–07 of this subtitle for the purposes set forth in subsections (c), (d), and (e) of this section; ~~or~~

(11) THE MEDICAL DIRECTOR OF A HEALTH CARE FACILITY, AS DEFINED IN § 19–114 OF THIS ARTICLE, OR THE MEDICAL DIRECTOR'S DESIGNEE, FOR THE PURPOSE OF PROVIDING HEALTH CARE PRACTITIONERS EMPLOYED OR CONTRACTUALLY EMPLOYED AT THE HEALTH CARE FACILITY ACCESS TO THE PRESCRIPTION MONITORING DATA IN CONNECTION WITH THE PROVISION OF MEDICAL CARE OR THE DISPENSING OF A MONITORED PRESCRIPTION DRUG TO A PATIENT OF THE HEALTH CARE FACILITY;

(12) THE OFFICE OF THE CHIEF MEDICAL EXAMINER IN ACCORDANCE WITH § 5–309 OF THIS ARTICLE; OR

[(11)**]** ~~(10)~~ **(13)** The following entities, on approval of the Secretary and for the purpose of furthering an existing bona fide individual case review:

(i) The State Child Fatality Review Team or a local child fatality review team established under Title 5, Subtitle 7 of this article, on request from the chair of the State or local team;

(ii) A local drug overdose fatality review team established under § 5–902 of this article, on request from the chair of the local team;

(iii) The Maternal Mortality Review Program established under § 13–1203 of this article, on request from the Program; and

(iv) A medical review committee described in § 1–401(b)(3) of the Health Occupations Article, on request from the committee.

[21–2A–10.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, 2019.**]**

Article – State Government

8–403.

(a) On or before December 15 of the evaluation year specified, the Department shall:

(1) conduct a preliminary evaluation of each governmental activity or unit to be evaluated under this section; and

(2) prepare a report on each preliminary evaluation conducted.

(b) Each of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units are subject to preliminary evaluation in the evaluation year specified:

[(44) Prescription Drug Monitoring Program in the Maryland Department of Health (§ 21–2A–02 of the Health – General Article: 2013);**]**

[(45)**] (44)** Psychologists, State Board of Examiners of (§ 18–201 of the Health Occupations Article: 2020);

[(46)**] (45)** Public Accountancy, State Board of (§ 2–201 of the Business Occupations and Professions Article: 2022);

[(47)**] (46)** Racing Commission, State (§ 11–201 of the Business Regulation Article: 2021);

[(48)**] (47)** Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors, State Commission of (§ 16–201 of the Business Occupations and Professions Article: 2020);

[(49)**] (48)** Real Estate Commission, State (§ 17–201 of the Business Occupations and Professions Article: 2019);

[(50)**] (49)** Residential Child Care Program Professionals, State Board for Certification of (§ 20–202 of the Health Occupations Article: 2021);

[(51)**] (50)** security systems technicians, licensing and regulation of (§ 18–201 of the Business Occupations and Professions Article: 2018);

[(52)**] (51)** Social Work Examiners, State Board of (§ 19–201 of the Health Occupations Article: 2021);

[(53)**] (52)** Standardbred Race Fund Advisory Committee, Maryland (§ 11–625 of the Business Regulation Article: 2021);

[(54)**] (53)** Veterinary Medical Examiners, State Board of (§ 2–302 of the Agriculture Article: 2018);

[(55)**] (54)** Waterworks and Waste Systems Operators, State Board of (§ 12–201 of the Environment Article: 2018); and

[(56)**] (55)** Well Drillers, State Board of (§ 13–201 of the Environment Article: 2018).

SECTION 2. AND BE IT FURTHER ENACTED, That, in the annual report required to be provided under § 21–2A–05(f)(3) of the Health – General Article for 2019, the Advisory Board on Prescription Drug Monitoring shall report on the technical advisory committee, including:

(1) the written protocols for technical advisory committee meetings and the procedures for reviewing unsolicited reports and investigative data requests;

(2) a summary of technical advisory committee meetings since the implementation of Chapter 147 of the Acts of the General Assembly of 2016; and

(3) recommendations on any changes necessary for the technical advisory committee to meet the needs of the Prescription Drug Monitoring Program.

SECTION 3. AND BE IT FURTHER ENACTED, That, in the annual report required to be provided under § 21–2A–05(f)(3) of the Health – General Article for 2020, the Advisory Board on Prescription Drug Monitoring shall report on the recommendations not enacted by Section 1 of this Act made by the Department of Legislative Services in the December 2018 publication "Sunset Review: Evaluation of the Prescription Drug Monitoring Program".

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 365

(House Bill 481)

AN ACT concerning

Criminal Law – Sale of a Minor – Felony

FOR the purpose of reclassifying, as a felony instead of a misdemeanor, the crime of selling,

bartering, trading, or offering to sell, barter, or trade a minor for money, property, or anything else of value; making a conforming change; and generally relating to the crime of selling a minor.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–603
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Criminal Law

3–603.

(a) A person may not sell, barter, or trade, or offer to sell, barter, or trade, a minor for money, property, or anything else of value.

(b) A person who violates this section is guilty of a **[**misdemeanor**]** **FELONY** and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or both for each violation.

[(c) A person who violates this section is subject to § 5–106(b) of the Courts Article.**]**

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

Approved by the Governor, April 30, 2019.

Chapter 366

(House Bill 510)

AN ACT concerning

~~Composting – Food Waste – Acceptance for Final Disposal~~
Organic Waste – Organics Recycling – Collection and Acceptance for Final Disposal

FOR the purpose of prohibiting an owner or operator of a refuse disposal system from accepting loads of certain ~~food~~ organic waste for final disposal unless the owner or operator provides for ~~the composting~~ the organics recycling of the ~~food~~ organic waste;

authorizing loads of certain food waste to be transported to a refuse disposal system for final disposal under certain circumstances; defining certain terms; altering a certain definition; and generally ~~related to composting~~ relating to organics recycling.

BY repealing
Article – Environment
Section 9–1723 and 9–1724
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1701
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY adding to
Article – Environment
Section 9–1723 and 9–1724
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–1723 and 9–1724 of Article – Environment of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment

9–1701.

(a) In this subtitle the following words have the meanings indicated.

(B) "ANAEROBIC DIGESTION" MEANS THE CONTROLLED ANAEROBIC BIOLOGICAL DECOMPOSITION OF ORGANIC WASTE MATERIAL TO PRODUCE BIOGAS AND DIGESTATE.

[(b)**] (C)** "Compost" means the product of composting in accordance with the standards established by the Secretary of Agriculture under § 6–221 of the Agriculture Article.

[(c)**] (D)** "Composting" means the controlled aerobic biological decomposition of organic waste material in accordance with the standards established by the Secretary under this title.

[(d)**] (E)** (1) "Composting facility" means a facility where composting takes place.

(2) "Composting facility" does not include a facility that is required to obtain:

(i) A natural wood waste recycling facility permit in accordance with this title;

(ii) A sewage sludge utilization permit in accordance with this title; or

(iii) A refuse disposal permit in accordance with this title.

[(e)**] (F)** (1) "Computer" means a desktop personal computer or laptop computer, including the computer monitor.

(2) "Computer" does not include:

(i) A personal digital assistant device; or

(ii) A computer peripheral device, including:

1. A mouse or other similar pointing device;

2. A printer; or

3. A detachable keyboard.

[(f)**] (G)** (1) "Covered electronic device" means a computer or video display device with a screen that is greater than 4 inches measured diagonally.

(2) "Covered electronic device" does not include a video display device that is part of a motor vehicle or that is contained within a household appliance or commercial, industrial, or medical equipment.

[(g)**] (H)** "Covered electronic device takeback program" means a program, established by a covered electronic device manufacturer or a group of covered electronic device manufacturers, for the collection and recycling, refurbishing, or reuse of a covered electronic device labeled with the name of the manufacturer or the manufacturer's brand label, including:

(1) Providing, at no cost to the returner, a method of returning a covered electronic device to the manufacturer, including postage paid mailing packages or designated collection points throughout the State;

(2) Contracting with a recycler, local government, other manufacturer, or any other person; or

(3) Any other program approved by the Department.

[(h)**] (I)** "Director" means the Director of the Office of Recycling.

[(i)**] (J)** "Manufacturer" means a person that is the brand owner of a covered electronic device sold or offered for sale in the State, by any means, including transactions conducted through sales outlets, catalogs, or the Internet.

[(j)**] (K)** (1) "Natural wood waste" means tree and other natural vegetative refuse.

(2) "Natural wood waste" includes tree stumps, brush and limbs, root mats, logs, and other natural vegetative material.

[(k)**] (L)** (1) "Natural wood waste recycling facility" means a facility where recycling services for natural wood waste are provided.

(2) "Natural wood waste recycling facility" does not include a collection or processing facility operated by:

(i) A nonprofit or governmental organization located in the State; or

(ii) A single individual or business that provides recycling services for its own employees or for its own recyclable materials generated on its own premises.

[(l)**] (M)** "Office" means the Office of Recycling within the Department.

(N) (1) "ORGANICS RECYCLING" MEANS ANY PROCESS IN WHICH ORGANIC MATERIALS ARE COLLECTED, SEPARATED, OR PROCESSED AND RETURNED TO THE MARKETPLACE IN THE FORM OF RAW MATERIALS OR PRODUCTS.

(2) "ORGANICS RECYCLING" INCLUDES ANAEROBIC DIGESTION AND COMPOSTING.

(O) "ORGANICS RECYCLING FACILITY" MEANS A FACILITY WHERE ORGANICS RECYCLING TAKES PLACE.

[(m)**] (P)** "Recyclable materials" means those materials that:

(1) Would otherwise become solid waste for disposal in a refuse disposal system; and

(2) May be collected, separated, composted, or processed and returned to the marketplace in the form of raw materials or products.

[(n)**] (Q)** **[**(1)**]** "Recycling" means any process in which recyclable materials are collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

[(2) "Recycling" includes composting.**]**

[(o)**] (R)** "Recycling services" means the services provided by persons engaged in the business of recycling, including the collection, processing, storage, purchase, sale, or disposition of recyclable materials.

[(p)**] (S)** "Resource recovery facility" means a facility in existence as of January 1, 1988 that:

(1) Processes solid waste to produce valuable resources, including steam, electricity, metals, or refuse–derived fuel; and

(2) Achieves a volume reduction of at least 50 percent of its solid waste stream.

[(q)**] (T)** (1) "Solid waste stream" means garbage or refuse that would, unless recycled, be disposed of in a refuse disposal system.

(2) "Solid waste stream" includes organic material capable of being composted that is not composted in accordance with regulations adopted under § 9–1725(b) of this subtitle.

(3) "Solid waste stream" does not include:

(i) Hospital waste;

(ii) Rubble;

(iii) Scrap material;

(iv) Land clearing debris;

(v) Sewage sludge; or

(vi) Waste generated by a single individual or business and disposed of in a facility dedicated solely for that entity's waste.

[(r)**] (U)** (1) "Video display device" means an electronic device with an output surface that displays or is capable of displaying moving graphical images or visual

representations of image sequences or pictures that show a number of quickly changing images on a screen to create the illusion of motion.

(2) "Video display device" includes a device that is an integral part of the display and cannot easily be removed from the display by the consumer and that produces the moving image on the screen.

(3) A video display device may use a cathode–ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, or other image–projection technology.

[(s)**] (V)** "White goods" includes:

(1) Refrigerators;

(2) Stoves;

(3) Washing machines;

(4) Dryers;

(5) Water heaters; and

(6) Air conditioners.

[(t)**] (W)** (1) "Yard waste" means organic plant waste derived from gardening, landscaping, and tree trimming activities.

(2) "Yard waste" includes leaves, garden waste, lawn cuttings, weeds, and prunings.

9–1723.

(A) ~~AN~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN OWNER OR OPERATOR OF A REFUSE DISPOSAL SYSTEM MAY NOT ACCEPT:

(1) TRUCKLOADS OF SEPARATELY COLLECTED YARD WASTE FOR FINAL DISPOSAL UNLESS THE OWNER OR OPERATOR PROVIDES FOR THE ~~COMPOSTING OR MULCHING~~ ORGANICS RECYCLING OF THE YARD WASTE; OR

(2) LOADS OF SEPARATELY COLLECTED FOOD WASTE FOR FINAL DISPOSAL UNLESS THE OWNER OR OPERATOR PROVIDES FOR THE ~~COMPOSTING~~ ORGANICS RECYCLING OF THE FOOD WASTE.

(B) LOADS OF SEPARATELY COLLECTED FOOD WASTE THAT ARE DETERMINED BY AN ORGANICS RECYCLING FACILITY TO BE UNACCEPTABLE FOR

RECYCLING DUE TO CONTAMINATION MAY BE ACCEPTED BY A REFUSE DISPOSAL SYSTEM FOR FINAL DISPOSAL.

9–1724.

(A) ALL YARD WASTE COLLECTED SEPARATELY FROM OTHER SOLID WASTE MAY BE TRANSPORTED TO ~~A COMPOSTING~~ AN ORGANICS RECYCLING FACILITY.

(B) THE ~~COMPOSTING~~ ORGANICS RECYCLING FACILITY MAY BE LOCATED AT A REFUSE DISPOSAL SYSTEM.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.

Chapter 367

(House Bill 511)

AN ACT concerning

Maryland Commercial Fertilizer Law – Definition of Soil Conditioner – Alteration

FOR the purpose of altering the definition of "soil conditioner" to include the digestate produced by anaerobic digestion for purposes of the Maryland Commercial Fertilizer Law; and generally relating to the Maryland Commercial Fertilizer Law.

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 6–201(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 6–201(cc)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Agriculture

6–201.

(a) In this subtitle the following words have the meanings indicated.

(cc) (1) "Soil conditioner" means any substance or mixture of substances intended for sale, offered for sale, or distributed for:

(i) Manurial, soil enriching, or soil corrective purposes;

(ii) Promoting or stimulating the growth of plants;

(iii) Increasing the productivity of plants;

(iv) Improving the quality of crops; or

(v) Producing any chemical or physical change in the soil, except a commercial fertilizer, unmanipulated animal and vegetable manures, agricultural liming material, and gypsum.

(2) "Soil conditioner" includes but is not limited to materials such as compost, peat, vermiculite, **[**or**]** perlite, **OR DIGESTATE PRODUCED BY ANAEROBIC DIGESTION** that are incorporated into the soil.

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

Approved by the Governor, April 30, 2019.

Chapter 368

(House Bill 539)

AN ACT concerning

Environment – Reuse of Water Diverted From Septic Systems

FOR the purpose of authorizing a person to use water that is generated by certain activities and collected for reuse, instead of discharged to ~~an~~ a residential on–site water treatment system, and that does not contain certain constituents, for certain purposes on the site on which the reusable diverted water originates and in accordance with certain requirements; defining a certain term; and generally relating to the reuse of water diverted from on–site sewage disposal systems.

BY adding to
Article – Environment
Section 9–1113
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Environment

9–1113.

(A) IN THIS SECTION, "REUSABLE DIVERTED WATER" MEANS WATER THAT ~~IS~~:

(1) ~~GENERATED~~ IS GENERATED BY:

(I) BACKWASHING AN ON–SITE POTABLE WATER TREATMENT SYSTEM; OR

(II) USING AN ICE MAKER; ~~AND~~

(2) ~~COLLECTED~~ IS COLLECTED FOR REUSE INSTEAD OF DISCHARGED TO ~~AN~~ A RESIDENTIAL ON–SITE SEWAGE DISPOSAL SYSTEM; AND

(3) CONTAINS NO CONSTITUENTS THAT ARE DETRIMENTAL TO PUBLIC HEALTH OR THE ENVIRONMENT.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY USE REUSABLE DIVERTED WATER FOR BENEFICIAL PURPOSES, INCLUDING:

(I) GARDENING;

(II) COMPOSTING;

(III) LAWN WATERING; AND

(IV) IRRIGATION~~; AND~~

~~(V) FLUSHING OF A CONVENTIONAL TOILET OR URINAL~~.

(2) A PERSON MAY USE REUSABLE DIVERTED WATER ONLY:

(I) ON THE SITE ON WHICH THE REUSABLE DIVERTED WATER ORIGINATES; AND

(II) IN ACCORDANCE WITH ANY APPLICABLE STATE AND LOCAL LAWS OR REGULATIONS, INCLUDING STATE AND LOCAL PLUMBING CODES.

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

Approved by the Governor, April 30, 2019.

Chapter 369

(House Bill 515)

AN ACT concerning

Municipalities – Municipal Infraction Proceedings – Designation of a Building Inspector or an Enforcement Officer to Testify

FOR the purpose of authorizing a municipality to designate a certain qualified building inspector or enforcement officer to testify in a municipal infraction proceeding <u>without the assistance of a prosecuting attorney; providing that a prosecuting attorney is not limited in or restricted from calling certain individuals to testify in a municipal infraction proceeding</u>; defining a certain term; and generally relating to municipal infraction proceedings.

BY adding to
Article – Local Government
Section 6–108.1
Annotated Code of Maryland
(2013 Volume and 2018 Supplement)

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

Article – Local Government

6–108.1.

(A) IN THIS SECTION, "QUALIFIED BUILDING INSPECTOR OR ENFORCEMENT OFFICER" MEANS A BUILDING INSPECTOR OR AN ENFORCEMENT OFFICER THAT IS NATIONALLY ACCREDITED AND CERTIFIED BY THE INTERNATIONAL CODE COUNCIL OR THE NATIONAL FIRE PROTECTION ASSOCIATION AS:

(1) A BUILDING INSPECTOR;

(2) A FIRE INSPECTOR;

(3) AN ACCESSIBILITY INSPECTOR; OR

(4) A PROPERTY MAINTENANCE AND HOUSING INSPECTOR.

(B) A MUNICIPALITY MAY DESIGNATE A QUALIFIED BUILDING INSPECTOR OR ENFORCEMENT OFFICER TO TESTIFY IN A MUNICIPAL INFRACTION PROCEEDING WITHOUT THE ASSISTANCE OF A PROSECUTING ATTORNEY.

(C) NOTHING IN THIS SECTION SHALL LIMIT OR RESTRICT THE ABILITY OF A PROSECUTING ATTORNEY TO CALL INDIVIDUALS TO TESTIFY IN A MUNICIPAL INFRACTION PROCEEDING.

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

Approved by the Governor, April 30, 2019.

Chapter 370

(House Bill 527)

AN ACT concerning

Public Health – Cottage Food Products – Definition and Sale

FOR the purpose of altering the definition of "cottage food product" to include certain food sold in the State to retail food stores or food cooperatives; requiring that a certain label for a cottage food product offered for sale at a retail food store include certain information; requiring the owner of a cottage food business to submit certain information to the Maryland Department of Health before selling a cottage food product to a retail food store; requiring the Department, on or before a certain date each year, to submit a certain annual report to certain committees of the General Assembly; and generally relating to cottage food products.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–301(a) and (b–1)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–301(b–2) and 21–330.1
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

21–301.

(a) In this subtitle the following words have the meanings indicated.

(b–1) "Cottage food business" means a business that:

(1) Produces or packages cottage food products in a residential kitchen;

(2) Sells the cottage food products in accordance with § 21–330.1 of this subtitle and regulations adopted by the Department; and

(3) Has annual revenues from the sale of cottage food products in an amount not exceeding $25,000.

(b–2) "Cottage food product" means a nonhazardous food, as specified in regulations adopted by the Department, that is sold in the State **[**directly**]** **IN ACCORDANCE WITH § 21–330.1 OF THIS SUBTITLE AND REGULATIONS ADOPTED BY THE DEPARTMENT:**

(1) DIRECTLY to a consumer from a residence, at a farmer's market, at a public event, by personal delivery, or by mail delivery **[**in accordance with § 21–330.1 of this subtitle and regulations adopted by the Department**]; OR**

(2) TO A RETAIL FOOD STORE, INCLUDING A GROCERY STORE, OR A FOOD COOPERATIVE.

21–330.1.

(a) This section does not:

(1) Apply to a food establishment that is required to have a license under § 21–305 of this subtitle; or

(2) Exempt a cottage food business from any applicable State or federal tax laws.

(b) A cottage food business is not required to be licensed by the Department if the owner of the cottage food business complies with this section.

(c) The owner of a cottage food business may sell only cottage food products that are:

(1) Stored on the premises of the cottage food business; and

(2) Prepackaged with a label that contains:

(i) The following information:

1. The name and address of the cottage food business;

2. The name of the cottage food product;

3. The ingredients of the cottage food product in descending order of the amount of each ingredient by weight;

4. The net weight or net volume of the cottage food product;

5. Allergen information as specified by federal labeling requirements; and

6. If any nutritional claim is made, nutritional information as specified by federal labeling requirements; **[**and**]**

(ii) The following statement printed in 10 point or larger type in a color that provides a clear contrast to the background of the label: "Made by a cottage food business that is not subject to Maryland's food safety regulations."**; AND**

(III) FOR A COTTAGE FOOD PRODUCT OFFERED FOR SALE AT A RETAIL FOOD STORE:

1. THE PHONE NUMBER AND E–MAIL ADDRESS OF THE COTTAGE FOOD BUSINESS; AND

2. THE DATE THE COTTAGE FOOD PRODUCT WAS MADE.

(d) The owner of a cottage food business shall comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage food products.

(e) (1) The Department may investigate any complaint alleging that a cottage food business has violated this section.

(2) On receipt of a complaint, a representative of the Department, at a reasonable time, may enter and inspect the premises of a cottage food business to determine compliance with this section.

(3) The owner of a cottage food business may not:

(i) Refuse to grant access to a representative who requests to enter and inspect the premises of the cottage food business under paragraph (2) of this subsection; or

(ii) Interfere with any inspection under paragraph (2) of this subsection.

(4) An investigation of a cottage food business conducted under this subsection may include sampling of a cottage food product to determine if the cottage food product is misbranded or adulterated.

(F) BEFORE THE OWNER OF A COTTAGE FOOD BUSINESS MAY SELL A COTTAGE FOOD PRODUCT TO A RETAIL FOOD STORE, THE OWNER SHALL SUBMIT TO THE DEPARTMENT:

(1) DOCUMENTATION OF THE OWNER'S SUCCESSFUL COMPLETION OF A FOOD SAFETY COURSE APPROVED BY THE DEPARTMENT; AND

(2) THE LABEL THAT WILL BE AFFIXED TO THE COTTAGE FOOD PRODUCT IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

(G) BEGINNING ON OR BEFORE DECEMBER 30, 2020, AND EVERY DECEMBER 30 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE DOCUMENTATION AND LABELS SUBMITTED UNDER SUBSECTION (F) OF THIS SECTION; AND

(2) ANY COMPLAINTS RECEIVED BY THE DEPARTMENT RELATED TO A COTTAGE FOOD BUSINESS OR COTTAGE FOOD PRODUCT.

[(f)**] (H)** The Department shall adopt regulations to carry out this section.

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

Approved by the Governor, April 30, 2019.

Chapter 371

(Senate Bill 290)

AN ACT concerning

Public Health – Cottage Food Products – Definition and Sale

FOR the purpose of altering the definition of "cottage food product" to include certain food sold in the State to retail food stores or food cooperatives; requiring that a certain label for a cottage food product offered for sale at a retail food store include certain information; requiring the owner of a cottage food business to submit certain information to the Maryland Department of Health before selling a cottage food product to a retail food store; requiring the Department, on or before a certain date each year, to submit a certain annual report to certain committees of the General Assembly; and generally relating to cottage food products.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–301(a) and (b–1)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–301(b–2) and 21–330.1
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

21–301.

(a) In this subtitle the following words have the meanings indicated.

(b–1) "Cottage food business" means a business that:

(1) Produces or packages cottage food products in a residential kitchen;

(2) Sells the cottage food products in accordance with § 21–330.1 of this subtitle and regulations adopted by the Department; and

(3) Has annual revenues from the sale of cottage food products in an amount not exceeding $25,000.

(b–2) "Cottage food product" means a nonhazardous food, as specified in regulations adopted by the Department, that is sold in the State **[**directly**]** **IN ACCORDANCE WITH § 21–330.1 OF THIS SUBTITLE AND REGULATIONS ADOPTED BY THE DEPARTMENT:**

(1) DIRECTLY to a consumer from a residence, at a farmer's market, at a public event, by personal delivery, or by mail delivery **[**in accordance with § 21–330.1 of this subtitle and regulations adopted by the Department**]; OR**

(2) TO A RETAIL FOOD STORE, INCLUDING A GROCERY STORE, OR A FOOD COOPERATIVE.

21–330.1.

(a) This section does not:

(1) Apply to a food establishment that is required to have a license under § 21–305 of this subtitle; or

(2) Exempt a cottage food business from any applicable State or federal tax laws.

(b) A cottage food business is not required to be licensed by the Department if the owner of the cottage food business complies with this section.

(c) The owner of a cottage food business may sell only cottage food products that are:

(1) Stored on the premises of the cottage food business; and

(2) Prepackaged with a label that contains:

(i) The following information:

1. The name and address of the cottage food business;

2. The name of the cottage food product;

3. The ingredients of the cottage food product in descending order of the amount of each ingredient by weight;

4. The net weight or net volume of the cottage food product;

5. Allergen information as specified by federal labeling requirements; and

6. If any nutritional claim is made, nutritional information as specified by federal labeling requirements; **[**and**]**

(ii) The following statement printed in 10 point or larger type in a color that provides a clear contrast to the background of the label: "Made by a cottage food business that is not subject to Maryland's food safety regulations."**; AND**

(III) FOR A COTTAGE FOOD PRODUCT OFFERED FOR SALE AT A RETAIL FOOD STORE:

1. THE PHONE NUMBER AND E–MAIL ADDRESS OF THE COTTAGE FOOD BUSINESS; AND

2. THE DATE THE COTTAGE FOOD PRODUCT WAS MADE.

(d) The owner of a cottage food business shall comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage food products.

(e) (1) The Department may investigate any complaint alleging that a cottage food business has violated this section.

(2) On receipt of a complaint, a representative of the Department, at a reasonable time, may enter and inspect the premises of a cottage food business to determine compliance with this section.

(3) The owner of a cottage food business may not:

(i) Refuse to grant access to a representative who requests to enter and inspect the premises of the cottage food business under paragraph (2) of this subsection; or

(ii) Interfere with any inspection under paragraph (2) of this subsection.

(4) An investigation of a cottage food business conducted under this subsection may include sampling of a cottage food product to determine if the cottage food product is misbranded or adulterated.

(F) BEFORE THE OWNER OF A COTTAGE FOOD BUSINESS MAY SELL A COTTAGE FOOD PRODUCT TO A RETAIL FOOD STORE, THE OWNER SHALL SUBMIT TO THE DEPARTMENT:

(1) DOCUMENTATION OF THE OWNER'S SUCCESSFUL COMPLETION OF A FOOD SAFETY COURSE APPROVED BY THE DEPARTMENT; AND

(2) THE LABEL THAT WILL BE AFFIXED TO THE COTTAGE FOOD PRODUCT IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

(G) BEGINNING ON OR BEFORE DECEMBER 30, 2020, AND EVERY DECEMBER 30 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE DOCUMENTATION AND LABELS SUBMITTED UNDER SUBSECTION (F) OF THIS SECTION; AND

(2) ANY COMPLAINTS RECEIVED BY THE DEPARTMENT RELATED TO A COTTAGE FOOD BUSINESS OR COTTAGE FOOD PRODUCT.

[(f)**] (H)** The Department shall adopt regulations to carry out this section.

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

Approved by the Governor, April 30, 2019.

Chapter 372

(House Bill 542)

AN ACT concerning

Task Force to Study Crime Classification and Penalties

FOR the purpose of establishing the Task Force to Study Crime Classification and Penalties; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing reimbursement of certain expenses; requiring the Task Force to study certain issues related to the classification of and penalties for criminal and civil violations in the State; requiring the Task Force to report its findings to the Governor

and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study Crime Classification and Penalties.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Crime Classification and Penalties.

(b) The Task Force consists of the following members:

(1) three members of the Senate of Maryland, appointed by the President of the Senate;

(2) three members of the House of Delegates, appointed by the Speaker of the House;

(3) the Attorney General, or the Attorney General's designee;

(4) the Executive Director of the Maryland Sentencing Commission, or the Executive Director's designee;

(5) the Executive Director of the Governor's Office of Crime Control and Prevention, or the Executive Director's designee;

(6) the president of the Maryland State's Attorneys' Association, or the president's designee;

(7) an expert in the subject matter of criminal sentencing, appointed by the president of the Maryland State's Attorneys' Association;

(8) the Public Defender, or the Public Defender's designee;

(9) an expert in the subject matter of criminal sentencing, appointed by the Public Defender; and

(10) the chair of the Justice Reinvestment Oversight Board.

(c) The members of the Task Force shall designate the chair of the Task Force.

(d) The Department of Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State

Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) review the penalties for all criminal and civil violations throughout the Maryland Code;

(2) study the history and legislative intent of the classification of criminal and civil violations throughout the Maryland Code, including the constitutional implications and collateral consequences that arise as a result of classification;

(3) study criminal classifications and penalty schemes in other states and how those classifications and schemes compare to those in the State; and

(4) make recommendations regarding the current statutory scheme for criminal and civil violations throughout the Maryland Code, including:

(i) whether there are violations that should be reclassified as civil offenses, misdemeanors, or felonies;

(ii) whether there are penalties that should be altered;

(iii) whether the State would benefit from:

1. the imposition of standardized crime classifications and penalties;

2. the codification of a default mental state as an element of criminal liability; and

3. the codification of affirmative defenses and their elements;

(iv) whether statutory changes are necessary for provisions of criminal law that lack an explicit mens rea; and

(v) what limitations, if any, should be placed on the ability of administrative boards, agencies, local governments, appointed commissioners, or of other persons or entities to enact rules, regulations, ordinances, or laws providing for criminal penalties.

(g) On or before December 31, 2020, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019. It shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2021, this Act, with no further action required by the General Assembly, shall be

abrogated and of no further force and effect.

Approved by the Governor, April 30, 2019.

Chapter 373

(House Bill 1198)

AN ACT concerning

Human Trafficking – Required ~~Reporters~~ Posting

FOR the purpose of requiring a clerk of the court ~~who has reason to believe that an applicant for a marriage license is a victim of certain offenses involving human trafficking and is being coerced into a marriage to notify the appropriate law enforcement agency; requiring an employee of the Family Investment Administration who has reason to believe that a recipient of public assistance is a victim of certain offenses involving human trafficking to notify the appropriate law enforcement agency; requiring a law enforcement agency to attempt to interview certain individuals under certain circumstances; and generally relating to the required reporting and investigation of suspected human trafficking~~ to prominently post a certain sign with information on the National Human Trafficking Resource Center Hotline in public information areas of a courthouse; ~~requiring certain departments and independent units of the Executive Branch of State government to prominently post a certain sign with information on the National Human Trafficking Resource Center Hotline in certain locations;~~ and generally relating to the National Human Trafficking Resource Center Hotline.

~~BY repealing and reenacting, without amendments,~~
~~Article – Criminal Law~~
~~Section 11–303~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2018 Supplement)~~

~~BY adding to~~
~~Article – Family Law~~
~~Section 2–411~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2018 Supplement)~~

~~BY adding to~~
~~Article – Human Services~~
~~Section 5–609~~
~~Annotated Code of Maryland~~
~~(2007 Volume and 2018 Supplement)~~

BY adding to
Article – Courts and Judicial Proceedings
Section 2–215
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

~~BY adding to~~
~~Article – State Government~~
~~Section 8–506~~
~~Annotated Code of Maryland~~
~~(2014 Replacement Volume and 2018 Supplement)~~

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

~~Article – Criminal Law~~

~~11–303.~~

~~(a) (1) A person may not knowingly:~~

~~(i) take or cause another to be taken to any place for prostitution;~~

~~(ii) place, cause to be placed, or harbor another in any place for prostitution;~~

~~(iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;~~

~~(iv) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;~~

~~(v) engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious physical harm; or~~

~~(vi) destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to violate this subsection.~~

~~(2) A parent, guardian, or person who has permanent or temporary care or custody or responsibility for supervision of another may not consent to the taking or detention of the other for prostitution.~~

~~(b) (1) A person may not violate subsection (a) of this section involving a victim who is a minor.~~

~~(2) A person may not knowingly take or detain another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.~~

~~(c) (1) (i) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the misdemeanor of human trafficking and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $5,000 or both.~~

~~(ii) A person who violates subsection (a) of this section is subject to § 5–106(b) of the Courts Article.~~

~~(2) A person who violates subsection (b) of this section is guilty of the felony of human trafficking and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding $15,000 or both.~~

~~(d) A person who violates this section may be charged, tried, and sentenced in any county in or through which the person transported or attempted to transport the other.~~

~~(e) (1) A person who knowingly benefits financially or by receiving anything of value from participation in a venture that includes an act described in subsection (a) or (b) of this section is subject to the same penalties that would apply if the person had violated that subsection.~~

~~(2) A person who knowingly aids, abets, or conspires with one or more other persons to violate any subsection of this section is subject to the same penalties that apply for a violation of that subsection.~~

~~(f) It is not a defense to a prosecution under subsection (b)(1) of this section that the person did not know the age of the victim.~~

~~Article – Family Law~~

~~2–411.~~

~~(A) A CLERK OF THE COURT WHO HAS REASON TO BELIEVE THAT AN APPLICANT FOR A MARRIAGE LICENSE IS A VICTIM OF HUMAN TRAFFICKING UNDER § 11–303 OF THE CRIMINAL LAW ARTICLE AND IS BEING COERCED TO ENTER INTO A MARRIAGE SHALL NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY.~~

~~(B) AFTER RECEIVING A REPORT FROM A CLERK OF THE COURT IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, THE APPROPRIATE LAW~~

~~ENFORCEMENT AGENCY SHALL ATTEMPT TO INTERVIEW THE APPLICANT FOR A MARRIAGE LICENSE.~~

~~Article – Human Services~~

~~5–609.~~

~~(A) AN EMPLOYEE OF THE ADMINISTRATION WHO HAS REASON TO BELIEVE THAT A RECIPIENT OF PUBLIC ASSISTANCE IS A VICTIM OF HUMAN TRAFFICKING UNDER § 11–303 OF THE CRIMINAL LAW ARTICLE SHALL NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY.~~

~~(B) AFTER RECEIVING A REPORT UNDER SUBSECTION (A) OF THIS SECTION, THE APPROPRIATE LAW ENFORCEMENT AGENCY SHALL ATTEMPT TO INTERVIEW THE RECIPIENT OF PUBLIC ASSISTANCE.~~

Article – Courts and Judicial Proceedings

2–215.

THE CLERK OF THE COURT SHALL PROMINENTLY POST THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE INFORMATION SIGN DESCRIBED IN § 15–207 OF THE BUSINESS REGULATION ARTICLE IN PUBLIC INFORMATION AREAS OF EACH COURTHOUSE.

~~Article – State Government~~

~~8–506.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "DEPARTMENT" MEANS A PRINCIPAL DEPARTMENT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.~~

~~(3) "INDEPENDENT UNIT" MEANS A UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT THAT IS NOT IN A DEPARTMENT.~~

~~(B) EACH DEPARTMENT AND INDEPENDENT UNIT SHALL PROMINENTLY POST THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE INFORMATION SIGN DESCRIBED IN § 15–207 OF THE BUSINESS REGULATION ARTICLE IN EACH LOCATION OF THE DEPARTMENT OR INDEPENDENT UNIT THAT SERVES OR IS OPEN TO THE PUBLIC.~~

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

Approved by the Governor, April 30, 2019.

Chapter 374

(House Bill 648)

AN ACT concerning

Interstate Physical Therapy Licensure Compact

FOR the purpose of entering into the Interstate Physical Therapy Licensure Compact; stating the purpose of the Compact; requiring a state to meet certain requirements to participate in the Compact; requiring the State Board of Physical Therapy Examiners to charge a certain fee; requiring a physical therapist to meet certain eligibility requirements to receive certain licensure and exercise a certain privilege; authorizing a licensee who is active duty military or the spouse of an individual who is active duty military to designate certain locations as the home state; establishing certain authority of home states and remote states with regard to certain adverse actions; establishing the Physical Therapy Compact Commission and its duties; providing for the election of an Executive Board of the Commission and establishing its duties; providing for the financing of the Commission; requiring the Commission to provide for the development, maintenance, and utilization of a coordinated database and reporting system; requiring member states to submit certain information to the data system; authorizing the Commission to adopt certain rules and amendments in a certain manner; providing for certain oversight, dispute resolution, and enforcement of the Compact; establishing certain requirements for withdrawal by member states from the Compact; providing for the dissolution of the Compact under certain circumstances; providing for the application of the Compact; providing for the binding effect of the Compact; establishing procedures for amending the Compact; making the provisions of the Compact severable; defining certain terms; and generally relating to the Interstate Physical Therapy Licensure Compact.

BY adding to
Article – Health Occupations
Section 13–3A–01 to be under the new subtitle "Subtitle 3A. Interstate Physical Therapy Licensure Compact"
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

SUBTITLE 3A. INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT.

13–3A–01.

THE INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT IS ENACTED INTO LAW AND ENTERED INTO WITH ALL OTHER STATES LEGALLY JOINING IN IT IN THE FORM SUBSTANTIALLY AS IT APPEARS IN THIS SECTION AS FOLLOWS:

SECTION 1. PURPOSE

THE PURPOSE OF THIS COMPACT IS TO FACILITATE INTERSTATE PRACTICE OF PHYSICAL THERAPY WITH THE GOAL OF IMPROVING PUBLIC ACCESS TO PHYSICAL THERAPY SERVICES. THE PRACTICE OF PHYSICAL THERAPY OCCURS IN THE STATE WHERE THE PATIENT/CLIENT IS LOCATED AT THE TIME OF THE PATIENT/CLIENT ENCOUNTER. THE COMPACT PRESERVES THE REGULATORY AUTHORITY OF STATES TO PROTECT PUBLIC HEALTH AND SAFETY THROUGH THE CURRENT SYSTEM OF STATE LICENSURE. THIS COMPACT IS DESIGNED TO ACHIEVE THE FOLLOWING OBJECTIVES:

(1) INCREASE PUBLIC ACCESS TO PHYSICAL THERAPY SERVICES BY PROVIDING FOR THE MUTUAL RECOGNITION OF OTHER MEMBER STATE LICENSES;

(2) ENHANCE THE STATES' ABILITY TO PROTECT THE PUBLIC'S HEALTH AND SAFETY;

(3) ENCOURAGE THE COOPERATION OF MEMBER STATES IN REGULATING MULTI–STATE PHYSICAL THERAPY PRACTICE;

(4) SUPPORT SPOUSES OF RELOCATING MILITARY MEMBERS;

(5) ENHANCE THE EXCHANGE OF LICENSURE, INVESTIGATIVE, AND DISCIPLINARY INFORMATION BETWEEN MEMBER STATES; AND

(6) ALLOW A REMOTE STATE TO HOLD A PROVIDER OF SERVICES WITH A COMPACT PRIVILEGE IN THAT STATE ACCOUNTABLE TO THAT STATE'S PRACTICE STANDARDS.

SECTION 2. DEFINITIONS

AS USED IN THIS COMPACT, AND EXCEPT AS OTHERWISE PROVIDED, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "ACTIVE DUTY MILITARY" MEANS FULL–TIME DUTY STATUS IN THE ACTIVE UNIFORMED SERVICE OF THE UNITED STATES, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO 10 U.S.C. SECTION 1209 AND 1211.

(2) "ADVERSE ACTION" MEANS DISCIPLINARY ACTION TAKEN BY A PHYSICAL THERAPY LICENSING BOARD BASED UPON MISCONDUCT, UNACCEPTABLE PERFORMANCE, OR A COMBINATION OF BOTH.

(3) "ALTERNATIVE PROGRAM" MEANS A NONDISCIPLINARY MONITORING OR PRACTICE REMEDIATION PROCESS APPROVED BY A PHYSICAL THERAPY LICENSING BOARD. THIS INCLUDES, BUT IS NOT LIMITED TO, SUBSTANCE ABUSE ISSUES.

(4) "COMPACT PRIVILEGE" MEANS THE AUTHORIZATION GRANTED BY A REMOTE STATE TO ALLOW A LICENSEE FROM ANOTHER MEMBER STATE TO PRACTICE AS A PHYSICAL THERAPIST OR WORK AS A PHYSICAL THERAPIST ASSISTANT IN THE REMOTE STATE UNDER ITS LAWS AND RULES. THE PRACTICE OF PHYSICAL THERAPY OCCURS IN THE MEMBER STATE WHERE THE PATIENT/CLIENT IS LOCATED AT THE TIME OF THE PATIENT/CLIENT ENCOUNTER.

(5) "CONTINUING COMPETENCE" MEANS A REQUIREMENT, AS A CONDITION OF LICENSE RENEWAL, TO PROVIDE EVIDENCE OF PARTICIPATION IN, AND/OR COMPLETION OF, EDUCATIONAL AND PROFESSIONAL ACTIVITIES RELEVANT TO PRACTICE OR AREA OF WORK.

(6) "DATA SYSTEM" MEANS A REPOSITORY OF INFORMATION ABOUT LICENSEES, INCLUDING EXAMINATION, LICENSURE, INVESTIGATIVE, COMPACT PRIVILEGE, AND ADVERSE ACTION.

(7) "ENCUMBERED LICENSE" MEANS A LICENSE THAT A PHYSICAL THERAPY LICENSING BOARD HAS LIMITED IN ANY WAY.

(8) "EXECUTIVE BOARD" MEANS A GROUP OF DIRECTORS ELECTED OR APPOINTED TO ACT ON BEHALF OF, AND WITHIN THE POWERS GRANTED TO THEM BY, THE COMMISSION.

(9) "HOME STATE" MEANS THE MEMBER STATE THAT IS THE LICENSEE'S PRIMARY STATE OF RESIDENCE.

(10) "INVESTIGATIVE INFORMATION" MEANS INFORMATION, RECORDS, AND DOCUMENTS RECEIVED OR GENERATED BY A PHYSICAL THERAPY LICENSING BOARD PURSUANT TO AN INVESTIGATION.

(11) "JURISPRUDENCE REQUIREMENT" MEANS THE ASSESSMENT OF AN INDIVIDUAL'S KNOWLEDGE OF THE LAWS AND RULES GOVERNING THE PRACTICE OF PHYSICAL THERAPY IN A STATE.

(12) "LICENSEE" MEANS AN INDIVIDUAL WHO CURRENTLY HOLDS AN AUTHORIZATION FROM THE STATE TO PRACTICE AS A PHYSICAL THERAPIST OR TO WORK AS A PHYSICAL THERAPIST ASSISTANT.

(13) "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THE COMPACT.

(14) "PARTY STATE" MEANS ANY MEMBER STATE IN WHICH A LICENSEE HOLDS A CURRENT LICENSE OR COMPACT PRIVILEGE OR IS APPLYING FOR A LICENSE OR COMPACT PRIVILEGE.

(15) "PHYSICAL THERAPIST" MEANS AN INDIVIDUAL WHO IS LICENSED BY A STATE TO PRACTICE PHYSICAL THERAPY.

(16) "PHYSICAL THERAPIST ASSISTANT" MEANS AN INDIVIDUAL WHO IS LICENSED/CERTIFIED BY A STATE AND WHO ASSISTS THE PHYSICAL THERAPIST IN SELECTED COMPONENTS OF PHYSICAL THERAPY.

(17) "PHYSICAL THERAPY," "PHYSICAL THERAPY PRACTICE," AND "THE PRACTICE OF PHYSICAL THERAPY" MEAN THE CARE AND SERVICES PROVIDED BY OR UNDER THE DIRECTION AND SUPERVISION OF A LICENSED PHYSICAL THERAPIST.

(18) "PHYSICAL THERAPY COMPACT COMMISSION" OR "COMMISSION" MEANS THE NATIONAL ADMINISTRATIVE BODY WHOSE MEMBERSHIP CONSISTS OF ALL STATES THAT HAVE ENACTED THE COMPACT.

(19) "PHYSICAL THERAPY LICENSING BOARD" OR "LICENSING BOARD" MEANS THE AGENCY OF A STATE THAT IS RESPONSIBLE FOR THE LICENSING AND REGULATION OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS.

(20) "REMOTE STATE" MEANS A MEMBER STATE OTHER THAN THE HOME STATE, WHERE A LICENSEE IS EXERCISING OR SEEKING TO EXERCISE THE COMPACT PRIVILEGE.

(21) "RULE" MEANS A REGULATION, PRINCIPLE, OR DIRECTIVE PROMULGATED BY THE COMMISSION THAT HAS THE FORCE OF LAW.

(22) "STATE" MEANS ANY STATE, COMMONWEALTH, DISTRICT, OR TERRITORY OF THE UNITED STATES OF AMERICA THAT REGULATES THE PRACTICE OF PHYSICAL THERAPY.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

(A) TO PARTICIPATE IN THE COMPACT, A STATE MUST:

(1) PARTICIPATE FULLY IN THE COMMISSION'S DATA SYSTEM, INCLUDING USING THE COMMISSION'S UNIQUE IDENTIFIER AS DEFINED IN RULES;

(2) HAVE A MECHANISM IN PLACE FOR RECEIVING AND INVESTIGATING COMPLAINTS ABOUT LICENSEES;

(3) NOTIFY THE COMMISSION, IN COMPLIANCE WITH THE TERMS OF THE COMPACT AND RULES, OF ANY ADVERSE ACTION OR THE AVAILABILITY OF INVESTIGATIVE INFORMATION REGARDING A LICENSEE;

(4) FULLY IMPLEMENT A CRIMINAL BACKGROUND CHECK REQUIREMENT, WITHIN A TIME FRAME ESTABLISHED BY RULE, BY RECEIVING THE RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION RECORD SEARCH ON CRIMINAL BACKGROUND CHECKS AND USE THE RESULTS IN MAKING LICENSURE DECISIONS IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION;

(5) COMPLY WITH THE RULES OF THE COMMISSION;

(6) UTILIZE A RECOGNIZED NATIONAL EXAMINATION AS A REQUIREMENT FOR LICENSURE PURSUANT TO THE RULES OF THE COMMISSION; AND

(7) HAVE CONTINUING COMPETENCE REQUIREMENTS AS A CONDITION FOR LICENSE RENEWAL.

(B) UPON ADOPTION OF THIS STATUTE, THE MEMBER STATE SHALL HAVE THE AUTHORITY TO OBTAIN BIOMETRIC–BASED INFORMATION FROM EACH PHYSICAL THERAPY LICENSURE APPLICANT AND SUBMIT THIS INFORMATION TO THE FEDERAL BUREAU OF INVESTIGATION FOR A CRIMINAL BACKGROUND CHECK IN ACCORDANCE WITH 28 U.S.C. §534 AND 42 U.S.C. §14616.

(C) A MEMBER STATE SHALL GRANT THE COMPACT PRIVILEGE TO A LICENSEE HOLDING A VALID UNENCUMBERED LICENSE IN ANOTHER MEMBER STATE IN ACCORDANCE WITH THE TERMS OF THE COMPACT AND RULES.

(D) (1) ~~MEMBER~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, MEMBER STATES MAY CHARGE A FEE FOR GRANTING A COMPACT PRIVILEGE.

(2) THE BOARD SHALL CHARGE A FEE FOR GRANTING A COMPACT PRIVILEGE.

SECTION 4. COMPACT PRIVILEGE

(A) TO EXERCISE THE COMPACT PRIVILEGE UNDER THE TERMS AND PROVISIONS OF THE COMPACT, THE LICENSEE SHALL:

(1) HOLD A LICENSE IN THE HOME STATE;

(2) HAVE NO ENCUMBRANCE ON ANY STATE LICENSE;

(3) BE ELIGIBLE FOR A COMPACT PRIVILEGE IN ANY MEMBER STATE IN ACCORDANCE WITH SUBSECTIONS (D), (G), AND (H) OF THIS SECTION;

(4) HAVE NOT HAD ANY ADVERSE ACTION AGAINST ANY LICENSE OR COMPACT PRIVILEGE WITHIN THE PREVIOUS 2 YEARS;

(5) NOTIFY THE COMMISSION THAT THE LICENSEE IS SEEKING THE COMPACT PRIVILEGE WITHIN A REMOTE STATE(S);

(6) PAY ANY APPLICABLE FEES, INCLUDING ANY STATE FEE, FOR THE COMPACT PRIVILEGE;

(7) MEET ANY JURISPRUDENCE REQUIREMENTS ESTABLISHED BY THE REMOTE STATE(S) IN WHICH THE LICENSEE IS SEEKING A COMPACT PRIVILEGE; AND

(8) REPORT TO THE COMMISSION ADVERSE ACTION TAKEN BY ANY NONMEMBER STATE WITHIN 30 DAYS FROM THE DATE THE ADVERSE ACTION IS TAKEN.

(B) THE COMPACT PRIVILEGE IS VALID UNTIL THE EXPIRATION DATE OF THE HOME LICENSE. THE LICENSEE MUST COMPLY WITH THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION TO MAINTAIN THE COMPACT PRIVILEGE IN THE REMOTE STATE.

(C) A LICENSEE PROVIDING PHYSICAL THERAPY IN A REMOTE STATE UNDER THE COMPACT PRIVILEGE SHALL FUNCTION WITHIN THE LAWS AND REGULATIONS OF THE REMOTE STATE.

(D) A LICENSEE PROVIDING PHYSICAL THERAPY IN A REMOTE STATE IS SUBJECT TO THAT STATE'S REGULATORY AUTHORITY. A REMOTE STATE MAY, IN ACCORDANCE WITH DUE PROCESS AND THAT STATE'S LAWS, REMOVE A LICENSEE'S COMPACT PRIVILEGE IN THE REMOTE STATE FOR A SPECIFIC PERIOD OF TIME, IMPOSE FINES, AND/OR TAKE ANY OTHER NECESSARY ACTIONS TO PROTECT THE HEALTH AND SAFETY OF ITS CITIZENS. THE LICENSEE IS NOT ELIGIBLE FOR A COMPACT PRIVILEGE IN ANY STATE UNTIL THE SPECIFIC TIME FOR REMOVAL HAS PASSED AND ALL FINES ARE PAID.

(E) IF A HOME STATE LICENSE IS ENCUMBERED, THE LICENSEE SHALL LOSE THE COMPACT PRIVILEGE IN ANY REMOTE STATE UNTIL THE FOLLOWING OCCUR:

(1) THE HOME STATE LICENSE IS NO LONGER ENCUMBERED; AND

(2) TWO YEARS HAVE ELAPSED FROM THE DATE OF THE ADVERSE ACTION.

(F) ONCE AN ENCUMBERED LICENSE IN THE HOME STATE IS RESTORED TO GOOD STANDING, THE LICENSEE MUST MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION TO OBTAIN A COMPACT PRIVILEGE IN ANY REMOTE STATE.

(G) IF A LICENSEE'S COMPACT PRIVILEGE IN ANY REMOTE STATE IS REMOVED, THE INDIVIDUAL SHALL LOSE THE COMPACT PRIVILEGE IN ANY REMOTE STATE UNTIL THE FOLLOWING OCCUR:

(1) THE SPECIFIC PERIOD OF TIME FOR WHICH THE COMPACT PRIVILEGE WAS REMOVED HAS ENDED;

(2) ALL FINES HAVE BEEN PAID; AND

(3) TWO YEARS HAVE ELAPSED FROM THE DATE OF THE ADVERSE ACTION.

(H) ONCE THE REQUIREMENTS OF SUBSECTION (G) OF THIS SECTION HAVE BEEN MET, THE LICENSE MUST MEET THE REQUIREMENTS IN SUBSECTION (A) OF THIS SECTION TO OBTAIN A COMPACT PRIVILEGE IN A REMOTE STATE.

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A LICENSEE WHO IS ACTIVE DUTY MILITARY OR IS THE SPOUSE OF AN INDIVIDUAL WHO IS ACTIVE DUTY MILITARY MAY DESIGNATE ONE OF THE FOLLOWING AS THE HOME STATE:

(1) HOME OF RECORD;

(2) PERMANENT CHANGE OF STATION (PCS); OR

(3) STATE OF CURRENT RESIDENCE IF IT IS DIFFERENT THAN THE PCS STATE OR HOME OF RECORD.

SECTION 6. ADVERSE ACTIONS

(A) A HOME STATE SHALL HAVE EXCLUSIVE POWER TO IMPOSE ADVERSE ACTION AGAINST A LICENSE ISSUED BY THE HOME STATE.

(B) A HOME STATE MAY TAKE ADVERSE ACTION BASED ON THE INVESTIGATIVE INFORMATION OF A REMOTE STATE, SO LONG AS THE HOME STATE FOLLOWS ITS OWN PROCEDURES FOR IMPOSING ADVERSE ACTION.

(C) NOTHING IN THIS COMPACT SHALL OVERRIDE A MEMBER STATE'S DECISION THAT PARTICIPATION IN AN ALTERNATIVE PROGRAM MAY BE USED IN LIEU OF ADVERSE ACTION AND THAT SUCH PARTICIPATION SHALL REMAIN NONPUBLIC IF REQUIRED BY THE MEMBER STATE'S LAWS. MEMBER STATES MUST REQUIRE LICENSEES WHO ENTER ANY ALTERNATIVE PROGRAMS IN LIEU OF DISCIPLINE TO AGREE NOT TO PRACTICE IN ANY OTHER MEMBER STATE DURING THE TERM OF THE ALTERNATIVE PROGRAM WITHOUT PRIOR AUTHORIZATION FROM SUCH OTHER MEMBER STATE.

(D) ANY MEMBER STATE MAY INVESTIGATE ACTUAL OR ALLEGED VIOLATIONS OF THE STATUTES AND RULES AUTHORIZING THE PRACTICE OF PHYSICAL THERAPY IN ANY OTHER MEMBER STATE IN WHICH A PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT HOLDS A LICENSE OR COMPACT PRIVILEGE.

(E) A REMOTE STATE SHALL HAVE THE AUTHORITY TO:

(1) TAKE ADVERSE ACTIONS AS SET FORTH IN SECTION 4(D) AGAINST A LICENSEE'S COMPACT PRIVILEGE IN THE STATE;

(2) ISSUE SUBPOENAS FOR BOTH HEARINGS AND INVESTIGATIONS THAT REQUIRE THE ATTENDANCE AND TESTIMONY OF WITNESSES, AND THE PRODUCTION OF EVIDENCE. SUBPOENAS ISSUED BY A PHYSICAL THERAPY LICENSING BOARD IN A PARTY STATE FOR THE ATTENDANCE AND TESTIMONY OF WITNESSES, AND/OR THE PRODUCTION OF EVIDENCE FROM ANOTHER PARTY STATE, SHALL BE ENFORCED IN THE LATTER STATE BY ANY COURT OF COMPETENT JURISDICTION, ACCORDING TO THE PRACTICE AND PROCEDURE OF THAT COURT APPLICABLE TO SUBPOENAS ISSUED IN PROCEEDINGS PENDING BEFORE IT. THE ISSUING AUTHORITY SHALL PAY ANY WITNESS FEES, TRAVEL EXPENSES, MILEAGE,

AND OTHER FEES REQUIRED BY THE SERVICE STATUTES OF THE STATE WHERE THE WITNESSES AND/OR EVIDENCE ARE LOCATED; AND

(3) IF OTHERWISE PERMITTED BY STATE LAW, RECOVER FROM THE LICENSEE THE COSTS OF INVESTIGATIONS AND DISPOSITION OF CASES RESULTING FROM ANY ADVERSE ACTION TAKEN AGAINST THAT LICENSEE.

(F) (1) IN ADDITION TO THE AUTHORITY GRANTED TO A MEMBER STATE BY ITS RESPECTIVE PHYSICAL THERAPY PRACTICE ACT OR OTHER APPLICABLE STATE LAW, A MEMBER STATE MAY PARTICIPATE WITH OTHER MEMBER STATES IN JOINT INVESTIGATIONS OF LICENSEES.

(2) MEMBER STATES SHALL SHARE ANY INVESTIGATIVE, LITIGATION, OR COMPLIANCE MATERIALS IN FURTHERANCE OF ANY JOINT OR INDIVIDUAL INVESTIGATION INITIATED UNDER THE COMPACT.

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

(A) THE COMPACT MEMBER STATES HEREBY CREATE AND ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE PHYSICAL THERAPY COMPACT COMMISSION.

(1) THE COMMISSION IS AN INSTRUMENTALITY OF THE COMPACT STATES.

(2) VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR AGAINST THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE COMMISSION IS LOCATED. THE COMMISSION MAY WAIVE VENUE AND JURISDICTIONAL DEFENSES TO THE EXTENT IT ADOPTS OR CONSENTS TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS.

(3) NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO BE A WAIVER OF SOVEREIGN IMMUNITY.

(B) (1) EACH MEMBER STATE SHALL HAVE AND BE LIMITED TO ONE DELEGATE SELECTED BY THAT MEMBER STATE'S LICENSING BOARD.

(2) THE DELEGATE SHALL BE A CURRENT MEMBER OF THE LICENSING BOARD, WHO IS A PHYSICAL THERAPIST, PHYSICAL THERAPIST ASSISTANT, PUBLIC MEMBER, OR THE BOARD ADMINISTRATOR.

(3) ANY DELEGATE MAY BE REMOVED OR SUSPENDED FROM OFFICE AS PROVIDED BY THE LAW OF THE STATE FROM WHICH THE DELEGATE IS APPOINTED.

(4) THE MEMBER STATE BOARD SHALL FILL ANY VACANCY OCCURRING IN THE COMMISSION.

(5) EACH DELEGATE SHALL BE ENTITLED TO ONE (1) VOTE WITH REGARD TO THE PROMULGATION OF RULES AND CREATION OF BYLAWS AND SHALL OTHERWISE HAVE AN OPPORTUNITY TO PARTICIPATE IN THE BUSINESS AND AFFAIRS OF THE COMMISSION.

(6) A DELEGATE SHALL VOTE IN PERSON OR BY SUCH OTHER MEANS AS PROVIDED IN THE BYLAWS. THE BYLAWS MAY PROVIDE FOR DELEGATES' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF COMMUNICATION.

(7) THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR. ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BYLAWS.

(C) THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(1) ESTABLISH THE FISCAL YEAR OF THE COMMISSION;

(2) ESTABLISH BYLAWS;

(3) MAINTAIN ITS FINANCIAL RECORDS IN ACCORDANCE WITH THE BYLAWS;

(4) MEET AND TAKE SUCH ACTIONS AS ARE CONSISTENT WITH THE PROVISIONS OF THIS COMPACT AND THE BYLAWS;

(5) PROMULGATE UNIFORM RULES TO FACILITATE AND COORDINATE IMPLEMENTATION AND ADMINISTRATION OF THIS COMPACT. THE RULES SHALL HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN ALL MEMBER STATES;

(6) BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN THE NAME OF THE COMMISSION, PROVIDED THAT THE STANDING OF ANY STATE PHYSICAL THERAPY LICENSING BOARD TO SUE OR BE SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED;

(7) PURCHASE AND MAINTAIN INSURANCE AND BONDS;

(8) BORROW, ACCEPT, OR CONTRACT FOR SERVICES OF PERSONNEL, INCLUDING, BUT NOT LIMITED TO, EMPLOYEES OF A MEMBER STATE;

(9) HIRE EMPLOYEES, ELECT OR APPOINT OFFICERS, FIX COMPENSATION, DEFINE DUTIES, GRANT SUCH INDIVIDUALS APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT, AND TO ESTABLISH THE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTEREST, QUALIFICATIONS OF PERSONNEL, AND OTHER RELATED PERSONNEL MATTERS;

(10) ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS AND SERVICES, AND TO RECEIVE, UTILIZE AND DISPOSE OF THE SAME; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR CONFLICT OF INTEREST;

(11) LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE OR USE, ANY PROPERTY, REAL, PERSONAL OR MIXED; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY;

(12) SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY REAL, PERSONAL, OR MIXED;

(13) ESTABLISH A BUDGET AND MAKE EXPENDITURES;

(14) BORROW MONEY;

(15) APPOINT COMMITTEES, INCLUDING STANDING COMMITTEES COMPOSED OF MEMBERS, STATE REGULATORS, STATE LEGISLATORS OR THEIR REPRESENTATIVES, AND CONSUMER REPRESENTATIVES, AND SUCH OTHER INTERESTED PERSONS AS MAY BE DESIGNATED IN THIS COMPACT AND THE BYLAWS;

(16) PROVIDE AND RECEIVE INFORMATION FROM, AND COOPERATE WITH, LAW ENFORCEMENT AGENCIES;

(17) ESTABLISH AND ELECT AN EXECUTIVE BOARD; AND

(18) PERFORM SUCH OTHER FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT CONSISTENT WITH THE STATE REGULATION OF PHYSICAL THERAPY LICENSURE AND PRACTICE.

(D) THE EXECUTIVE BOARD SHALL HAVE THE POWER TO ACT ON BEHALF OF THE COMMISSION ACCORDING TO THE TERMS OF THIS COMPACT.

(1) THE EXECUTIVE BOARD SHALL BE COMPOSED OF NINE MEMBERS:

(I) SEVEN VOTING MEMBERS WHO ARE ELECTED BY THE COMMISSION FROM THE CURRENT MEMBERSHIP OF THE COMMISSION;

(II) ONE EX–OFFICIO, NONVOTING MEMBER FROM THE RECOGNIZED NATIONAL PHYSICAL THERAPY PROFESSIONAL ASSOCIATION; AND

(III) ONE EX–OFFICIO, NONVOTING MEMBER FROM THE RECOGNIZED MEMBERSHIP ORGANIZATION OF THE PHYSICAL THERAPY LICENSING BOARDS.

(2) THE EX–OFFICIO MEMBERS WILL BE SELECTED BY THEIR RESPECTIVE ORGANIZATIONS.

(3) THE COMMISSION MAY REMOVE ANY MEMBER OF THE EXECUTIVE BOARD AS PROVIDED IN BYLAWS.

(4) THE EXECUTIVE BOARD SHALL MEET AT LEAST ANNUALLY.

(5) THE EXECUTIVE BOARD SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(I) RECOMMEND TO THE ENTIRE COMMISSION CHANGES TO THE RULES OR BYLAWS, CHANGES TO THIS COMPACT LEGISLATION, FEES PAID BY COMPACT MEMBER STATES SUCH AS ANNUAL DUES, AND ANY COMMISSION COMPACT FEE CHARGED TO LICENSEES FOR THE COMPACT PRIVILEGE;

(II) ENSURE COMPACT ADMINISTRATION SERVICES ARE APPROPRIATELY PROVIDED, CONTRACTUAL OR OTHERWISE;

(III) PREPARE AND RECOMMEND THE BUDGET;

(IV) MAINTAIN FINANCIAL RECORDS ON BEHALF OF THE COMMISSION;

(V) MONITOR COMPACT COMPLIANCE OF MEMBER STATES AND PROVIDE COMPLIANCE REPORTS TO THE COMMISSION;

(VI) ESTABLISH ADDITIONAL COMMITTEES AS NECESSARY; AND

(VII) OTHER DUTIES AS PROVIDED IN RULES OR BYLAWS.

(E) (1) ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, AND PUBLIC NOTICE OF MEETINGS SHALL BE GIVEN IN THE SAME MANNER AS REQUIRED UNDER THE RULEMAKING PROVISIONS IN SECTION 9.

(2) THE COMMISSION, THE EXECUTIVE BOARD, OR OTHER COMMITTEES OF THE COMMISSION MAY CONVENE IN A CLOSED, NON–PUBLIC MEETING IF THE COMMISSION, EXECUTIVE BOARD, OR OTHER COMMITTEES OF THE COMMISSION MUST DISCUSS:

(I) NONCOMPLIANCE OF A MEMBER STATE WITH ITS OBLIGATIONS UNDER THE COMPACT;

(II) THE EMPLOYMENT, COMPENSATION, DISCIPLINE OR OTHER MATTERS, PRACTICES, OR PROCEDURES RELATED TO SPECIFIC EMPLOYEES OR OTHER MATTERS RELATED TO THE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

(III) CURRENT, THREATENED, OR REASONABLY ANTICIPATED LITIGATION;

(IV) NEGOTIATION OF CONTRACTS FOR THE PURCHASE, LEASE, OR SALE OF GOODS, SERVICES, OR REAL ESTATE;

(V) ACCUSING ANY PERSON OF A CRIME OR FORMALLY CENSURING ANY PERSON;

(VI) DISCLOSURE OF TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL;

(VII) DISCLOSURE OF INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

(VIII) DISCLOSURE OF INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;

(IX) DISCLOSURE OF INFORMATION RELATED TO ANY INVESTIGATIVE REPORTS PREPARED BY, ON BEHALF OF, OR FOR USE OF THE COMMISSION OR OTHER COMMITTEE CHARGED WITH RESPONSIBILITY OF INVESTIGATION OR DETERMINATION OF COMPLIANCE ISSUES PURSUANT TO THE COMPACT; OR

(X) MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL OR MEMBER STATE STATUTE.

(3) IF A MEETING, OR PORTION OF A MEETING, IS CLOSED PURSUANT TO THIS PROVISION, THE COMMISSION'S LEGAL COUNSEL OR DESIGNEE SHALL CERTIFY THAT THE MEETING MAY BE CLOSED AND SHALL REFERENCE EACH RELEVANT EXEMPTING PROVISION.

(4) THE COMMISSION SHALL KEEP MINUTES THAT FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN, AND THE REASONS THEREFORE, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED. ALL DOCUMENTS CONSIDERED IN CONNECTION WITH AN ACTION SHALL BE IDENTIFIED IN SUCH MINUTES. ALL MINUTES AND DOCUMENTS OF A CLOSED MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJORITY VOTE OF THE COMMISSION OR ORDER OF A COURT OF COMPETENT JURISDICTION.

(F) (1) THE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF, THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.

(2) THE COMMISSION MAY ACCEPT ANY AND ALL APPROPRIATE REVENUE SOURCES, DONATIONS, AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES.

(3) THE COMMISSION MAY LEVY ON AND COLLECT AN ANNUAL ASSESSMENT FROM EACH MEMBER STATE OR IMPOSE FEES ON OTHER PARTIES TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE COMMISSION AND ITS STAFF, WHICH MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER ITS ANNUAL BUDGET AS APPROVED EACH YEAR FOR WHICH REVENUE IS NOT PROVIDED BY OTHER SOURCES. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER STATES.

(4) THE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL THE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.

(5) THE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS

OF FUNDS HANDLED BY THE COMMISSION SHALL BE AUDITED YEARLY BY A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT, AND THE REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE COMMISSION.

(G) (1) THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, EMPLOYEES AND REPRESENTATIVES OF THE COMMISSION SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES; PROVIDED THAT NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROTECT ANY SUCH PERSON FROM SUIT AND/OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

(2) THE COMMISSION SHALL DEFEND ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED THAT NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT THAT PERSON FROM RETAINING HIS OR HER OWN COUNSEL; AND PROVIDED FURTHER, THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM THAT PERSON'S INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT.

(3) THE COMMISSION SHALL INDEMNIFY AND HOLD HARMLESS ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE COMMISSION FOR THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST THAT PERSON ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

SECTION 8. DATA SYSTEM

(A) THE COMMISSION SHALL PROVIDE FOR THE DEVELOPMENT, MAINTENANCE, AND UTILIZATION OF A COORDINATED DATABASE AND REPORTING SYSTEM CONTAINING LICENSURE, ADVERSE ACTION, AND INVESTIGATIVE INFORMATION ON ALL LICENSED INDIVIDUALS IN MEMBER STATES.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW TO THE CONTRARY, A MEMBER STATE SHALL SUBMIT A UNIFORM DATA SET TO THE DATA SYSTEM ON ALL INDIVIDUALS TO WHOM THIS COMPACT IS APPLICABLE AS REQUIRED BY THE RULES OF THE COMMISSION, INCLUDING:

(1) IDENTIFYING INFORMATION;

(2) LICENSURE DATA;

(3) ADVERSE ACTIONS AGAINST A LICENSE OR COMPACT PRIVILEGE;

(4) NONCONFIDENTIAL INFORMATION RELATED TO ALTERNATIVE PROGRAM PARTICIPATION;

(5) ANY DENIAL OF APPLICATION FOR LICENSURE, AND THE REASON(S) FOR SUCH DENIAL; AND

(6) OTHER INFORMATION THAT MAY FACILITATE THE ADMINISTRATION OF THIS COMPACT, AS DETERMINED BY THE RULES OF THE COMMISSION.

(C) INVESTIGATIVE INFORMATION PERTAINING TO A LICENSEE IN ANY MEMBER STATE WILL ONLY BE AVAILABLE TO OTHER PARTY STATES.

(D) THE COMMISSION SHALL PROMPTLY NOTIFY ALL MEMBER STATES OF ANY ADVERSE ACTION TAKEN AGAINST A LICENSEE OR AN INDIVIDUAL APPLYING FOR A LICENSE. ADVERSE ACTION INFORMATION PERTAINING TO A LICENSEE IN ANY MEMBER STATE WILL BE AVAILABLE TO ANY OTHER MEMBER STATE.

(E) MEMBER STATES CONTRIBUTING INFORMATION TO THE DATA SYSTEM MAY DESIGNATE INFORMATION THAT MAY NOT BE SHARED WITH THE PUBLIC WITHOUT THE EXPRESS PERMISSION OF THE CONTRIBUTING STATE.

(F) ANY INFORMATION SUBMITTED TO THE DATA SYSTEM THAT IS SUBSEQUENTLY REQUIRED TO BE EXPUNGED BY THE LAWS OF THE MEMBER STATE CONTRIBUTING THE INFORMATION SHALL BE REMOVED FROM THE DATA SYSTEM.

SECTION 9. RULEMAKING

(A) THE COMMISSION SHALL EXERCISE ITS RULEMAKING POWERS PURSUANT TO THE CRITERIA SET FORTH IN THIS SECTION AND THE RULES ADOPTED THEREUNDER. RULES AND AMENDMENTS SHALL BECOME BINDING AS OF THE DATE SPECIFIED IN EACH RULE OR AMENDMENT.

(B) IF A MAJORITY OF THE LEGISLATURES OF THE MEMBER STATES REJECTS A RULE, BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT WITHIN 4 YEARS OF THE DATE OF ADOPTION OF THE RULE, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY MEMBER STATE.

(C) RULES OR AMENDMENTS TO THE RULES SHALL BE ADOPTED AT A REGULAR OR SPECIAL MEETING OF THE COMMISSION.

(D) PRIOR TO PROMULGATION AND ADOPTION OF A FINAL RULE OR RULES BY THE COMMISSION, AND AT LEAST 30 DAYS IN ADVANCE OF THE MEETING AT WHICH THE RULE WILL BE CONSIDERED AND VOTED UPON, THE COMMISSION SHALL FILE A NOTICE OF PROPOSED RULEMAKING ON THE WEBSITE OF:

(I) THE COMMISSION OR OTHER PUBLICLY ACCESSIBLE PLATFORM; AND

(II) EACH MEMBER STATE PHYSICAL THERAPY LICENSING BOARD OR OTHER PUBLICLY ACCESSIBLE PLATFORM OR THE PUBLICATION IN WHICH EACH STATE WOULD OTHERWISE PUBLISH PROPOSED RULES.

(E) THE NOTICE OF PROPOSED RULEMAKING SHALL INCLUDE:

(1) THE PROPOSED TIME, DATE, AND LOCATION OF THE MEETING IN WHICH THE RULE WILL BE CONSIDERED AND VOTED UPON;

(2) THE TEXT OF THE PROPOSED RULE OR AMENDMENT AND THE REASON FOR THE PROPOSED RULE;

(3) A REQUEST FOR COMMENTS ON THE PROPOSED RULE FROM ANY INTERESTED PERSON; AND

(4) THE MANNER IN WHICH INTERESTED PERSONS MAY SUBMIT NOTICE TO THE COMMISSION OF THEIR INTENTION TO ATTEND THE PUBLIC HEARING AND ANY WRITTEN COMMENTS.

(F) PRIOR TO ADOPTION OF A PROPOSED RULE, THE COMMISSION SHALL ALLOW PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS, AND ARGUMENTS, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC.

(G) THE COMMISSION SHALL GRANT AN OPPORTUNITY FOR A PUBLIC HEARING BEFORE IT ADOPTS A RULE OR AMENDMENT IF A HEARING IS REQUESTED BY:

(1) AT LEAST 25 PERSONS;

(2) A STATE OR FEDERAL GOVERNMENTAL SUBDIVISION OR AGENCY; OR

(3) AN ASSOCIATION HAVING AT LEAST 25 MEMBERS.

(H) IF A HEARING IS HELD ON THE PROPOSED RULE OR AMENDMENT, THE COMMISSION SHALL PUBLISH THE PLACE, TIME, AND DATE OF THE SCHEDULED PUBLIC HEARING. IF THE HEARING IS HELD VIA ELECTRONIC MEANS, THE COMMISSION SHALL PUBLISH THE MECHANISM FOR ACCESS TO THE ELECTRONIC HEARING.

(1) ALL PERSONS WISHING TO BE HEARD AT THE HEARING SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE COMMISSION OR OTHER DESIGNATED MEMBER IN WRITING OF THEIR DESIRE TO APPEAR AND TESTIFY AT THE HEARING NOT LESS THAN 5 BUSINESS DAYS BEFORE THE SCHEDULED DATE OF THE HEARING.

(2) HEARINGS SHALL BE CONDUCTED IN A MANNER PROVIDING EACH PERSON WHO WISHES TO COMMENT A FAIR AND REASONABLE OPPORTUNITY TO COMMENT ORALLY OR IN WRITING.

(3) ALL HEARINGS WILL BE RECORDED. A COPY OF THE RECORDING WILL BE MADE AVAILABLE ON REQUEST.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING A SEPARATE HEARING ON EACH RULE. RULES MAY BE GROUPED FOR THE CONVENIENCE OF THE COMMISSION AT HEARINGS REQUIRED BY THIS SECTION.

(I) FOLLOWING THE SCHEDULED HEARING DATE, OR BY THE CLOSE OF BUSINESS ON THE SCHEDULED HEARING DATE IF THE HEARING WAS NOT HELD, THE COMMISSION SHALL CONSIDER ALL WRITTEN AND ORAL COMMENTS RECEIVED.

(J) IF NO WRITTEN NOTICE OF INTENT TO ATTEND THE PUBLIC HEARING BY INTERESTED PARTIES IS RECEIVED, THE COMMISSION MAY PROCEED WITH PROMULGATION OF THE PROPOSED RULE WITHOUT A PUBLIC HEARING.

(K) THE COMMISSION SHALL, BY MAJORITY VOTE OF ALL MEMBERS, TAKE FINAL ACTION ON THE PROPOSED RULE AND SHALL DETERMINE THE EFFECTIVE

DATE OF THE RULE, IF ANY, BASED ON THE RULEMAKING RECORD AND THE FULL TEXT OF THE RULE.

(L) UPON DETERMINATION THAT AN EMERGENCY EXISTS, THE COMMISSION MAY CONSIDER AND ADOPT AN EMERGENCY RULE WITHOUT PRIOR NOTICE, OPPORTUNITY FOR COMMENT, OR HEARING, PROVIDED THAT THE USUAL RULEMAKING PROCEDURES PROVIDED IN THE COMPACT AND IN THIS SECTION SHALL BE RETROACTIVELY APPLIED TO THE RULE AS SOON AS REASONABLY POSSIBLE, IN NO EVENT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE RULE. FOR THE PURPOSES OF THIS PROVISION, AN EMERGENCY RULE IS ONE THAT MUST BE ADOPTED IMMEDIATELY IN ORDER TO:

(1) MEET AN IMMINENT THREAT TO PUBLIC HEALTH, SAFETY, OR WELFARE;

(2) PREVENT A LOSS OF COMMISSION OR MEMBER STATE FUNDS;

(3) MEET A DEADLINE FOR THE PROMULGATION OF AN ADMINISTRATIVE RULE THAT IS ESTABLISHED BY FEDERAL LAW OR RULE; OR

(4) PROTECT PUBLIC HEALTH AND SAFETY.

(M) THE COMMISSION OR AN AUTHORIZED COMMITTEE OF THE COMMISSION MAY DIRECT REVISIONS TO A PREVIOUSLY ADOPTED RULE OR AMENDMENT FOR PURPOSES OF CORRECTING TYPOGRAPHICAL ERRORS, ERRORS IN FORMAT, ERRORS IN CONSISTENCY, OR GRAMMATICAL ERRORS. PUBLIC NOTICE OF ANY REVISIONS SHALL BE POSTED ON THE WEBSITE OF THE COMMISSION. THE REVISION SHALL BE SUBJECT TO CHALLENGE BY ANY PERSON FOR A PERIOD OF 30 DAYS AFTER POSTING. THE REVISION MAY BE CHALLENGED ONLY ON GROUNDS THAT THE REVISION RESULTS IN A MATERIAL CHANGE TO A RULE. A CHALLENGE SHALL BE MADE IN WRITING, AND DELIVERED TO THE CHAIR OF THE COMMISSION PRIOR TO THE END OF THE NOTICE PERIOD. IF NO CHALLENGE IS MADE, THE REVISION WILL TAKE EFFECT WITHOUT FURTHER ACTION. IF THE REVISION IS CHALLENGED, THE REVISION MAY NOT TAKE EFFECT WITHOUT THE APPROVAL OF THE COMMISSION.

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(A) (1) THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN EACH MEMBER STATE SHALL ENFORCE THIS COMPACT AND TAKE ALL ACTIONS NECESSARY AND APPROPRIATE TO EFFECTUATE THE COMPACT'S PURPOSES AND INTENT. THE PROVISIONS OF THIS COMPACT AND THE RULES PROMULGATED HEREUNDER SHALL HAVE STANDING AS STATUTORY LAW.

(2) ALL COURTS SHALL TAKE JUDICIAL NOTICE OF THE COMPACT AND THE RULES IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A MEMBER STATE PERTAINING TO THE SUBJECT MATTER OF THIS COMPACT WHICH MAY AFFECT THE POWERS, RESPONSIBILITIES OR ACTIONS OF THE COMMISSION.

(3) THE COMMISSION SHALL BE ENTITLED TO RECEIVE SERVICE OF PROCESS IN ANY SUCH PROCEEDING, AND SHALL HAVE STANDING TO INTERVENE IN SUCH A PROCEEDING FOR ALL PURPOSES. FAILURE TO PROVIDE SERVICE OF PROCESS TO THE COMMISSION SHALL RENDER A JUDGMENT OR ORDER VOID AS TO THE COMMISSION, THIS COMPACT, OR PROMULGATED RULES.

(B) (1) IF THE COMMISSION DETERMINES THAT A MEMBER STATE HAS DEFAULTED IN THE PERFORMANCE OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT OR THE PROMULGATED RULES, THE COMMISSION SHALL:

(I) PROVIDE WRITTEN NOTICE TO THE DEFAULTING STATE AND OTHER MEMBER STATES OF THE NATURE OF THE DEFAULT, THE PROPOSED MEANS OF CURING THE DEFAULT AND/OR ANY OTHER ACTION TO BE TAKEN BY THE COMMISSION; AND

(II) PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE REGARDING THE DEFAULT.

(2) IF A STATE IN DEFAULT FAILS TO CURE THE DEFAULT, THE DEFAULTING STATE MAY BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBER STATES, AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT MAY BE TERMINATED ON THE EFFECTIVE DATE OF TERMINATION. A CURE OF THE DEFAULT DOES NOT RELIEVE THE OFFENDING STATE OF OBLIGATIONS OR LIABILITIES INCURRED DURING THE PERIOD OF DEFAULT.

(3) TERMINATION OF MEMBERSHIP IN THE COMPACT SHALL BE IMPOSED ONLY AFTER ALL OTHER MEANS OF SECURING COMPLIANCE HAVE BEEN EXHAUSTED. NOTICE OF INTENT TO SUSPEND OR TERMINATE SHALL BE GIVEN BY THE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND EACH OF THE MEMBER STATES.

(4) A STATE THAT HAS BEEN TERMINATED IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF TERMINATION, INCLUDING OBLIGATIONS THAT EXTEND BEYOND THE EFFECTIVE DATE OF TERMINATION.

(5) THE COMMISSION SHALL NOT BEAR ANY COSTS RELATED TO A STATE THAT IS FOUND TO BE IN DEFAULT OR THAT HAS BEEN TERMINATED FROM

THE COMPACT, UNLESS AGREED UPON IN WRITING BETWEEN THE COMMISSION AND THE DEFAULTING STATE.

(6) THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE COMMISSION BY PETITIONING THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE COMMISSION HAS ITS PRINCIPAL OFFICES. THE PREVAILING MEMBER SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE ATTORNEY'S FEES.

(C) (1) UPON REQUEST BY A MEMBER STATE, THE COMMISSION SHALL ATTEMPT TO RESOLVE DISPUTES RELATED TO THE COMPACT THAT ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NONMEMBER STATES.

(2) THE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRIATE.

(D) (1) THE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.

(2) BY MAJORITY VOTE, THE COMMISSION MAY INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE COMMISSION HAS ITS PRINCIPAL OFFICES AGAINST A MEMBER STATE IN DEFAULT TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS PROMULGATED RULES AND BYLAWS. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY, THE PREVAILING MEMBER SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE ATTORNEY'S FEES.

(3) THE REMEDIES HEREIN SHALL NOT BE THE EXCLUSIVE REMEDIES OF THE COMMISSION. THE COMMISSION MAY PURSUE ANY OTHER REMEDIES AVAILABLE UNDER FEDERAL OR STATE LAW.

SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

(A) THE COMPACT SHALL COME INTO EFFECT ON THE DATE ON WHICH THE COMPACT STATUTE IS ENACTED INTO LAW IN THE TENTH MEMBER STATE. THE PROVISIONS, WHICH BECOME EFFECTIVE AT THAT TIME, SHALL BE LIMITED TO THE POWERS GRANTED TO THE COMMISSION RELATING TO ASSEMBLY AND THE PROMULGATION OF RULES. THEREAFTER, THE COMMISSION SHALL MEET AND

EXERCISE RULEMAKING POWERS NECESSARY TO THE IMPLEMENTATION AND ADMINISTRATION OF THE COMPACT.

(B) ANY STATE THAT JOINS THE COMPACT SUBSEQUENT TO THE COMMISSION'S INITIAL ADOPTION OF THE RULES SHALL BE SUBJECT TO THE RULES AS THEY EXIST ON THE DATE ON WHICH THE COMPACT BECOMES LAW IN THAT STATE. ANY RULE THAT HAS BEEN PREVIOUSLY ADOPTED BY THE COMMISSION SHALL HAVE THE FULL FORCE AND EFFECT OF LAW ON THE DAY THE COMPACT BECOMES LAW IN THAT STATE.

(C) ANY MEMBER STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A STATUTE REPEALING THE SAME.

(1) A MEMBER STATE'S WITHDRAWAL SHALL NOT TAKE EFFECT UNTIL 6 MONTHS AFTER ENACTMENT OF THE REPEALING STATUTE.

(2) WITHDRAWAL SHALL NOT AFFECT THE CONTINUING REQUIREMENT OF THE WITHDRAWING STATE'S PHYSICAL THERAPY LICENSING BOARD TO COMPLY WITH THE INVESTIGATIVE AND ADVERSE ACTION REPORTING REQUIREMENTS OF THIS ACT PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL.

(D) NOTHING CONTAINED IN THIS COMPACT SHALL BE CONSTRUED TO INVALIDATE OR PREVENT ANY PHYSICAL THERAPY LICENSURE AGREEMENT OR OTHER COOPERATIVE ARRANGEMENT BETWEEN A MEMBER STATE AND A NON–MEMBER STATE THAT DOES NOT CONFLICT WITH THE PROVISIONS OF THIS COMPACT.

(E) THIS COMPACT MAY BE AMENDED BY THE MEMBER STATES. NO AMENDMENT TO THIS COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON ANY MEMBER STATE UNTIL IT IS ENACTED INTO THE LAWS OF ALL MEMBER STATES.

SECTION 12. CONSTRUCTION AND SEVERABILITY

THIS COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE THE PURPOSES THEREOF. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY PARTY STATE OR OF THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY PARTY STATE, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS

TO THE REMAINING PARTY STATES AND IN FULL FORCE AND EFFECT AS TO THE PARTY STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

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

Approved by the Governor, April 30, 2019.

Chapter 375

(House Bill 673)

AN ACT concerning

Frederick County – Ethics and Campaign Activity – County Board and Commission Members and Board of License Commissioners

FOR the purpose of prohibiting a member of the Board of License Commissioners of Frederick County ~~from having an authorized candidate campaign committee and campaign finance entity while serving as a member of the Board; requiring a certain individual appointed to the Board to close an open authorized candidate campaign committee and campaign finance entity by a certain day;~~ or a person acting on behalf of the member, a campaign finance entity of the member, or any other campaign finance entity operated in coordination with the member from soliciting, receiving, depositing, or using a contribution while the member is serving on the Board; prohibiting a campaign finance entity of the member or any other campaign finance entity operated in coordination with the member from making an expenditure while the member is serving on the Board, except for a certain purpose; requiring a campaign finance entity of the member or any other campaign finance entity operated in coordination with the member to pay all outstanding obligations before the member begins serving on the Board; prohibiting an appointed member of the Frederick County Board of Zoning Appeals, the Frederick County Ethics Commission, the Frederick County Planning Commission, or the Board of License Commissioners of Frederick County ~~from having an authorized candidate campaign committee and campaign finance entity while serving as a member of the board or commission; requiring a certain individual appointed to a certain board or commission to close an open authorized candidate campaign committee and campaign finance entity by a certain day;~~ or a person acting on behalf of the member, a campaign finance entity of the member, or any other campaign finance entity operated in coordination with the member from soliciting, receiving, depositing, or using a contribution while the member is serving on the board or commission; prohibiting a campaign finance entity of the member or any other campaign finance entity operated in coordination with the member from making an expenditure while the member is serving on the board or commission, except for a certain purpose; requiring a campaign finance entity of the member or any other campaign finance

entity operated in coordination with the member to pay all outstanding obligations before the member begins serving on the board or commission; making clarifying and conforming changes; and generally relating to ethics and campaign activity in Frederick County.

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 20–201
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 20–202
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – General Provisions
Section 5–865
Annotated Code of Maryland
(2014 Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – General Provisions
Section 5–866
Annotated Code of Maryland
(2014 Volume and 2018 Supplement)

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

Article – Alcoholic Beverages

20–201.

There is a Board of License Commissioners for Frederick County.

20–202.

(a) The Governor shall appoint three members to the Board.

(b) Each member of the Board shall be:

(1) a registered voter of the county during the member's term of office; and

(2) an individual of good moral character and integrity who reasonably reflects the citizenry of the county.

(c) (1) In this subsection, "direct or indirect interest" means an interest that is proprietary or obtained by a loan, mortgage, or lien or in any other manner.

(2) A member of the Board may not:

(i) have a direct or indirect interest in or on a premises where alcoholic beverages are manufactured or sold;

(ii) have a direct or indirect interest in a business wholly or partly devoted to the manufacture or sale of alcoholic beverages;

(iii) own stock in:

1. a corporation that has a direct or indirect interest in a premises where alcoholic beverages are manufactured or sold; or

2. a business wholly or partly devoted to the manufacture or sale of alcoholic beverages;

(iv) hold any other public office or employment; or

(v) solicit or receive, directly or indirectly, a commission, remuneration, or gift from:

1. a person engaged in the manufacture or sale of alcoholic beverages; or

2. a license holder.

(3) A person who violates this subsection is guilty of a misdemeanor and is subject to a fine not exceeding $1,000.

(d) (1) The term of a member is 5 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 2016.

(e) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(f) (1) The Governor may remove a member for incompetence, misconduct, neglect of a duty required by law, or unprofessional or dishonorable conduct.

(2) The Governor shall give a member who is charged a copy of the charges against the member and, with at least 10 days' notice, an opportunity to be heard publicly in person or by counsel.

(3) If a member is removed, the Governor shall file with the Office of the Secretary of State a statement of charges against the member and the Governor's findings on the charges.

(g) **(1) IN THIS SUBSECTION, "CAMPAIGN FINANCE ENTITY" HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.**

~~**(2) A MEMBER MAY NOT HAVE AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OR A CAMPAIGN FINANCE ENTITY WHILE SERVING ON THE BOARD.**~~

~~**(3) AN INDIVIDUAL WHO IS APPOINTED BY THE GOVERNOR AS A MEMBER AND HAS AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE AND CAMPAIGN FINANCE ENTITY SHALL CLOSE THE COMMITTEE AND THE CAMPAIGN FINANCE ENTITY BEFORE THE FIRST DAY OF THE MEMBER'S TERM.**~~

(2) A MEMBER, A PERSON ACTING ON BEHALF OF THE MEMBER, A CAMPAIGN FINANCE ENTITY OF THE MEMBER, OR ANY OTHER CAMPAIGN FINANCE ENTITY OPERATED IN COORDINATION WITH THE MEMBER MAY NOT SOLICIT, RECEIVE, DEPOSIT, OR USE A CONTRIBUTION WHILE THE MEMBER IS SERVING ON THE BOARD.

(3) A CAMPAIGN FINANCE ENTITY OF THE MEMBER OR ANY OTHER CAMPAIGN FINANCE ENTITY OPERATED IN COORDINATION WITH THE MEMBER MAY NOT MAKE AN EXPENDITURE, EXCEPT TO PAY A LATE FILING FEE OR CIVIL PENALTY IMPOSED UNDER TITLE 13 OF THE ELECTION LAW ARTICLE, WHILE THE MEMBER IS SERVING ON THE BOARD.

(4) A CAMPAIGN FINANCE ENTITY OF THE MEMBER OR ANY OTHER CAMPAIGN FINANCE ENTITY OPERATED IN COORDINATION WITH THE MEMBER SHALL PAY ANY OUTSTANDING OBLIGATIONS BEFORE THE MEMBER BEGINS SERVING ON THE BOARD.

~~**(4)**~~ **(5)** No later than 48 hours after opening a campaign account through a campaign finance entity, **[**as defined in § 1–101 of the Election Law Article,**]** a member who has established an authorized candidate campaign committee shall vacate the member's position on the Board in accordance with § 5–866 of the General Provisions Article.

Article – General Provisions

5–865.

This part applies only to an appointed member of the Frederick County Board of Zoning Appeals, the Frederick County Ethics Commission, the Frederick County Planning Commission, or the Board of License Commissioners for Frederick County.

5–866.

(A) IN THIS PART, "CAMPAIGN FINANCE ENTITY" HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.

~~**(B) AN APPOINTED MEMBER OF A BOARD OR COMMISSION UNDER § 5–865 OF THIS SUBTITLE MAY NOT HAVE AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OR CAMPAIGN FINANCE ENTITY WHILE SERVING ON THE BOARD OR COMMISSION.**~~

~~**(C) AN INDIVIDUAL WHO IS APPOINTED AS A MEMBER TO A BOARD OR COMMISSION UNDER § 5–865 OF THIS SUBTITLE AND HAS AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE AND A CAMPAIGN FINANCE ENTITY SHALL CLOSE THE COMMITTEE AND THE CAMPAIGN FINANCE ENTITY BEFORE THE FIRST DAY OF THE MEMBER'S TERM.**~~

(B) A MEMBER, A PERSON ACTING ON BEHALF OF THE MEMBER, A CAMPAIGN FINANCE ENTITY OF THE MEMBER, OR ANY OTHER CAMPAIGN FINANCE ENTITY OPERATED IN COORDINATION WITH THE MEMBER MAY NOT SOLICIT, RECEIVE, DEPOSIT, OR USE A CONTRIBUTION WHILE THE MEMBER IS SERVING ON THE BOARD OR COMMISSION.

(C) A CAMPAIGN FINANCE ENTITY OF THE MEMBER OR ANY OTHER CAMPAIGN FINANCE ENTITY OPERATED IN COORDINATION WITH THE MEMBER MAY NOT MAKE AN EXPENDITURE, EXCEPT TO PAY A LATE FILING FEE OR CIVIL PENALTY IMPOSED UNDER TITLE 13 OF THE ELECTION LAW ARTICLE, WHILE THE MEMBER IS SERVING ON THE BOARD OR COMMISSION.

(D) A CAMPAIGN FINANCE ENTITY OF THE MEMBER OR ANY OTHER CAMPAIGN FINANCE ENTITY OPERATED IN COORDINATION WITH THE MEMBER SHALL PAY ANY OUTSTANDING OBLIGATIONS BEFORE THE MEMBER BEGINS SERVING ON THE BOARD OR COMMISSION.

~~**(D)**~~ **(E)** Not later than 48 hours after opening a campaign account through a campaign finance entity, **[**as defined in § 1–101 of the Election Law Article,**]** an appointed member of **[**the Board of Zoning Appeals, Ethics Commission, Planning Commission, or the Board of License Commissioners**]** **A BOARD OR COMMISSION UNDER § 5–865 OF THIS**

SUBTITLE who has established an authorized candidate campaign committee shall vacate the position on the board or commission.

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

Approved by the Governor, April 30, 2019.

Chapter 376

(House Bill 830)

AN ACT concerning

<u>County</u> Public Campaign Financing – ~~Late Fees, Civil Penalties, and~~ Administration

FOR the purpose of ~~providing that a candidate who accepts public campaign financing and the responsible officers of the candidate's authorized candidate campaign committee are jointly and severally liable for payment of certain late fees and certain civil penalties, instead of the candidate's authorized candidate campaign committee being liable;~~ requiring the governing body of a county that exercises its authority to establish a system of public campaign financing for elective offices in the executive and legislative branches of county government to provide the funding and staff necessary for the operation, administration, and auditing of the system of public campaign financing; and generally relating to <u>county</u> public campaign financing.

BY repealing and reenacting, with amendments,
Article – Election Law
Section ~~13–331,~~ 13–505~~, and 13–604.1(f)~~
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Election Law~~
~~Section 13–604.1(a) through (e)~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

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

Article – Election Law

~~13–331.~~

~~(a) In accordance with subsection (b) of this section, the State Board shall assess a late filing fee for a failure to file a campaign finance report, an affidavit, or an amended campaign finance report, as specified in § 13–327 of this subtitle.~~

~~(b) (1) The fee is $10 for each day or part of a day that a campaign finance report, an affidavit, or an amended campaign finance report is overdue.~~

~~(2) An additional fee of $10 is due for each of the first 6 days that a preelection campaign finance report under § 13–309 of this subtitle is overdue.~~

~~(3) The maximum fee payable for a campaign finance report, an affidavit, or an amended campaign finance report is $500.~~

~~(c) (1) The State Board shall accept an overdue campaign finance report, affidavit, or amended campaign finance report that is submitted without payment of the late filing fee, but the campaign finance report, affidavit, or amended campaign finance report is not considered filed until the fee has been paid.~~

~~(2) After an overdue campaign finance report, affidavit, or amended campaign finance report is received under paragraph (1) of this subsection no further late filing fee shall be incurred.~~

~~(d) (1) Subject to [paragraph] PARAGRAPHS (2) AND (3) of this subsection, a late filing fee shall be paid by the campaign finance entity.~~

~~(2) If the campaign finance entity has insufficient funds with which to pay a late filing fee in a timely manner, the late filing fee is the joint and several liability of the responsible officers.~~

~~(3) A LATE FILING FEE IMPOSED ON THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF A CANDIDATE WHO ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER § 13–505 OF THIS TITLE OR A GUBERNATORIAL TICKET THAT ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER TITLE 15 OF THIS ARTICLE IS THE JOINT AND SEVERAL LIABILITY OF THE RESPONSIBLE OFFICERS OF THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE AND THE CANDIDATE.~~

13–505.

(a) (1) Subject to the provisions of this section, the governing body of a county may establish, by law, a system of public campaign financing for elective offices in the executive or legislative branches of county government.

(2) When establishing a system of public campaign financing for elective offices in the executive or legislative branches of county government, the governing body of a county shall**:**

(I) specify the criteria that is to be used to determine whether an individual is eligible for public campaign financing**; AND**

(II) PROVIDE THE FUNDING AND STAFF NECESSARY FOR THE OPERATION, ADMINISTRATION, AND AUDITING OF THE SYSTEM OF PUBLIC CAMPAIGN FINANCING.

(b) A system of public campaign financing enacted under subsection (a) of this section:

(1) shall provide for participation of candidates in public campaign financing on a strictly voluntary basis;

(2) may not regulate candidates who choose not to participate in public campaign financing;

(3) shall prohibit the use of public campaign financing for any campaign except a campaign for county elective office;

(4) shall require a candidate who accepts public campaign financing to:

(i) establish a campaign finance entity solely for the campaign for county elective office; and

(ii) use funds from that campaign finance entity only for the campaign for county elective office;

(5) shall prohibit a candidate who accepts public campaign financing from transferring funds:

(i) to the campaign finance entity established to finance the campaign for county elective office from any other campaign finance entity established for the candidate; and

(ii) from the campaign finance entity established to finance the campaign for county elective office to any other campaign finance entity;

(6) shall provide for a public election fund for county elective offices that is administered by the chief financial officer of the county; and

(7) shall be subject to regulation and oversight by the State Board to ensure conformity with State law and policy to the extent practicable.

(c) A system of public campaign financing enacted under subsection (a) of this section may:

(1) provide for more stringent regulation of campaign finance activity by candidates who choose to accept public campaign financing, including contributions, expenditures, reporting, and campaign material, than is provided for by State law; and

(2) provide for administrative penalties for violations, in accordance with Article 25A, § 5 of the Code.

~~13–604.1.~~

~~(a) In this section, "person" includes a political committee.~~

~~(b) The State Board may impose a civil penalty in accordance with this section for the following violations:~~

~~(1) making a disbursement in a manner not authorized in § 13–218(b)(2), (c), and (d) of this title;~~

~~(2) failure to maintain a campaign bank account as required in § 13–220(a) of this title;~~

~~(3) making a disbursement by a method not authorized in § 13–220(d) of this title;~~

~~(4) failure to maintain detailed and accurate account books and records as required in § 13–221 of this title;~~

~~(5) fund–raising during the General Assembly session in a manner not authorized in § 13–235 of this title;~~

~~(6) failure to report all contributions received and expenditures made as required in § 13–304(b) of this title;~~

~~(7) failure to include an authority line on campaign material as required in § 13–401 of this title; or~~

~~(8) failure to retain a copy of campaign material as required in § 13–403 of this title.~~

~~(c) A civil penalty imposed under this section for a violation specified in subsection (b) of this section is in addition to any other sanction provided by law.~~

~~(d) (1) Except as otherwise provided in this title or as provided in paragraph (2) of this subsection, the amount of a civil penalty imposed under this section may not exceed $500 for each violation.~~

~~(2) As to a violation of § 13–235 of this title, the campaign finance entity that receives a contribution as a result of a violation shall:~~

~~(i) refund the contribution to the contributor; and~~

~~(ii) pay a civil penalty that equals $1,000 plus the amount of the contribution, unless the State Board at its discretion assesses a lesser penalty for good cause.~~

~~(e) The civil penalty is payable to the State Board by the person charged in a citation within 20 calendar days after service of the citation.~~

~~(f) (1) Subject to paragraphs (2)~~ **[**~~and~~**],** ~~(3)~~**, AND (4)** ~~of this subsection, a civil penalty imposed under this section shall be paid by the campaign finance entity.~~

~~(2) If the campaign finance entity has insufficient funds with which to pay the full amount of the civil penalty in a timely manner, after the campaign account of the finance entity is exhausted the balance of the civil penalty is the joint and several liability of the responsible officers.~~

~~(3) If a violation is committed by a person not acting on behalf of, or at the request or suggestion of, a candidate or a campaign finance entity, the civil penalty shall be paid by the person who committed the violation.~~

~~(4) A CIVIL PENALTY IMPOSED ON THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF A CANDIDATE WHO ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER § 13–505 OF THIS TITLE OR A GUBERNATORIAL TICKET THAT ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER TITLE 15 OF THIS ARTICLE IS THE JOINT AND SEVERAL LIABILITY OF THE RESPONSIBLE OFFICERS OF THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE AND THE CANDIDATE.~~

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

Approved by the Governor, April 30, 2019.

Chapter 377

(House Bill 885)

AN ACT concerning

Transportation – Vision Zero – Establishment

FOR the purpose of establishing Vision Zero; specifying the purpose and goal of Vision Zero; requiring the Department of Transportation to designate a coordinator to oversee the implementation of Vision Zero; requiring the coordinator, in implementing Vision Zero, to collaborate with certain entities; requiring that the implementation of Vision Zero include certain strategies; requiring that the funding for Vision Zero be as provided by the Governor in the State budget; ~~requiring the Secretary of Transportation to adopt certain regulations;~~ requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date each year; requiring the Department to make a certain report available on its website; defining certain terms; and generally relating to the establishment of Vision Zero.

BY adding to
Article – Transportation
Section 8–1001 through ~~8–1008~~ 8–1007 to be under the new subtitle "Subtitle 10. Vision Zero"
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Transportation

SUBTITLE 10. VISION ZERO.

8–1001.

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

(B) "COORDINATOR" MEANS THE INDIVIDUAL DESIGNATED BY THE DEPARTMENT TO OVERSEE THE IMPLEMENTATION OF VISION ZERO THROUGHOUT THE STATE.

(C) "VISION ZERO" MEANS A PROGRAM FOR PLANNING AND DEVELOPING A STATE ~~HIGHWAY~~ ROADWAY SYSTEM THAT HAS ZERO VEHICLE–RELATED DEATHS OR SERIOUS INJURIES.

8–1002.

THERE IS A PROGRAM WITHIN THE DEPARTMENT KNOWN AS VISION ZERO.

8–1003.

(A) THE PURPOSE OF VISION ZERO IS TO DEVELOP STRATEGIES TO MAKE ~~HIGHWAYS~~ ROADWAYS SAFER FOR DRIVERS AND PASSENGERS OF MOTOR VEHICLES, BICYCLISTS, AND PEDESTRIANS.

(B) THE GOAL OF VISION ZERO IS TO HAVE ZERO VEHICLE–RELATED DEATHS OR SERIOUS INJURIES ON ~~STATE HIGHWAYS~~ ROADWAYS BY THE YEAR 2030.

8–1004.

(A) THE DEPARTMENT SHALL DESIGNATE A COORDINATOR TO OVERSEE THE IMPLEMENTATION OF VISION ZERO THROUGHOUT THE STATE.

(B) IN IMPLEMENTING VISION ZERO, THE COORDINATOR SHALL COLLABORATE WITH OTHER STATE AGENCIES AND LOCAL AUTHORITIES, INCLUDING LOCAL TRANSPORTATION AGENCIES, LAW ENFORCEMENT AGENCIES, EDUCATIONAL INSTITUTIONS, AND FIRE AND RESCUE SERVICES.

8–1005.

THE IMPLEMENTATION OF VISION ZERO SHALL INCLUDE STRATEGIES FOR ACHIEVING THE GOAL ESTABLISHED UNDER § 8–1003(B) OF THIS SUBTITLE, INCLUDING STRATEGIES FOR:

(1) IDENTIFYING STATE AND LOCAL LAWS, POLICIES, AND REGULATIONS THAT HINDER THE DEVELOPMENT AND IMPLEMENTATION OF VISION ZERO;

(2) PROPOSING CHANGES TO STATE AND LOCAL LAWS TO ALLOW FOR INNOVATIVE ENGINEERING AND ~~REDUCED SPEED LIMITS~~ TRAFFIC CALMING;

(3) CREATING A VISION ZERO WEBSITE THAT CONTAINS INFORMATION RELATED TO VISION ZERO;

~~(4) DEVELOPING A COMPREHENSIVE PUBLIC INFORMATION AND EDUCATION CAMPAIGN THAT ENCOURAGES RESIDENTS TO PROVIDE DATA AND INPUT ON MOTOR VEHICLE COLLISIONS, NEAR MISSES, AND HIGH–RISK ROAD SEGMENTS;~~

~~(5) DEVELOPING A PEDESTRIAN MASTER PLAN THAT ESTABLISHES A COMPREHENSIVE PLAN ON THE BUILDING AND MAINTENANCE OF PEDESTRIAN FACILITIES THROUGHOUT THE STATE;~~

~~(6)~~ (4) COLLECTING AND PUBLISHING MOTOR VEHICLE COLLISION DATA;

~~(7)~~ (5) CONNECTING WITH OTHER STATES AND COMMUNITIES THAT HAVE IMPLEMENTED A SIMILAR VISION ZERO PROGRAM;

~~(8)~~ (6) REVIEWING EXISTING TRAFFIC SAFETY PROGRAMS TO DETERMINE THEIR EFFECTIVENESS;

~~(9)~~ (7) WORKING WITH RESEARCH ORGANIZATIONS TO DEVELOP BEST PRACTICES;

~~(10)~~ (8) PRIORITIZING RESOURCES FOR INVESTMENT IN THE COMMUNITIES MOST AFFECTED BY MOTOR VEHICLE COLLISIONS;

~~(11)~~ (9) PROACTIVELY ENGAGING COMMUNITY MEMBERS TO ADDRESS THEIR TRAFFIC SAFETY CONCERNS; ~~AND~~

~~(12)~~ (10) DEVELOPING AND PUBLISHING A LONG–TERM PLAN FOR THE CONTINUED DEVELOPMENT OF VISION ZERO; AND

(11) INVESTING MORE RESOURCES INTO CONSTRUCTION NEEDS FOR HIGH–ACCIDENT INTERSECTIONS AND ROADWAY SECTIONS.

8–1006.

FUNDS FOR VISION ZERO SHALL BE AS PROVIDED BY THE GOVERNOR IN THE STATE BUDGET.

8–1007.

~~THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.~~

~~8–1008.~~

(A) ON OR BEFORE DECEMBER 31 EACH YEAR, THE DEPARTMENT SHALL SUBMIT A REPORT ON THE STATUS OF VISION ZERO TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) THE DEPARTMENT SHALL MAKE THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION AVAILABLE ON ITS WEBSITE.

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

Approved by the Governor, April 30, 2019.

Chapter 378

(House Bill 968)

AN ACT concerning

Criminal Injuries Compensation Board – Compensation to Claimants

FOR the purpose of altering the maximum amounts of certain compensation awardable by the Criminal Injuries Compensation Board; authorizing the Board to negotiate a settlement with a certain person that has provided certain funeral or death–related services; altering the time within which a claimant is required to file a claim for compensation from the Board; authorizing a claimant to file a claim with the Board electronically in a certain manner; prohibiting certain persons from engaging in certain debt collection activities under certain circumstances; requiring a court to stay all proceedings in a certain action under certain circumstances; authorizing a certain person that receives a certain notice to notify the Board in writing of a certain debt that is owed by a certain claimant; requiring the Board to notify a certain person in writing when a final decision is made on a claim under certain circumstances; authorizing a certain person to engage in certain debt collection activities or file a civil action under certain circumstances until the occurrence of a certain event; altering a certain definition; making certain stylistic changes; correcting an erroneous reference; providing for the application of certain provisions of this Act; providing for a delayed effective date; and generally relating to compensation to claimants by the Criminal Injuries Compensation Board.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–809(a), (b)(1), and (c)(1), (2), (3), (5), and (6), 11–811(a)(4), (b)(3) and (6), and (e), and 11–813(b)(1)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–811(a)(5) and (6) and 11–813(a)
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Criminal Procedure

11–811.

(a) (4) An award for funeral expenses may not exceed **[**$5,000**] $7,500**.

(5) Subject to the limitation under subsection (b)(3) of this section and § 11–812 of this subtitle, a person who is eligible for an award as the result of the death of a victim or psychological injury may be eligible, under the regulations that the Board adopts, to receive psychiatric, psychological, or mental health counseling.

(6) Subject to the limitation under subsection (b)(6) of this section and § 11–812 of this subtitle, a parent, child, or spouse of a victim who resides with the victim and who is eligible for an award as the result of the injury of a victim is eligible to receive psychiatric, psychological, or mental health counseling.

(b) Compensation awarded under this subtitle may not exceed:

(3) **[**$5,000**] $10,000** for each claimant for psychiatric, psychological, or mental health counseling under subsection **[**(a)(4)**] (A)(5)** of this section;

(6) for an award for psychiatric, psychological, or mental health counseling made under subsection (a)(6) of this section:

(i) **[**$1,000**] $10,000** for each claimant; and

(ii) **[**$5,000**] $20,000** for each incident; or

(e) The Board may negotiate a settlement with**:**

(1) a health care provider for the medical and medically related expenses**; OR**

(2) A PERSON THAT HAS PROVIDED FUNERAL OR DEATH–RELATED SERVICES IN RELATION TO THE DEATH OF A VICTIM.

11–813.

(a) The Board may make an emergency award to the claimant before making a final decision in the case, if the Board determines, before taking action on the claim, that:

(1) an award likely will be made on the claim; and

(2) the claimant will suffer undue hardship unless immediate payment is made.

(b) (1) The amount of an emergency award under this section:

(i) may not exceed **[**$2,000**] $5,000**; and

(ii) shall be deducted from any final award made to the claimant.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Criminal Procedure

11–809.

(a) (1) Except as provided in **[**paragraph**]** **PARAGRAPHS** (2) **AND (3)** of this subsection, a claimant shall file a claim **[**not later than 3 years after the occurrence of the crime or delinquent act or the death of the victim**]** **WITHIN 3 YEARS AFTER THE LATER OF:**

(I) THE DISCOVERY OF THE OCCURRENCE OF THE CRIME OR DELINQUENT ACT OR THE DEATH OF THE VICTIM; OR

(II) THE EARLIER OF:

1. THE DATE THE CLAIMANT DISCOVERED AN ATTEMPT TO OBTAIN A REVERSAL OF A CONVICTION, A SENTENCE, OR AN ADJUDICATION FOR THE CRIME OR DELINQUENT ACT ~~OR THE DEATH OF THE VICTIM~~; OR

2. THE DATE THE CLAIMANT, EXERCISING ORDINARY DILIGENCE, SHOULD HAVE DISCOVERED AN ATTEMPT TO OBTAIN A REVERSAL OF A CONVICTION, A SENTENCE, OR AN ADJUDICATION FOR THE CRIME OR DELINQUENT ACT ~~OR THE DEATH OF THE VICTIM~~.

(2) In a case of child abuse, a claimant may file a claim:

(i) up to the date the child who was the subject of the abuse reaches the age of 25 years; or

(ii) if the Board determines that there was good cause for failure to file a claim before the date the child who was the subject of the abuse reached the age of 25 years, at any time.

(3) IN A CASE OF SEXUAL ASSAULT, A CLAIMANT MAY FILE A CLAIM AT ANY TIME IF THE BOARD DETERMINES THAT THERE WAS GOOD CAUSE FOR FAILURE TO FILE A CLAIM WITHIN THE TIME LIMITS PROVIDED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

(b) (1) Claims shall be filed in the office of the Board**:**

(I) in person **[**or**];**

(II) by mail**; OR**

(III) ELECTRONICALLY, IN THE MANNER PROVIDED UNDER PROCEDURES ESTABLISHED BY THE BOARD.

(c) (1) (i) In this subsection, "debt collection activities" means:

1. repeatedly calling or writing to a claimant **OR OTHER PERSON ELIGIBLE FOR BENEFITS ASSOCIATED WITH A CLAIM** and threatening to refer the unpaid health care matter**, FUNERAL EXPENSE, OR OTHER DEATH–RELATED EXPENSE** to a debt collection agency or **[**to**]** an attorney for collection; or

2. filing a legal action or pursuing any legal process or legal proceeding.

(ii) "Debt collection activities" does not include routine billing or inquiries about the status of the claim.

(2) When a claimant files a claim under this subtitle, all health care providers, as defined in **[**§ 3–2A–01(e)**] § 3–2A–01** of the Courts Article and **[**in**]** § 4–301(h) of the Health – General Article **AND PERSONS THAT HAVE PROVIDED FUNERAL OR DEATH–RELATED SERVICES IN RELATION TO THE DEATH OF A VICTIM**, that have been given notice of a pending claim shall refrain from all debt collection activities relating to **[**health care, as defined in § 4–301(g) of the Health – General Article, received by the claimant in connection with a**] THE** claim until a final decision is made by the **[**Secretary**] EXECUTIVE DIRECTOR** on the claim.

(3) On filing by a party of a notice of a claim filed under this subtitle, a court shall stay all proceedings in an action related to health care **OR FUNERAL OR DEATH–RELATED SERVICES** provided to a claimant in connection with the claim until the court is notified that a final decision on the claim has been made.

(5) (i) A health care provider **OR PERSON THAT HAS PROVIDED FUNERAL OR DEATH–RELATED SERVICES** who receives notice that a claim has been filed under this subtitle may notify the Board in writing of the debt owed by the claimant in connection with the claim.

(ii) If a health care provider **OR PERSON THAT HAS PROVIDED FUNERAL OR DEATH–RELATED SERVICES** notifies the Board under subparagraph (i) of this paragraph, the Board shall notify the health care provider **OR PERSON THAT HAS PROVIDED FUNERAL OR DEATH–RELATED SERVICES** in writing when a final decision is made on the claim.

(6) After a final decision on the claim under this subtitle, a health care provider **OR PERSON THAT HAS PROVIDED FUNERAL OR DEATH–RELATED SERVICES** that has received notice of a pending claim under this subtitle may engage in debt collection activities or file a civil action in court until the later of:

(i) the expiration of the time for filing a civil action in court; or

(ii) 6 months after the date of the final decision on the claim under this subtitle.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claim relating to a crime committed before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2020.

Approved by the Governor, April 30, 2019.

Chapter 379

(House Bill 1080)

AN ACT concerning

Alcoholic Beverages – Beer Franchise Agreements – Notice of Nonrenewal or Termination

FOR the purpose of ~~limiting the application of the time frame for nonrenewal or termination of a beer franchise agreement to a large franchisor;~~ specifying a certain time frame within which a ~~small~~ certain franchisor is required to notify a franchisee of an intention to terminate or refuse to renew a beer franchise agreement; ~~establishing certain other notice requirements for franchisees; specifying that only a large franchisor is prohibited from~~ exempting certain franchisors from a prohibition against terminating or refusing to continue or renew a beer franchise agreement without good cause under certain circumstances; requiring a ~~small~~ certain franchisor to ~~buy back certain beer at a certain price from~~ pay a certain amount in a certain manner to a certain franchisee under certain circumstances; providing for the submission of a certain matter to arbitration and for its application and enforcement in a certain manner; requiring certain support for certain products to continue in a certain manner; providing for the application of this Act; making a technical change; defining certain terms; ~~providing that existing obligations or contract rights may not be impaired by this Act;~~ providing for a delayed effective date; and generally relating to alcoholic beverages.

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 5–101, 5–107, 5–108, and 5–109~~, and 5–201~~
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY adding to
Article – Alcoholic Beverages
Section 5–109
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

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

Article – Alcoholic Beverages

5–101.

(a) In this **[**section**]** **SUBTITLE** the following words have the meanings indicated.

(b) "Beer distributor" means a person that imports or causes to be imported into the State, or purchases or causes to be purchased in the State, beer for sale or resale to a retail dealer licensed under this article without regard to whether the business of the person is conducted under a beer franchise agreement or another form of agreement with a beer manufacturer.

(c) "Beer franchise agreement" means:

(1) a commercial relationship between a beer distributor and beer manufacturer that:

(i) is of a definite or indefinite duration; and

(ii) is not required to be in writing;

(2) a relationship in which a beer manufacturer grants a beer distributor the right to offer and sell the brands of beer offered by the beer manufacturer;

(3) a relationship in which a beer distributor, as an independent business, constitutes a component of a beer manufacturer's distribution system;

(4) a relationship in which a beer distributor's business is substantially associated with a beer manufacturer's brand, advertising, or another commercial symbol that designates the beer manufacturer;

(5) a relationship in which a beer distributor's business relies substantially on a beer manufacturer for the continued supply of beer; or

(6) a written or oral arrangement of definite or indefinite duration in which:

(i) a beer manufacturer grants to a beer distributor the right to use a trade name, trademark, service mark, or related characteristic; and

(ii) there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, or by another method.

(d) "Beer manufacturer" means:

(1) a brewer, fermenter, processor, bottler, or packager of beer located in or outside the State; or

(2) a person located in or outside the State that enters into a beer franchise agreement with a beer distributor doing business in the State.

(E) "FAIR MARKET VALUE" MEANS THE PRICE AT WHICH AN ASSET WOULD CHANGE HANDS BETWEEN A WILLING SELLER AND A WILLING BUYER WHEN:

(1) NEITHER IS ACTING UNDER ANY COMPULSION; AND

(2) BOTH HAVE KNOWLEDGE OF ALL OF THE RELEVANT FACTS.

~~(e)~~ **(F)** "Franchisee" means:

(1) a beer distributor to whom a beer franchise agreement is granted or offered; or

(2) a beer distributor that is a party to a beer franchise agreement.

~~(f)~~ **(G)** "Franchisor" means a beer manufacturer that:

(1) enters into a beer franchise agreement with a beer distributor; or

(2) is a party to a beer franchise agreement.

~~(g) "LARGE FRANCHISOR" MEANS A BEER MANUFACTURER THAT, IN CONJUNCTION WITH ANY AFFILIATE:~~

~~(1) ANNUALLY PRODUCES MORE THAN 300,000 BARRELS OF BEER IN AGGREGATE; OR~~

~~**(2) REPRESENTS MORE THAN 10% OF A FRANCHISEE'S TOTAL ANNUAL SALES VOLUME.**~~

(H) "Sales territory" means the area of sales responsibility designated by a beer franchise agreement for the brand or brands of beer of a beer manufacturer.

~~**(I) "SMALL FRANCHISOR" MEANS A BEER MANUFACTURER THAT, IN CONJUNCTION WITH ANY AFFILIATE:**~~

~~**(1) ANNUALLY PRODUCES 300,000 OR FEWER BARRELS OF BEER IN AGGREGATE; AND**~~

~~**(2) ACCOUNTS FOR 10% OR LESS OF A FRANCHISEE'S TOTAL ANNUAL SALES VOLUME.**~~

5–107.

(a) This section does not apply to a temporary delivery agreement under § 2–209(c) of this article for a beer festival or a wine and beer festival.

(b) (1) Except as provided in subsection (d) of this section, ~~at least 180 days before a **[**beer manufacturer**]** LARGE FRANCHISOR intends to terminate or refuse to renew a beer franchise agreement, the **[**beer manufacturer**]** LARGE~~ **IF A FRANCHISOR INTENDS TO TERMINATE OR REFUSES TO RENEW A BEER FRANCHISE AGREEMENT, THE FRANCHISOR** shall notify the franchisee in writing of its intent**:**

(I) AT LEAST 45 DAYS BEFORE THE TERMINATION OR REFUSAL TO RENEW TAKES EFFECT, FOR A FRANCHISOR THAT ANNUALLY PRODUCES 20,000 OR FEWER BARRELS OF BEER IN AGGREGATE, IN CONJUNCTION WITH ANY AFFILIATE; AND

(II) AT LEAST 180 DAYS BEFORE THE TERMINATION OR REFUSAL TO RENEW TAKES EFFECT, FOR ALL OTHER FRANCHISORS.

(2) ~~**EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AT LEAST 15 DAYS BEFORE A SMALL FRANCHISOR INTENDS TO TERMINATE OR REFUSE TO RENEW A BEER FRANCHISE AGREEMENT, THE SMALL FRANCHISOR SHALL NOTIFY THE FRANCHISEE IN WRITING OF ITS INTENT.**~~

~~**(3)**~~ The **[**notice**]** **NOTICES REQUIRED BY THIS SECTION** shall state all the reasons for the intended termination or nonrenewal.

(c) (1) If a deficiency is claimed in the notice provided under subsection **[**(b)**]** ~~**(B)(1)**~~ **(B)(1)(II)** of this section, the franchisee has 180 days to rectify the deficiency.

(2) If the franchisee rectifies the deficiency within 180 days after the notice **PROVIDED UNDER SUBSECTION ~~(B)(1)~~ (B)(1)(II) OF THIS SECTION** is received, the intended termination or nonrenewal of the beer franchise agreement is void.

(d) The notice requirement of subsection (b) of this section does not apply if the reason for the intended termination or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy.

~~(E) (1) ON A DATE DESIGNATED BY A FRANCHISEE EVERY CALENDAR YEAR, THE FRANCHISEE SHALL PROVIDE WRITTEN NOTICE TO A SMALL FRANCHISOR OF THE PERCENTAGE OF THE TOTAL ANNUAL SALES VOLUME THAT THE SMALL FRANCHISOR ACCOUNTS FOR IN COMPARISON TO ALL OTHER FRANCHISORS THAT THE FRANCHISEE IS IN AGREEMENT WITH AT THAT TIME.~~

~~(2) DURING THE COURSE OF THE CALENDAR YEAR, IF A CHANGE IN THE PERCENTAGE OF TOTAL ANNUAL SALES VOLUME TRIGGERS A CHANGE IN STATUS OF A SMALL FRANCHISOR OR A LARGE FRANCHISOR, A FRANCHISEE SHALL PROVIDE WRITTEN NOTICE TO A SMALL FRANCHISOR OR A LARGE FRANCHISOR ABOUT THE CHANGE IN STATUS.~~

5–108.

(a) This section does not apply to a temporary delivery agreement under § 2–209(c) of this article for a beer festival or a wine and beer festival.

(b) (1) **(I) THIS PARAGRAPH DOES NOT APPLY TO A FRANCHISOR THAT ANNUALLY PRODUCES 20,000 OR FEWER BARRELS OF BEER IN AGGREGATE, IN CONJUNCTION WITH ANY AFFILIATE.**

(II) Notwithstanding the terms of a beer franchise agreement, **~~[~~**a franchisor**~~]~~ ~~A LARGE FRANCHISOR~~** may not terminate or refuse to continue or renew a beer franchise agreement, or cause a franchisee to resign from a beer franchise agreement, without good cause.

(2) For purposes of paragraph (1) of this subsection, good cause includes the revocation of a franchisee's license to do business in the State.

5–109.

~~(A) THIS SECTION DOES NOT APPLY TO A LARGE FRANCHISOR.~~

~~(B) SUBJECT TO § 5–107 OF THIS SUBTITLE, BEFORE TERMINATION OF A BEER FRANCHISE AGREEMENT, A SMALL FRANCHISOR SHALL BUY BACK AT FAIR MARKET VALUE ALL THE BEER THAT THE FRANCHISEE PURCHASED FROM THE SMALL FRANCHISOR AND RETAINS IN INVENTORY.~~

(A) THIS SECTION APPLIES ONLY TO A FRANCHISOR THAT ANNUALLY PRODUCES 20,000 OR FEWER BARRELS OF BEER IN AGGREGATE, IN CONJUNCTION WITH ANY AFFILIATE.

(B) (1) SUBJECT TO § 5–107 OF THIS SUBTITLE, AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, BEFORE TERMINATION OF OR REFUSAL TO RENEW A BEER FRANCHISE AGREEMENT, A FRANCHISOR SHALL ENTER INTO A TERMINATION AGREEMENT WITH THE TERMINATED FRANCHISEE.

(2) THE TERMINATION AGREEMENT SHALL:

(I) COMPENSATE THE TERMINATED FRANCHISEE FOR THE FAIR MARKET VALUE OF THE TERMINATED FRANCHISE; AND

(II) PROVIDE FOR THE REPURCHASE OF ALL THE FRANCHISOR'S BEER AT AN AMOUNT EQUAL TO THE LAID–IN COST OF THE FRANCHISEE'S INVENTORY OF THE ~~FRANCHISER'S~~ FRANCHISOR'S PRODUCTS THAT ARE IN THE WAREHOUSE OR IN TRANSIT TO THE FRANCHISEE.

(C) (1) IF AN AGREEMENT ON THE COMPENSATION AUTHORIZED UNDER SUBSECTION (B)(2)(I) OF THIS SECTION IS NOT REACHED WITHIN 45 DAYS AFTER THE FRANCHISOR PROVIDES THE NOTICE REQUIRED BY § 5–107(B)(1)(I) OF THIS SUBTITLE, THE MATTER SHALL BE SUBMITTED TO BINDING ARBITRATION FOR THE PURPOSE OF DETERMINING THE COMPENSATION.

(2) THE BINDING ARBITRATION SHALL:

(I) BE ADMINISTERED UNDER THE RULES OF THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION;

(II) TAKE PLACE IN THE STATE; ~~AND~~

(III) BE HEARD BY ONE ARBITRATOR WHO SHALL BE APPOINTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES; AND

(IV) BE LIMITED TO 45 DAYS, UNLESS OTHERWISE AGREED TO BY THE PARTIES.

(3) DURING THE PERIOD OF ARBITRATION, THE BEER FRANCHISE AGREEMENT SHALL REMAIN IN EFFECT AND MAY TERMINATE ONLY ON THE DECISION OF THE ARBITRATOR.

(4) THE ARBITRATOR SHALL BE GOVERNED BY THE LAWS OF THE STATE, THE MARYLAND RULES, AND THE COMMERCIAL ARBITRATION RULES.

(5) IN DETERMINING THE FAIR MARKET VALUE OF THE TERMINATED FRANCHISE, THE ARBITRATOR:

(I) MAY CONSIDER ONLY THE PERIOD BEFORE THE FRANCHISOR PROVIDED THE NOTICE REQUIRED BY § 5–107(B)(1)(I) OF THIS SUBTITLE; AND

(II) MAY NOT CONSIDER ANY PERIOD FOLLOWING THE PROVIDING OF THAT NOTICE.

(6) THE RULING OF THE ARBITRATOR SHALL BE FINAL AND SUBJECT TO ENFORCEMENT IN THE COURTS OF THE STATE.

(7) THE COST OF THE ARBITRATION SHALL BE SHARED EQUALLY BY THE PARTIES.

(D) BY WRITTEN MUTUAL AGREEMENT, THE FRANCHISOR AND THE FRANCHISEE MAY DETERMINE ANOTHER METHOD OF TERMINATING THE FRANCHISE AGREEMENT AND PROVIDING COMPENSATION TO THE TERMINATED FRANCHISEE.

(E) UNTIL RESOLUTION REGARDING FAIR MARKET VALUE IS REACHED UNDER SUBSECTION (B) OR (C) OF THIS SECTION AND THE TERMINATED FRANCHISEE HAS RECEIVED PAYMENT IN ACCORDANCE WITH THE DETERMINATION OF FAIR MARKET VALUE:

(1) THE FRANCHISOR AND THE TERMINATED FRANCHISEE SHALL SUPPORT THE FRANCHISOR'S PRODUCTS TO AT LEAST THE SAME EXTENT THAT THE PRODUCTS HAD BEEN PREVIOUSLY SUPPORTED IMMEDIATELY BEFORE THE FRANCHISOR PROVIDED THE NOTICE REQUIRED BY § 5–107(B)(1)(I) OF THIS SUBTITLE; AND

(2) THE TERMINATED FRANCHISEE SHALL CONTINUE TO DISTRIBUTE THE PRODUCTS.

[5–109.**] 5–110.**

(a) (1) A beer distributor or franchisee may bring an action in a court of general jurisdiction to recover damages against a beer manufacturer, franchisor, or franchisee for violation of this subtitle.

(2) If appropriate, the beer distributor or franchisee is entitled to injunctive relief.

(b) In an action for violation of this subtitle, the prevailing beer distributor or franchisee is entitled to the costs of the action including reasonable attorney's fees.

~~5–201.~~

~~(a) (1) In this section the following words have the meanings indicated.~~

~~(2) "Agreement" means oral or written evidence between a beer manufacturer and a beer wholesaler granting the beer wholesaler the right to offer and sell the brands of beer offered by the beer manufacturer.~~

~~(3)~~ **~~(I)~~** ~~"Beer manufacturer" means:~~

~~[~~~~(i)~~**~~]~~** ~~**1.** a **[**brewer**]** **LARGE FRANCHISOR AS DEFINED IN § 5–101 OF THIS TITLE**, fermenter, processor, bottler, or packager of beer located in or outside the State; or~~

~~[~~~~(ii)~~**~~]~~** ~~**2.** a person located in or outside the State that enters into an agreement with a beer wholesaler doing business in the State.~~

~~**(II) "BEER MANUFACTURER" DOES NOT INCLUDE A SMALL FRANCHISOR AS DEFINED IN § 5–101 OF THIS TITLE.**~~

~~(4) "Fair market value" means the price at which an asset would change hands between a willing seller and a willing buyer when neither is acting under any compulsion and when both have knowledge of all of the relevant facts.~~

~~(5) "Successor beer manufacturer" includes a person or license holder who replaces a beer manufacturer with the right to sell, distribute, or import a brand of beer.~~

~~(b) Except for the discontinuance of a brand of beer or for good cause shown as provided under § 5–108 of this title, a successor beer manufacturer that continues in the business is obligated under all the terms and conditions of the agreement made between the previous beer manufacturer and the existing beer wholesaler that were in effect on the date of change of beer manufacturers.~~

~~(c) A successor beer manufacturer that terminates any agreement provision required to be continued under subsection (b) of this section shall remunerate the beer wholesaler a sum equal to the fair market value for the sale of the subject brand or brands of beer calculated from the date of termination.~~

~~(d) (1) Before a successor beer manufacturer may terminate any agreement provision required to be continued under subsection (b) of this section and designate~~

~~another beer wholesaler to replace the existing beer wholesaler, the successor beer manufacturer shall give notice of termination to the beer wholesaler to be replaced.~~

~~(2) On receipt of the notice, the beer wholesaler to be replaced and the designated beer wholesaler shall negotiate in good faith to determine the fair market value of the affected distribution rights.~~

~~(3) If an agreement is reached, the designated beer wholesaler promptly shall pay the fair market value as compensation to the beer wholesaler to be replaced.~~

~~(4) If an agreement is not reached within 30 days after the beer wholesaler to be replaced receives notice, the designated beer wholesaler and the beer wholesaler to be replaced shall enter into nonbinding mediation with a mediator in the State who practices in accordance with Title 17 of the Maryland Rules.~~

~~(5) If an agreement is not reached within 45 days after mediation begins, the beer wholesaler to be replaced shall within 90 days bring an action in a court of general jurisdiction against a successor beer manufacturer to determine and award fair market value of the terminated brand or brands.~~

~~(e) Until resolution regarding fair market value is reached under subsection (d) of this section and the beer wholesaler to be replaced has received payment in accordance with the determination of fair market value:~~

~~(1) the beer wholesaler to be replaced and the successor beer manufacturer shall support the brand to at least the same extent that the brand had been previously supported immediately before the successor beer manufacturer acquired rights to the brand; and~~

~~(2) the beer wholesaler to be replaced shall continue to distribute the brand.~~

SECTION 2. AND BE IT FURTHER ENACTED, That for a ~~small~~ franchisor that annually produces 20,000 or fewer barrels of beer in aggregate, in conjunction with any affiliate, and that is a party to a written franchise agreement existing before ~~July 1, 2019:~~

~~(1) the law in effect on June 30, 2019, continues to apply until expiring on December 31, 2019; and~~

~~(2) this Act shall apply beginning on~~ January 1, 2020, the terms of the agreement relating to compensation and repurchase of inventory shall continue in force and effect unless otherwise mutually agreed by the parties.

~~SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply to a beer franchise agreement in existence on or entered into on or after January 1, 2020.~~

SECTION ~~3.~~ ~~5.~~ 3. AND BE IT FURTHER ENACTED, That~~, subject to Section 2 of this Act,~~ this Act shall take effect ~~July 1, 2019~~ January 1, 2020.

Approved by the Governor, April 30, 2019.

Chapter 380

(House Bill 1093)

AN ACT concerning

Income Tax – Subtraction Modification – Retirement Income
(The Jonathan Porto Act)

FOR the purpose of including income from certain death benefits within a certain subtraction modification allowed under the Maryland income tax for certain military retirement income; providing for the application of this Act; and generally relating to subtraction modifications under the Maryland income tax for military retirement income.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–207(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–207(q)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Tax – General

10–207.

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(q) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Military retirement income" means retirement income**, INCLUDING DEATH BENEFITS,** received as a result of military service.

(iii) "Military service" means:

1. induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;

2. membership in a reserve component of the armed forces of the United States;

3. membership in an active component of the armed forces of the United States;

4. membership in the Maryland National Guard; or

5. active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey.

(2) The subtraction under subsection (a) of this section includes:

(i) if, on the last day of the taxable year, the individual is under the age of 55 years, the first $5,000 of military retirement income received by an individual during the taxable year; and

(ii) if, on the last day of the taxable year, the individual is at least 55 years old, the first $15,000 of military retirement income received by an individual during the taxable year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2018.

Approved by the Governor, April 30, 2019.

Chapter 381

(House Bill 1228)

AN ACT concerning

State Real Estate Commission – Real Estate Brokerage Relationships, Continuing Education, and Disclosures

FOR the purpose of altering the subject matter of a certain continuing education course required by the State Real Estate Commission to include the principles of real estate brokerage relationships and disclosures; prohibiting a licensee from disclosing confidential information obtained from a prospective client except under certain circumstances; specifying that certain licensees may not be deemed to have a certain relationship under certain circumstances; altering certain definitions; repealing the definition of "agency relationship"; defining a certain term; making certain stylistic and conforming changes; and generally relating to real estate brokerage relationships and disclosures.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 17–315(b)(1)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 17–315(b)(2)(v), 17–528, 17–532, 17–534(a), and 17–535(a)
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Business Occupations and Professions

17–315.

(b) (1) The Commission shall approve the form, substance, and, as provided under paragraph (2) of this subsection, subject matter of all continuing education courses.

(2) The subject matter approved by the Commission shall:

(v) every 2 years, include at least one 3 clock hour course that includes the principles of **[**agency and agency disclosure**]** **REAL ESTATE BROKERAGE RELATIONSHIPS AND DISCLOSURES**; and

17–528.

(a) In this Part III of this subtitle the following words have the meanings indicated.

(b) **[**"Agency relationship" means each relationship in which a licensee acts for or represents another person with the person's authority in a residential real estate transaction.

(c)**]** "Broker" means a licensed real estate broker, including a corporation, limited liability company, partnership, or sole proprietorship through which a licensed real estate broker provides real estate brokerage services under § 17–321 of this title.

[(d)**] (C)** "Brokerage agreement" means a written agreement between a broker and a client to provide real estate brokerage services under a brokerage relationship.

[(e)**] (D)** "Brokerage relationship" means ~~**[an agency**~~ **A** relationship under a brokerage agreement between a client and a broker who has been ~~engaged~~ **AUTHORIZED** by the client to provide real estate brokerage services in a residential real estate transaction~~**] A RELATIONSHIP IN WHICH A LICENSEE ACTS FOR OR REPRESENTS ANOTHER PERSON WITH THE PERSON'S AUTHORITY IN A RESIDENTIAL REAL ESTATE TRANSACTION**~~.

[(f)**] (E)** "Buyer's agent" means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who, in accordance with a written brokerage agreement, represents a prospective buyer or lessee in the acquisition of real estate for sale or for lease.

[(g)**] (F)** "Client" means a person who has entered into a brokerage agreement with a broker under a brokerage relationship.

[(h)**] (G)** (1) "Common source information company" means any person that is a source, compiler, or supplier of information regarding residential real estate for sale or lease or other data.

(2) "Common source information company" includes a multiple listing service.

[(i)**] (H)** "Confidential information" includes information that:

(1) the seller or lessor will accept a price or rent less than the price or rent as set forth in the brokerage agreement or will accept terms other than those contained in the brokerage agreement;

(2) the buyer or lessee is willing to pay a price or rent higher than the price or rent the buyer or lessee offered or will accept terms other than those contained in the offer of the buyer or lessee;

(3) discloses the motivation of a buyer, lessee, seller, or lessor or the need or urgency of a seller to sell, a buyer to buy, a lessee to lease, or a lessor to lease;

(4) discloses any facts that led the seller to sell, the buyer to buy, the lessee to lease, or the lessor to lease; or

(5) relates to the negotiating strategy of a client.

(I) "DUAL AGENCY" MEANS EACH RELATIONSHIP IN WHICH A LICENSED REAL ESTATE BROKER OR BRANCH OFFICE MANAGER ACTS AS A DUAL AGENT.

(j) "Dual agent" means a licensed real estate broker who acts as, or a branch office manager described in § 17–518(d) of this subtitle who has been designated by the licensed real estate broker to act as, an agent for both the seller and the buyer or the lessor and the lessee in the same real estate transaction.

(k) "Intra–company agent" means a licensed associate real estate broker or licensed real estate salesperson who has been designated by a dual agent to act on behalf of a seller or lessor or buyer or lessee in the purchase, sale, or lease of real estate.

(l) "Ministerial act" means an act that:

(1) a licensee performs on behalf of a client before and after the execution of a contract of sale or lease;

(2) assists another person to complete or fulfill a contract of sale or lease with the client of the licensee; and

(3) does not involve discretion or the exercise of the licensee's own judgment.

(m) "Seller's agent" means a licensed real estate broker who, in accordance with a written brokerage agreement, acts as the listing broker for real estate, or a licensed associate real estate broker or licensed real estate salesperson who is affiliated with the listing broker.

(n) "Subagent" means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who:

(1) is not affiliated with or acting as the listing real estate broker for a property;

(2) is not a buyer's agent;

(3) has **[**an agency**]** **A BROKERAGE** relationship with the seller or lessor; and

(4) assists a prospective buyer or lessee in the acquisition of real estate for sale or for lease in a nonagency capacity.

(o) "Timely" means a reasonable time under the particular facts and circumstances.

17–532.

(a) A licensee shall comply with the provisions of this section when providing real estate brokerage services.

(b) (1) A licensee shall:

(i) act in accordance with the terms of the brokerage agreement;

(ii) promote the interests of the client by:

1. seeking a sale or lease of real estate at a price or rent specified in the brokerage agreement or at a price or rent acceptable to the client;

2. seeking a sale or lease of real estate on terms specified in the brokerage agreement or on terms acceptable to the client; and

3. unless otherwise specified in the brokerage agreement, presenting in a timely manner all written offers or counteroffers to and from the client, even if the real estate is subject to an existing contract of sale or lease;

(iii) disclose to the client all material facts as required under § 17–322 of this title;

(iv) treat all parties to the transaction honestly and fairly and answer all questions truthfully;

(v) in a timely manner account for all trust money received;

(vi) exercise reasonable care and diligence; and

(vii) comply with all:

1. requirements of this title;

2. applicable federal, State, and local fair housing laws and regulations; and

3. other applicable laws and regulations.

(2) Unless the client consents in writing to the disclosure, a licensee may not disclose confidential information received from or about a client to any other party or licensee acting as the agent of that party or other representative of that party.

(3) Unless the client to whom the confidential information relates consents in writing to a disclosure of that confidential information, a licensee who receives confidential information from or about the licensee's own past or present client or a past or present client of the licensee's broker may not disclose that information to:

(i) any of the licensee's other clients;

(ii) any of the clients of the licensee's broker;

(iii) any other party;

(iv) any licensee acting as an agent for another party; or

(v) any representative of another party.

(4) Unless otherwise specified in the brokerage agreement, a licensee is not required to seek additional offers to purchase or lease real estate while the real estate is subject to an existing contract of sale or lease.

(5) An intra–company agent may disclose confidential information to the broker or dual agent for whom the intra–company agent works but the broker or dual agent may not disclose that confidential information to the other party or the intra–company agent for the other party, as provided in § 17–530.1(b) of this subtitle.

(c) A licensee does not breach any duty or obligation to the client by:

(1) showing other available properties to prospective buyers or lessees;

(2) representing other clients who have or are looking for similar properties for sale or lease;

(3) representing other sellers or lessors who have similar properties to that sought by the buyer or lessee;

(4) showing the buyer or lessee other available properties; and

(5) during an open house, discussing other properties with prospective buyers or lessees, if the licensee has the written consent of the seller or lessor to do so.

(D) A LICENSEE MAY NOT DISCLOSE CONFIDENTIAL INFORMATION OBTAINED FROM A PROSPECTIVE CLIENT IN ANTICIPATION OF FORMING A BROKERAGE RELATIONSHIP, UNLESS THE PROSPECTIVE CLIENT CONSENTS IN WRITING TO THE DISCLOSURE.

[(d)**] (E)** This title does not limit the applicability of § 10–702 of the Real Property Article.

[(e)**] (F)** The requirements of this section are in addition to any other duties required of the agent by law that are not inconsistent with these duties.

[(f)**] (G)** The duties specified in this section may not be waived or modified.

[(g)**] (H)** A licensee who performs ministerial acts for a person may not be construed to:

(1) violate the licensee's duties to the client, provided that the client has consented in the brokerage agreement to the licensee's provision of ministerial acts; or

(2) form **[**an agency**] A BROKERAGE** relationship between the licensee and the person for whom the ministerial acts are performed.

17–534.

(a) **[**Except as provided in § 17–533 of this subtitle, a**] A** brokerage relationship commences at the time that a client enters into a brokerage agreement and shall continue until:

(1) the completion of performance in accordance with the brokerage agreement; or

(2) the earlier of:

(i) any date of expiration as agreed on by the parties in the brokerage agreement or in any amendments to the brokerage agreement;

(ii) any mutually agreed on termination of the brokerage relationship;

(iii) a default by any party under the terms of the brokerage agreement; or

(iv) a termination under § 17–530 of this subtitle.

17–535.

(a) A licensee may not be deemed to be an agent or subagent of or to have **[**an agency**]** **A BROKERAGE** relationship with a common source information company solely by reason of a licensee's participation in a common source information company.

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

Approved by the Governor, April 30, 2019.

Chapter 382

(House Bill 1231)

AN ACT concerning

Real Property – Construction Contracts – Retention Proceeds

FOR the purpose of establishing that a certain remedy for the payment of an undisputed amount owed under a construction contract applies to certain retention proceeds; reducing a certain minimum contract amount for purposes of the applicability of certain provisions of law relating to retention proceeds; requiring certain *undisputed* retention proceeds retained by an owner to be paid within a certain period of time after the date of substantial completion; and generally relating to retention proceeds for construction contracts.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 9–303 and 9–304
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Real Property

9–303.

(A) IN THIS SECTION, "UNDISPUTED AMOUNTS" INCLUDES ANY RETENTION PROCEEDS THAT EXCEED THE AMOUNT AUTHORIZED TO BE RETAINED UNDER § 9–304 OF THIS SUBTITLE.

[(a)**]** **(B)** In addition to any other remedy provided under any other provision of law, a court of competent jurisdiction, for good cause shown may:

(1) Award any equitable relief for prompt payment of undisputed amounts that it considers necessary, including the enjoining of further violations; and

(2) In any action, award to the prevailing party:

(i) Interest from the date the court determines that the amount owed was due; and

(ii) Any reasonable costs incurred.

[(b)**] (C)** If a court determines that an owner, contractor, or subcontractor has acted in bad faith by failing to pay any undisputed amounts owed as required under § 9–302 of this subtitle, the court may award to the prevailing party reasonable attorney's fees.

9–304.

(a) In this section, "retention proceeds" means money earned but retained under the terms of a contract or subcontract:

(1) By an owner to guarantee performance of the contract by a contractor;

(2) By a contractor to guarantee performance of a subcontract by a subcontractor; or

(3) By a subcontractor to guarantee performance of a subcontract by another subcontractor.

(b) This section does not apply to:

(1) A contract in an amount less than **[**$250,000**] $100,000**; or

(2) A contract or subcontract for a project funded wholly or in part by or through the Department of Housing and Community Development.

(c) Except as provided in this section:

(1) If a contractor has furnished 100% security to guarantee the performance of a contract and 100% security to guarantee payment for labor and materials, including leased equipment:

(i) The retention proceeds under the terms of a contract may not exceed 5% of the contract price; and

(ii) The retention proceeds of any payment due under the terms of a contract from an owner to a contractor may not exceed 5% of the payment;

(2) The retention proceeds of any payment due under the terms of a contract from a contractor to a subcontractor may not exceed the percentage of retention proceeds from the owner to the contractor; and

(3) The retention proceeds of any payment due under the terms of a contract from a subcontractor to another subcontractor may not exceed the percentage of retention proceeds from the contractor to the subcontractor.

(d) This section may not be construed to prohibit the withholding of any amount due:

(1) From the owner to the contractor if the owner reasonably determines that the contractor's performance under the contract provides reasonable grounds for withholding the additional amount;

(2) From the contractor to any subcontractor if the contractor reasonably determines that the subcontractor's performance under the subcontract provides reasonable grounds for withholding the additional amount; or

(3) From a subcontractor to another subcontractor if the subcontractor determines that the other subcontractor's performance under the subcontract provides reasonable grounds for withholding the additional amount.

(E) ~~RETENTION~~ *UNDISPUTED RETENTION* PROCEEDS RETAINED BY AN OWNER UNDER THIS SECTION SHALL BE PAID WITHIN 90 DAYS AFTER THE DATE OF SUBSTANTIAL COMPLETION, AS DEFINED BY THE APPLICABLE CONTRACT OR SUBCONTRACT.

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

Approved by the Governor, April 30, 2019.

Chapter 383

(House Bill 1390)

AN ACT concerning

Baltimore City – Property Tax Credit – Low–Income Employees

FOR the purpose of authorizing the Mayor and City Council of Baltimore City to grant, by law, a certain property tax credit against the property tax imposed on certain dwellings in Baltimore City that are owned by certain employees of Baltimore City

under certain circumstances; providing that the credit may not exceed a certain amount; authorizing the Mayor and City Council of Baltimore City to provide, by law, for certain matters relating to the tax credit; defining certain terms; providing for the application of this Act; and generally relating to a property tax credit for certain low–income employees of Baltimore City.

BY adding to
Article – Tax – Property
Section 9–304(k)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Tax – Property

9–304.

(K) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "DWELLING" HAS THE MEANING STATED IN § 9–105 OF THIS TITLE.

(III) "LOW–INCOME EMPLOYEE" MEANS AN INDIVIDUAL WHO:

1. IS EMPLOYED FULL–TIME BY BALTIMORE CITY;

2. IS AMONG THE 25% LOWEST–PAID, FULL–TIME BALTIMORE CITY EMPLOYEES; AND

3. OWNS A DWELLING LOCATED IN BALTIMORE CITY.

(2) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SUBSECTION AGAINST THE COUNTY PROPERTY TAX IMPOSED ON A DWELLING LOCATED IN BALTIMORE CITY THAT IS OWNED BY A LOW–INCOME EMPLOYEE IF THE LOW–INCOME EMPLOYEE IS OTHERWISE ELIGIBLE FOR THE CREDIT AUTHORIZED UNDER § 9–105 OF THIS TITLE.

(3) IN ANY TAXABLE YEAR, THE CREDIT UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

(I) $2,500 PER DWELLING; OR

(II) THE AMOUNT OF PROPERTY TAX IMPOSED ON THE DWELLING.

(4) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY ESTABLISH, BY LAW:

(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE AMOUNT AND APPLICATION OF THE CREDIT UNDER THIS SECTION;

(II) THE DURATION OF THE CREDIT;

(III) ADDITIONAL ELIGIBILITY REQUIREMENTS FOR THE LOW–INCOME EMPLOYEE TO QUALIFY FOR THE CREDIT;

(IV) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE CREDIT UNDER THIS SUBSECTION; AND

(V) ANY OTHER PROVISIONS NECESSARY TO CARRY OUT THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019, and shall be applicable to all taxable years beginning after June 30, 2019.

Approved by the Governor, April 30, 2019.

Chapter 384

(House Bill 440)

AN ACT concerning

Pathways in Technology Early College High (P–TECH) Expansion Act of 2019

FOR the purpose of ~~repealing the limit on the number of Pathways in Technology Early College High (P–TECH) Planning Grants that may be awarded to a local school system in each year; removing the prohibition against~~ limiting the number of new P–TECH Planning Grants ~~being awarded~~ that may be awarded in a certain fiscal year to establish a new P–TECH school until a certain condition is met; ~~repealing~~ altering certain intent language; and generally relating to the Pathways in Technology Early College High School Program.

BY repealing and reenacting, with amendments,

Article – Education
Section 7–1803
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY ~~repealing~~ repealing and reenacting, with amendments,
Chapter 591 of the Acts of the General Assembly of 2017
Section 2

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

Article – Education

7–1803.

(a) (1) There is a P–TECH Planning Grant Program in the State.

(2) The purpose of the P–TECH Planning Grant Program is to provide grants to county boards to plan and develop P–TECH schools in the State.

(b) ~~[~~Except as provided in subsection (d) of this section, beginning in fiscal year 2018, no more than one P–TECH Planning Grant may be awarded in a local school system.

(c)~~]~~ Funds for the P–TECH Planning Grant Program shall be as provided in the State budget.

~~[~~(d) Beginning in fiscal year ~~2019~~ **2020**, no **MORE THAN THREE** new P–TECH Planning ~~Grant~~ **GRANTS** may be awarded to establish a new P–TECH school until the 2016–2017 cohort of P–TECH students completes the 6–year pathway sequence.~~]~~

Chapter 591 of the Acts of 2017

~~[~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that no additional P–TECH school shall be established other than those that receive a P–TECH Planning Grant in fiscal year ~~2017 or 2018~~ **2020** until the P–TECH Program is shown to be successful in preparing students for the workforce or for further postsecondary education.~~]~~

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

Approved by the Governor, May 13, 2019.

Chapter 385

(House Bill 155)

AN ACT concerning

Maryland Department of Health – Capital and Grant Programs – State Grants

FOR the purpose of increasing the caps on the percentages of certain costs for the construction, acquisition, renovation, and equipping of community mental health facilities, addiction facilities, and developmental disabilities facilities for which State grants can be provided under the Community Mental Health, Addiction, and Developmental Disabilities Capital Program; increasing the caps on the percentages of certain costs for certain projects that may be covered by State grants under the Federally Qualified Health Centers Grant Program; making stylistic changes; and generally relating to the Community Mental Health, Addiction, and Developmental Disabilities Facilities Capital Program and the Federally Qualified Health Centers Grant Program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 24–604 and 24–1304
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

24–604.

(a) The allocation and use of State funds under this subtitle are subject to the following terms and conditions.

(b) State funds may be used only for the construction, acquisition, renovation, and equipping of facilities including the reports, plans, specifications, site improvements, surveys, and other related programs.

(1) Any federal grant that is available for this purpose shall be applied first to the cost of construction, acquisition, renovation, or equipping of a facility.

(2) A State grant shall provide up to **[**50 percent**]** **75%** of the eligible cost remaining after the federal grant has been applied.

(3) For projects designated under federal regulations, State plans, or the departmental regulations as eligible for poverty area funding, State grants shall amount to

up to **[**75 percent**]** **90%** of the eligible cost remaining after the federal grant has been applied.

(4) For purposes of this subtitle, community development block grant funds shall be considered as local matching funds and may not be considered as federal grant funds.

(c) The amount of the State grant for any project shall be determined after consideration of all eligible applications, the total of unallocated State funds available at the time the application is received, and the priorities of area need as may be established by the Department.

(d) **(1)** No portion of the proceeds of a State grant may be used:

[(1)**]** **(I)** For the furtherance of sectarian religious instruction; or

[(2)**]** **(II)** In connection with the design, acquisition, or construction of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination.

(2) **[**Upon**]** **ON** the request of the Board of Public Works, the applicant shall submit evidence satisfactory to the Board that none of the proceeds of the grant have been or are being used for a purpose prohibited by this subtitle.

24–1304.

(a) The allocation and use of State funds under this subtitle are subject to the terms and conditions set forth in this section.

(b) State funds may only be used for the purposes listed under § 24–1302 of this subtitle and approved by the Secretary under § 24–1303 of this subtitle.

(c) The allocation and use of State funds under this subtitle are subject to the following terms and conditions:

(1) Any federal or other grant that is received for an eligible project shall be applied first to the cost of the project;

(2) Except as provided in subsection (d) of this section, a State grant may not exceed **[**50%**]** **75%** of the cost of eligible work remaining unpaid after all federal grants have been applied; and

(3) For purposes of this subtitle, community development block grant funds shall be considered as local matching funds and may not be considered as federal grant funds.

(d) For a project designated as eligible for poverty area funding under federal regulations, State plans, or departmental regulations, a State grant may cover up to **[**75%**]** **90%** of the cost of eligible work remaining unpaid after all federal grants have been applied.

(e) The amount of the State grant recommended to the Board of Public Works for any project shall be determined after consideration of:

(1) All eligible projects;

(2) The total of unallocated State funds available at the time the grant recommendation is made to the Board of Public Works; and

(3) The priorities of area need established by the Department.

(f) (1) No portion of the proceeds of a State grant may be used:

(i) To further sectarian religious instruction;

(ii) In connection with the design, acquisition, or construction of any building to be used as a place of sectarian religious worship or instruction; or

(iii) In connection with any program or department of divinity for any religious denomination.

(2) On the request of the Board of Public Works, the applicant shall submit evidence satisfactory to the Board that the proceeds of the grant are not being used for a purpose prohibited under this subsection or under applicable federal law.

(g) Beginning in fiscal year 2007 and continuing every fiscal year thereafter, the Governor shall include an appropriation in the State capital budget to be distributed and managed in accordance with this subtitle.

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

Approved by the Governor, May 13, 2019.

Chapter 386

(Senate Bill 164)

AN ACT concerning

Maryland Department of Health – Capital and Grant Programs – State Grants

FOR the purpose of increasing the caps on the percentages of certain costs for the construction, acquisition, renovation, and equipping of community mental health facilities, addiction facilities, and developmental disabilities facilities for which State grants can be provided under the Community Mental Health, Addiction, and Developmental Disabilities Capital Program; increasing the caps on the percentages of certain costs for certain projects that may be covered by State grants under the Federally Qualified Health Centers Grant Program; making stylistic changes; and generally relating to the Community Mental Health, Addiction, and Developmental Disabilities Facilities Capital Program and the Federally Qualified Health Centers Grant Program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 24–604 and 24–1304
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

24–604.

(a) The allocation and use of State funds under this subtitle are subject to the following terms and conditions.

(b) State funds may be used only for the construction, acquisition, renovation, and equipping of facilities including the reports, plans, specifications, site improvements, surveys, and other related programs.

(1) Any federal grant that is available for this purpose shall be applied first to the cost of construction, acquisition, renovation, or equipping of a facility.

(2) A State grant shall provide up to **[**50 percent**]** **75%** of the eligible cost remaining after the federal grant has been applied.

(3) For projects designated under federal regulations, State plans, or the departmental regulations as eligible for poverty area funding, State grants shall amount to up to **[**75 percent**]** **90%** of the eligible cost remaining after the federal grant has been applied.

(4) For purposes of this subtitle, community development block grant funds shall be considered as local matching funds and may not be considered as federal grant funds.

(c) The amount of the State grant for any project shall be determined after consideration of all eligible applications, the total of unallocated State funds available at the time the application is received, and the priorities of area need as may be established by the Department.

(d) **(1)** No portion of the proceeds of a State grant may be used:

[(1)**]** **(I)** For the furtherance of sectarian religious instruction; or

[(2)**]** **(II)** In connection with the design, acquisition, or construction of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination.

(2) **[**Upon**]** **ON** the request of the Board of Public Works, the applicant shall submit evidence satisfactory to the Board that none of the proceeds of the grant have been or are being used for a purpose prohibited by this subtitle.

24–1304.

(a) The allocation and use of State funds under this subtitle are subject to the terms and conditions set forth in this section.

(b) State funds may only be used for the purposes listed under § 24–1302 of this subtitle and approved by the Secretary under § 24–1303 of this subtitle.

(c) The allocation and use of State funds under this subtitle are subject to the following terms and conditions:

(1) Any federal or other grant that is received for an eligible project shall be applied first to the cost of the project;

(2) Except as provided in subsection (d) of this section, a State grant may not exceed **[**50%**]** **75%** of the cost of eligible work remaining unpaid after all federal grants have been applied; and

(3) For purposes of this subtitle, community development block grant funds shall be considered as local matching funds and may not be considered as federal grant funds.

(d) For a project designated as eligible for poverty area funding under federal regulations, State plans, or departmental regulations, a State grant may cover up to **[**75%**]** **90%** of the cost of eligible work remaining unpaid after all federal grants have been applied.

(e) The amount of the State grant recommended to the Board of Public Works for any project shall be determined after consideration of:

(1) All eligible projects;

(2) The total of unallocated State funds available at the time the grant recommendation is made to the Board of Public Works; and

(3) The priorities of area need established by the Department.

(f) (1) No portion of the proceeds of a State grant may be used:

(i) To further sectarian religious instruction;

(ii) In connection with the design, acquisition, or construction of any building to be used as a place of sectarian religious worship or instruction; or

(iii) In connection with any program or department of divinity for any religious denomination.

(2) On the request of the Board of Public Works, the applicant shall submit evidence satisfactory to the Board that the proceeds of the grant are not being used for a purpose prohibited under this subsection or under applicable federal law.

(g) Beginning in fiscal year 2007 and continuing every fiscal year thereafter, the Governor shall include an appropriation in the State capital budget to be distributed and managed in accordance with this subtitle.

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

Approved by the Governor, May 13, 2019.

Chapter 387

(Senate Bill 1011)

AN ACT concerning

Prince George's County – Public School Construction – Prince George's County ~~Alternative Financing~~ Public–Private Partnership Fund

FOR the purpose of exempting certain public school construction projects that use alternative financing methods and that receive State funding from certain requirements; requiring public school construction projects in Prince George's County that use alternative financing methods and that receive State funding to comply with certain requirements and a certain memorandum of understanding; establishing the Prince George's County ~~Alternative Financing~~ Public–Private

Partnership Fund as a special fund; specifying the purpose of the Fund; requiring the ~~Prince George's County public school system~~ Interagency Commission on School Construction to administer the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; ~~altering the distribution of certain State lottery revenues and requiring the Comptroller to distribute certain State lottery revenues in the Prince George's County Alternative Financing Fund~~ requiring the Prince George's County Board of Education and the Prince George's County Executive and County Council to provide certain information with the annual budget submission; requiring interest earnings of the Fund to be credited to the Fund; exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; defining a certain term; stating the intent of the General Assembly; and generally relating to alternative financing for school construction in Prince George's County.

BY repealing and reenacting, with amendments,
Article – Education
Section 4–126
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY adding to
Article – Education
Section 4–126.1 and 5–101(f)(1)
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – State Government~~
~~Section 9–120~~
~~Annotated Code of Maryland~~
~~(2014 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)112. and 113.
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)114.

Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Education

4–126.

(a) (1) In this section the following words have the meanings indicated.

(2) "Alternative financing methods" includes one or more of the following methods:

(i) Sale–leaseback arrangements, in which a county board agrees to transfer title to a property, including improvements, to a private entity that simultaneously agrees to lease the property back to the county board and, on a specified date, transfer title back to the county board;

(ii) Lease–leaseback arrangements, in which a county board leases a property to a private entity that improves the property and leases the property, with the improvements, back to the county board;

(iii) Public–private partnership agreements, in which a county board contracts with a county revenue authority or a private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, or financing of a public school, and may include provisions for cooperative use of the school or an adjacent property and generation of revenue to offset the cost of construction or use of the school;

(iv) Performance–based contracting, in which a county board enters into an energy performance contract to obtain funding for a project with guaranteed energy savings over a specified time period;

(v) Preference–based arrangements, by which a local governing body gives preference first to business entities located in the county and then to business entities located in other counties in the State for any construction that is not subject to prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement Article;

(vi) Design–build arrangements, that permit a county board to contract with a design–build business entity for the combined design and construction of qualified education facilities, including financing mechanisms where the business entity assists the local governing body in obtaining project financing; and

(vii) Design–construct–operate–maintain–finance arrangements that permit a county board to contract with a county revenue authority or a private entity for

the design, construction, operation, and maintenance of a public school under terms agreed to by the parties.

(b) (1) Except when prohibited by local law, in order to finance or to speed delivery of, transfer risks of, or otherwise enhance the delivery of public school construction, a county board, with the approval of the county governing body in accordance with subsection (d) of this section, may:

(i) Use alternative financing methods;

(ii) Engage in competitive negotiation, rather than competitive bidding, in limited circumstances, including construction management at–risk arrangements and other alternative project delivery arrangements, as provided in regulations adopted by the Interagency Commission on School Construction;

(iii) Accept unsolicited proposals for the development of public schools in limited circumstances, as provided in regulations adopted by the Interagency Commission on School Construction;

(iv) Solicit proposals for the development of public schools;

(v) Lease property from a county revenue authority or a private entity for use as a public school facility; and

(vi) Use quality–based selection, in which selection is based on a combination of qualifications and cost factors, to select developers and builders, as provided in regulations adopted by the Interagency Commission on School Construction.

(2) The alternative financing methods described under paragraph (1)(i) of this subsection may include reserves sufficient to cover operation, facility renewal, maintenance, and energy costs as part of a contract.

(c) Use of alternative financing methods under this section may not be construed to prohibit the allocation of State funds for public school construction to a project under the Public School Construction Program.

(d) A county board may not use alternative financing methods under this section without the approval of the county governing body.

(e) (1) (i) Except as provided in paragraphs (2) and (3) of this subsection, § 2–303(f) and Title 5, Subtitle 3 of this article and the regulations that govern the Public School Construction Program do not apply to projects that use alternative financing methods under this section.

(ii) Nothing in this section may be construed to authorize or require State approval before an alternative financing method may be used by a local school system.

(2) If a project that receives State funding uses alternative financing methods under this section, the project shall be submitted to the Interagency Commission on School Construction for review.

(3) **(I)** Projects that use alternative financing methods under this section and receive State funding shall comply with the following requirements:

[(i)**]** **1.** **[**The**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** State and local cost–share established for each county in regulations;

[(ii)**]** **2.** **[**The**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** maximum State construction allocation for each project approved for State funding;

[(iii)**]** **3.** **[**The**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** approval of project funding by the Interagency Commission;

[(iv)**]** **4.** Smart growth requirements;

[(v)**]** **5.** Minority business enterprise requirements;

[(vi)**]** **6.** Prevailing wage requirements;

[(vii)**]** **7.** Environmental requirements; and

[(viii)**]** **8.** A requirement for a procurement process that includes public notice and results in the most advantageous proposal.

(II) IN PRINCE GEORGE'S COUNTY, PROJECTS THAT USE ALTERNATIVE FINANCING METHODS UNDER THIS SECTION AND RECEIVE STATE FUNDING FOR A YEARLY AVAILABILITY PAYMENT:

1. DO NOT HAVE TO COMPLY WITH THE REQUIREMENTS UNDER SUBPARAGRAPH (I)1 THROUGH 3 OF THIS PARAGRAPH;

2. SHALL COMPLY WITH THE REQUIREMENTS UNDER SUBPARAGRAPH (I)4 THROUGH 8 OF THIS PARAGRAPH; AND

3. SHALL COMPLY WITH A THREE–PARTY MEMORANDUM OF UNDERSTANDING ENTERED INTO AND SIGNED BY THE PRINCE GEORGE'S COUNTY BOARD, PRINCE GEORGE'S COUNTY, AND THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION THAT:

A. SPECIFIES THE ROLES, RIGHTS, TERMS, AND RESPONSIBILITIES OF EACH PARTY WITH RESPECT TO SCHOOL PROJECTS UNDERTAKEN WITH A PRIVATE *OR PUBLIC* ENTITY USING ALTERNATIVE FINANCING METHODS, INCLUDING ANY AMOUNTS THE PARTIES ARE REQUIRED TO DEPOSIT INTO THE PRINCE GEORGE'S COUNTY ~~ALTERNATIVE FINANCING~~ PUBLIC–PRIVATE PARTNERSHIP FUND ESTABLISHED UNDER § ~~4–404~~ 4–126.1 OF THIS ~~TITLE~~ SUBTITLE;

B. SPECIFIES THAT § 2–203(F) AND TITLE 5, SUBTITLE 3 OF THIS ARTICLE AND REGULATIONS GOVERNING THE PUBLIC SCHOOL CONSTRUCTION PROGRAM ARE NOT APPLICABLE TO PROJECTS USING ALTERNATIVE FINANCING METHODS;

C. REQUIRES THE PRINCE GEORGE'S COUNTY BOARD TO SUBMIT PROJECTS TO THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION FOR REVIEW BEFORE COMMENCEMENT OF THE PROJECT;

D. SPECIFIES THE TIME FRAMES IN WHICH THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION SHALL COMPLETE ITS REVIEW OF PROJECTS; ~~AND~~

E. REQUIRES THE PRINCE GEORGE'S COUNTY BOARD TO SUBMIT ANNUAL REPORTS TO PRINCE GEORGE'S COUNTY AND THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION DURING THE TERM OF THE ALTERNATIVE FINANCING METHOD CONTRACT WITH THE PUBLIC OR PRIVATE ENTITY; AND

F. IDENTIFIES A DEDICATED SOURCE OF STATE FUNDING FOR AN AVAILABILITY PAYMENT.

4–126.1.

(A) IN THIS SECTION, "FUND" MEANS THE PRINCE GEORGE'S COUNTY ~~ALTERNATIVE FINANCING~~ PUBLIC–PRIVATE PARTNERSHIP FUND.

(B) THERE IS A PRINCE GEORGE'S COUNTY ~~ALTERNATIVE FINANCING~~ PUBLIC–PRIVATE PARTNERSHIP FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE ~~SUPPLEMENTAL STATE FUNDS TO FINANCE ALTERNATIVE FINANCING METHODS UNDER~~ FUNDS TO PAY A PUBLIC OR PRIVATE ENTITY FOR THE AVAILABILITY PAYMENT DUE UNDER THE PRINCE GEORGE'S COUNTY PUBLIC–PRIVATE PARTNERSHIP AGREEMENT ENTERED INTO IN ACCORDANCE WITH § 4–126 OF THIS SUBTITLE ~~IN PRINCE GEORGE'S COUNTY~~.

(D) THE ~~PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM~~ INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION SHALL~~:~~

~~(1)~~ ~~ADMINISTER~~ ADMINISTER THE FUND~~;~~ AS DESCRIBED IN THE THREE–PARTY MEMORANDUM OF UNDERSTANDING ENTERED INTO UNDER § 4–126(E)(3)(II) OF THIS SUBTITLE.

~~(2) HOLD THE FUND SEPARATELY;~~

~~(3) ACCOUNT FOR THE FUND; AND~~

~~(4) INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS ANY OTHER PRINCE GEORGE'S COUNTY MONEY MAY BE INVESTED.~~

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) MONEY DEPOSITED INTO THE FUND BY PRINCE GEORGE'S COUNTY AND THE PRINCE GEORGE'S COUNTY BOARD;

(2) ~~FUNDS TO BE DEPOSITED IN ACCORDANCE WITH § 9–120(B)(VI) OF THE STATE GOVERNMENT ARTICLE~~ MONEY DEPOSITED INTO THE FUND BY THE STATE;

(3) ANY INVESTMENT EARNINGS OF THE FUND; AND

~~(3)~~ (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

~~(F)~~ (G) THE FUND MAY BE USED ONLY TO PROVIDE FUNDING FOR ALTERNATIVE FINANCING METHODS UNDER § 4–126 OF THIS SUBTITLE IN PRINCE GEORGE'S COUNTY.

~~(G)~~ (H) ~~THE MONEY IN~~ ANY APPROPRIATION TO THE FUND SHALL BE USED TO SUPPLEMENT, BUT NOT SUPPLANT, MONEY APPROPRIATED TO PRINCE GEORGE'S COUNTY FOR PUBLIC SCHOOL CONSTRUCTION UNDER THE PUBLIC SCHOOL CONSTRUCTION PROGRAM ESTABLISHED IN TITLE 5, SUBTITLE 3 OF THIS ARTICLE.

~~(II)~~ (I) ~~ON OR BEFORE JANUARY 1, 2020, AND EACH JANUARY 1 THEREAFTER, IF THE PRINCE GEORGE'S COUNTY BOARD, PRINCE GEORGE'S COUNTY, AND THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION REMAIN IN AN ALTERNATIVE FINANCING METHODS MEMORANDUM OF UNDERSTANDING UNDER § 4–126 OF THIS SUBTITLE AND THE PROJECT SUBJECT TO THE MEMORANDUM OF UNDERSTANDING CONTINUES TO RECEIVE STATE FUNDS,~~ IF A MEMORANDUM OF UNDERSTANDING IS ENTERED INTO UNDER § 4–126 OF THIS SUBTITLE AND STATE FUNDING IS PROVIDED FOR AN AVAILABILITY PAYMENT, THE PRINCE GEORGE'S COUNTY BOARD AND PRINCE GEORGE'S COUNTY SHALL DEPOSIT INTO THE FUND THE AMOUNTS REQUIRED UNDER THE MEMORANDUM OF UNDERSTANDING.

~~(II)~~ (J) ON JANUARY 15, 2021, AND EACH JANUARY 15 THEREAFTER, THE PRINCE GEORGE'S COUNTY BOARD, PRINCE GEORGE'S COUNTY, AND THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION JOINTLY SHALL REPORT TO THE GOVERNOR~~, THE BOARD OF PUBLIC WORKS,~~ AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE FISCAL COMMITTEES OF THE GENERAL ASSEMBLY, ON THE PROGRESS OF CONSTRUCTION AND RENOVATIONS OF PUBLIC SCHOOL FACILITIES USING AN ALTERNATIVE FINANCING METHOD AND THAT RECEIVE STATE FUNDS, INCLUDING ACTIONS:

(1) TAKEN DURING THE PREVIOUS FISCAL YEAR; AND

(2) PLANNED FOR THE CURRENT FISCAL YEAR.

~~Article – State Government~~

~~9–120.~~

~~(a) The Comptroller shall distribute, or cause to be distributed, the State Lottery Fund to pay:~~

~~(1) on a pro rata basis for the daily and nondaily State lottery games, the expenses of administering and operating the State lottery, as authorized under this subtitle and the State budget; and~~

~~(2) then, except as provided in § 10–113.1 of the Family Law Article, § 11–618 of the Criminal Procedure Article, and § 3–307 of the State Finance and Procurement Article, the holder of each winning ticket or share.~~

~~(b) (1) By the end of the month following collection, the Comptroller shall deposit or cause to be deposited:~~

~~(i) into the Maryland Stadium Facilities Fund established under § 7–312 of the State Finance and Procurement Article from the money that remains in the State Lottery Fund, after the distribution under subsection (a) of this section, an amount not to exceed $20,000,000 in any fiscal year;~~

~~(ii) after June 30, 2014, into the Maryland Veterans Trust Fund 10% of the money that remains in the State Lottery Fund from the proceeds of sales of tickets from instant ticket lottery machines by veterans' organizations under § 9–112(d) of this subtitle, after the distribution under subsection (a) of this section;~~

~~(iii) after June 30, 2014, into the Baltimore City Public School Construction Financing Fund established under § 10–656 of the Economic Development Article the money that remains in the State Lottery Fund from the proceeds of all lotteries after the distributions under subsection (a) of this section and items (i) and (ii) of this paragraph, an amount equal to $20,000,000 in each fiscal year that bonds are outstanding and unpaid, to be paid in two installments with at least $10,000,000 paid no later than December 1 of each fiscal year;~~

~~(iv) after June 30, 2016, into the Racing Special Fund established under § 11–401 of the Business Regulation Article from money that remains in the State Lottery Fund after the distributions under subsection (a) of this section and items (i), (ii), and (iii) of this paragraph, an amount equal to $500,000;~~

~~(v) after June 30, 2017, into the Racing Special Fund established under § 11–401 of the Business Regulation Article from money that remains in the State Lottery Fund after the distributions under subsection (a) of this section and items (i), (ii), (iii), and (iv) of this paragraph, an amount equal to $1,000,000 in each fiscal year;~~ **[**~~and~~**]**

~~**(VI) AFTER JUNE 30, 2020, INTO THE PRINCE GEORGE'S COUNTY ALTERNATIVE FINANCING FUND ESTABLISHED UNDER § 4–126.1 OF THE EDUCATION ARTICLE THE MONEY THAT REMAINS IN THE STATE LOTTERY FUND FROM THE PROCEEDS OF ALL LOTTERIES AFTER THE DISTRIBUTIONS UNDER SUBSECTION (A) OF THIS SECTION AND ITEMS (I) THROUGH (V) OF THIS PARAGRAPH, AN AMOUNT EQUAL TO $30,000,000 IN EACH FISCAL YEAR THAT THE PRINCE GEORGE'S COUNTY BOARD, PRINCE GEORGE'S COUNTY, AND THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION REMAIN IN AN ALTERNATIVE FINANCING METHODS MEMORANDUM OF UNDERSTANDING UNDER § 4–126 OF THE EDUCATION ARTICLE AND THE PROJECT RECEIVES STATE FUNDS, TO BE PAID IN TWO INSTALLMENTS WITH AT LEAST $15,000,000 PAID NOT LATER THAN DECEMBER 1 EACH FISCAL YEAR; AND~~**

[~~(vi)~~**] (VII)** ~~into the General Fund of the State the money that remains in the State Lottery Fund from the proceeds of all lotteries after the distributions under subsection (a) of this section and items (i), (ii), (iii), (iv),~~ **[**~~and~~**]** ~~(v)~~**, AND (VI)** ~~of this paragraph.~~

~~(2) The money paid into the General Fund under this subsection is available in the fiscal year in which the money accumulates in the State Lottery Fund.~~

~~(c) The regulations of the Agency shall apportion the money in the State Lottery Fund in accordance with subsection (b) of this section.~~

5–101.

(f) (1) In addition to all other information required by this section, the Prince George's County Board of Education shall provide to the County Executive and County Council with the annual budget, information relating to each of the following categories:

(i) Instructional supplies and materials;

(ii) Additional equipment; **[**and**]**

(iii) Replacement equipment**; AND**

(IV) AVAILABILITY PAYMENTS RELATED TO ANY PUBLIC–PRIVATE PARTNERSHIP AGREEMENT ENTERED INTO UNDER §§ 4–126 AND 4–126.1 OF THIS ARTICLE.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

112. the Pretrial Services Program Grant Fund; **[**and**]**

113. the Veteran Employment and Transition Success Fund**; AND**

114. THE PRINCE GEORGE'S COUNTY PUBLIC–PRIVATE PARTNERSHIP FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor provide funding for the Interagency Commission on School

Construction to have the expert staff, consultants, and legal services to help local school systems and counties negotiate and successfully execute public–private partnership contracts for school construction.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 388

(Senate Bill 561)

AN ACT concerning

Criminal Law – ~~Homicide – Fetus~~ Crime of Violence Against Pregnant Person – Enhanced Penalty
(Laura and Reid's Law)

FOR the purpose of ~~expanding the application of certain provisions relating to a prosecution for murder or manslaughter of a certain viable fetus to a prosecution for murder or manslaughter of a certain fetus; requiring knowledge that a certain mother was pregnant for a certain murder or manslaughter prosecution; providing for the construction of a certain provision of law; defining a certain term; and generally relating to homicide.~~ ~~providing for an enhanced penalty for a person who commits a certain crime against another person when the person knows that the other person is pregnant; providing that a court may impose the enhanced penalty under certain circumstances; requiring a State's Attorney to provide certain notice under certain circumstances; authorizing the State's Attorney to provide notice in a certain manner; providing that the enhanced penalty~~ *prohibiting a person from committing a certain crime of violence against another person when the person knows or believes that the other person is pregnant; establishing a certain penalty for a violation of this Act; providing that a sentence imposed* under this Act ~~is~~ *may be imposed* separate from and consecutive to ~~a sentence for~~ *or concurrent with* a certain other sentence; and generally relating to crimes of violence against pregnant persons.

~~BY repealing and reenacting, with amendments,~~
~~Article – Criminal Law~~
~~Section 2–103~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2018 Supplement)~~

BY adding to
Article – Criminal Law
Section 14–104

Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Criminal Law

~~2–103.~~

~~(a) For purposes of a prosecution under this title,~~ **[**~~"viable" has the meaning stated in § 20–209 of the Health – General Article~~**]** ~~**"FETUS" MEANS AN UNBORN OFFSPRING OF THE SPECIES HOMO SAPIENS FROM THE END OF THE EIGHTH WEEK AFTER FERTILIZATION UNTIL BIRTH.**~~

~~(b)~~ ~~**(1)**~~ ~~Except as provided in subsections (d) through (f) of this section, a prosecution may be instituted for murder or manslaughter of a~~ **[**~~viable~~**]** ~~fetus.~~

~~**(2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO:**~~

~~**(I) PROHIBIT THE PROSECUTION OF ANY PERSON UNDER ANY OTHER PROVISION OF LAW; OR**~~

~~**(II) PRECLUDE ANY CIVIL CAUSE OF ACTION.**~~

~~(c) A person prosecuted for murder or manslaughter as provided in subsection (b) of this section must have:~~

~~(1) intended to cause the death of the~~ **[**~~viable~~**]** ~~fetus;~~

~~(2) intended to cause serious physical injury to the~~ **[**~~viable~~**]** ~~fetus; or~~

~~(3)~~ ~~**(I)**~~ ~~wantonly or recklessly disregarded the likelihood that the person's actions would cause the death of or serious physical injury to the~~ **[**~~viable~~**]** ~~fetus~~**;** ~~**AND**~~

~~**(II) KNOWN OR REASONABLY SHOULD HAVE KNOWN THAT THE MOTHER OF THE FETUS WAS PREGNANT AT THE TIME OF THE OFFENSE.**~~

~~(d) Nothing in this section applies to or infringes on a woman's right to terminate a pregnancy as stated in § 20–209 of the Health – General Article.~~

~~(e) Nothing in this section subjects a physician or other licensed medical professional to liability for fetal death that occurs in the course of administering lawful medical care.~~

~~(f) Nothing in this section applies to an act or failure to act of a pregnant woman with regard to her own fetus.~~

~~(g) Nothing in this section shall be construed to confer personhood or any rights on the fetus.~~

14–104.

(A) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE, AS DEFINED IN § ~~5–101 OF THE PUBLIC SAFETY ARTICLE~~ *14–101 OF THIS TITLE*, AGAINST ANOTHER PERSON WHEN THE PERSON KNOWS *OR BELIEVES* THAT THE OTHER PERSON IS PREGNANT.

(B) A PERSON WHO VIOLATES THIS SECTION IS *GUILTY OF A FELONY AND, IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR THE UNDERLYING CRIME OF VIOLENCE, ON CONVICTION IS* SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS ~~IN ADDITION TO ANY OTHER SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE~~.

(C) A ~~COURT MAY IMPOSE AN ENHANCED PENALTY UNDER SUBSECTION (B) OF THIS SECTION IF:~~

~~(1) AT LEAST 30 DAYS BEFORE TRIAL IN THE CIRCUIT COURT, AND 15 DAYS BEFORE TRIAL IN THE DISTRICT COURT, THE STATE'S ATTORNEY NOTIFIES THE DEFENDANT IN WRITING OF THE STATE'S INTENTION TO SEEK THE ENHANCED PENALTY; AND~~

~~(2) THE ELEMENTS OF SUBSECTION (A) OF THIS SECTION HAVE BEEN PROVEN BEYOND A REASONABLE DOUBT.~~

~~(D) IF THE DEFENDANT IS CHARGED BY INDICTMENT OR CRIMINAL INFORMATION, THE STATE MAY INCLUDE THE NOTICE REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION IN THE INDICTMENT OR INFORMATION.~~

~~(E) AN ENHANCED PENALTY~~ *SENTENCE* IMPOSED UNDER THIS SECTION ~~SHALL BE~~ *MAY BE IMPOSED* SEPARATE FROM AND CONSECUTIVE TO *OR CONCURRENT WITH* A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

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

Approved by the Governor, May 13, 2019.

Chapter 389

(Senate Bill 228)

AN ACT concerning

Criminal Procedure – Pretrial Release – Sex Offenders

FOR the purpose of prohibiting a District Court commissioner from authorizing the pretrial release of a defendant who is required to register as a certain sex offender *under certain circumstances*; and generally relating to pretrial release and sex offenders.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 5–202(g)
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Criminal Procedure

5–202.

(g) (1) A District Court commissioner may not authorize the pretrial release of a defendant who:

(i) is ~~[~~registered~~]~~, **OR** ***~~IF~~ THE COMMISSIONER KNOWS ~~THE DEFENDANT~~ IS*** **REQUIRED TO REGISTER,** under Title 11, Subtitle 7 of this article; or

(ii) is a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued

detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

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

Approved by the Governor, May 13, 2019.

Chapter 390

(House Bill 1420)

AN ACT concerning

Maryland Department of Health – Services for Individuals With Developmental Disabilities – Fee–for–Service Payment Pilot Program

FOR the purpose of requiring the Maryland Department of Health to establish a fee–for–service payment pilot program; authorizing certain providers to participate in the pilot program; requiring the Department to determine, establish, and publish certain rates for certain services in a certain manner; requiring certain providers to submit a claim for payment for certain services to the Department in a certain manner; establishing certain limitations on payments for certain claims; prohibiting certain providers from knowingly submitting certain false information; requiring certain providers to complete and submit to the Department each year certain financial statements; requiring certain providers to comply with certain provisions of law and certain regulations; requiring certain providers to submit certain information relating to wages and benefits for certain individuals to the Department in a certain manner; authorizing the Department to require certain providers to submit ~~additional reports and~~ certain information on the provision of certain services; authorizing the Department to conduct a certain audit of certain records and to recover overpayments from a provider; ~~requiring the Department to adopt certain regulations;~~ defining certain terms; repealing a certain defined term; and generally relating to a fee–for–service payment pilot program for services for individuals with developmental disabilities.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 7–101

Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health – General
Section 7–308
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

7–101.

(a) In this title the following words have the meanings indicated.

(b) "Administration" means the Developmental Disabilities Administration.

(c) (1) "Admission" means the process by which an individual with an intellectual disability is accepted as a resident in a State residential center.

(2) "Admission" includes the physical act of the individual entering the facility.

(d) (1) "Alternative living unit" means a residence that:

(i) Provides residential services for individuals who, because of developmental disability, require specialized living arrangements;

(ii) Admits not more than 3 individuals; and

(iii) Provides 10 or more hours of supervision per unit, per week.

(2) "Alternative living unit" does not include a residence that is owned or rented by:

(i) 1 or more of its residents; or

(ii) A person who:

1. Is an agent for any of the residents; but

2. Is not a provider of residential supervision.

(E) "CLAIM" HAS THE MEANING STATED IN § 2–601 OF THIS ARTICLE.

~~(e)~~ **(F)** "Deputy Secretary" means the Deputy Secretary for Developmental Disabilities.

~~(f)~~ **(G)** "Developmental disability" means a severe chronic disability of an individual that:

(1) Is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;

(2) Is manifested before the individual attains the age of 22;

(3) Is likely to continue indefinitely;

(4) Results in an inability to live independently without external support or continuing and regular assistance; and

(5) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.

~~**(G) "DIRECT SUPPORT PROFESSIONAL" MEANS AN INDIVIDUAL WHO PROVIDES DIRECT CARE SERVICES TO A RECIPIENT.**~~

[(g)**]** **(H)** "External support" means:

(1) Periodic monitoring of the circumstances of an individual with respect to:

(i) Personal management;

(ii) Household management; and

(iii) The use of community resources; and

(2) Rendering appropriate advice or assistance that may be needed.

(I) "FEE–FOR–SERVICE" MEANS A METHOD FOR PAYMENT THAT REQUIRES A PERSON TO SUBMIT A CLAIM FOR PAYMENT TO THE DEPARTMENT FOR EACH SERVICE PERFORMED.

[(h)**]** **(J)** "Group home" means a residence that:

(1) Provides residential services for individuals who, because of developmental disability, require specialized living arrangements;

(2) Admits at least 4 but not more than 8 individuals; and

(3) Provides 10 or more hours of supervision per home, per week.

[(i)**] (K)** "Habilitation" means a process by which a provider of services enables an individual to acquire and maintain life skills to cope more effectively with the demands of the individual's own person and environment and to raise the level of the individual's mental, physical, social, and vocational functioning.

[(j)**] (L)** (1) "Individual support services" means an array of services that are designed to increase or maintain an individual's ability to live alone or in a family setting.

(2) "Individual support services" include:

(i) In–home assistance with meals and personal care;

(ii) Counseling;

(iii) Physical, occupational, or other therapies;

(iv) Architectural modification; and

(v) Any other services that the Administration considers appropriate to meet the individual's needs.

(3) "Individual support services" does not include full day or residential services.

[(k)**] (M)** "Intellectual disability" means a developmental disability that is evidenced by significantly subaverage intellectual functioning and impairment in the adaptive behavior of an individual.

(N) "KNOWINGLY" HAS THE MEANING STATED IN § 2–601 OF THIS ARTICLE.

[(l)**] ~~(N)~~ (O)** "Live independently" means:

(1) For adults:

(i) Managing personal care, such as clothing and medication;

(ii) Managing a household, such as menu planning, food preparation and shopping, essential care of the premises, and budgeting; and

(iii) Using community resources, such as commercial establishments, transportation, and services of public agencies; or

(2) For minors, functioning in normal settings without the need for supervision or assistance other than supervision or assistance that is age appropriate.

~~(O)~~ (P) "MEANINGFUL DAY SERVICES" MEANS ~~INDIVIDUALIZED~~ EMPLOYMENT SUPPORTS OR HOME– AND COMMUNITY–BASED SUPPORTS, OTHER THAN RESIDENTIAL SERVICES, THAT ASSIST AN INDIVIDUAL IN DEVELOPING AND MAINTAINING SKILLS, INTERESTS, AND PERSONALIZED CONNECTIONS THAT MAY CREATE OPPORTUNITIES FOR PAID EMPLOYMENT, INCREASED INDEPENDENCE, ~~AND~~ OR MEANINGFUL RELATIONSHIPS WITH OTHER INDIVIDUALS IN THE COMMUNITY.

~~(P)~~ (Q) "PROVIDER" MEANS AN INDIVIDUAL WHO IS LICENSED OR CERTIFIED UNDER SUBTITLE 9 OF THIS TITLE AND PROVIDES SERVICES TO ~~A~~:

(1) A RECIPIENT ~~OR AN~~; OR

(2) AN INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY WHO RECEIVES FUNDING FOR SERVICES FROM A SOURCE OTHER THAN THE ADMINISTRATION.

~~(Q)~~ (R) "RECIPIENT" MEANS AN INDIVIDUAL WHO RECEIVES SERVICES FUNDED BY THE ADMINISTRATION UNDER THIS TITLE.

[(m)**]** **~~(R)~~ (S)** "Release" means a permanent, temporary, absolute, or conditional release of an individual from a State residential center.

~~(S)~~ (T) "RESIDENTIAL SERVICES" MEANS INDIVIDUALIZED SUPPORT AND SERVICES THAT ASSIST AN INDIVIDUAL IN DEVELOPING ~~SKILLS FOR LIVING INDEPENDENTLY IN THE COMMUNITY THROUGH APPLICATION OF TEACHING METHODS IN A COMMUNITY RESIDENTIAL SETTING~~ AND MAINTAINING SKILLS IN LIVING IN THE COMMUNITY.

[(n)**]** **~~(T)~~ (U)** "Services" means residential, day, or other services that provide for evaluation, diagnosis, treatment, care, supervision, assistance, or attention to individuals with developmental disability and that promote habilitation of these individuals.

[(o)**]** **~~(U)~~ (V)** "Services coordination" means a service that consists of the following 3 major functions that are designed to assist an individual in obtaining the needed services and programs that the individual desires in order to gain as much control over the individual's own life as possible:

(1) Planning services;

(2) Coordinating services; and

(3) Monitoring service delivery to the individual.

~~(V)~~ **(W) "STATE RESIDENTIAL CENTER" MEANS A LICENSED FACILITY OPERATED BY THE STATE THAT PROVIDES RESIDENTIAL AND HABILITATION SERVICES TO INDIVIDUALS WITH AN INTELLECTUAL DISABILITY WHO ARE AT LEAST 18 YEARS OLD AND MEET THE CRITERIA SET FORTH IN § 7–502 OF THIS TITLE.**

[(p) "State residential center" means a place that:

(1) Is owned and operated by this State;

(2) Provides residential services for individuals with an intellectual disability and who, because of that intellectual disability, require specialized living arrangements; and

(3) Admits 9 or more individuals with an intellectual disability.**]**

~~(W)~~ **(X) "SUPPORT SERVICES" MEANS SUPPORTS THAT ASSIST AN INDIVIDUAL TO MAINTAIN OR IMPROVE THE INDIVIDUAL'S FUNCTIONAL ABILITIES, ENHANCE INTERACTIONS, ~~AND ENGAGE IN MEANINGFUL RELATIONSHIPS AND THAT PROMOTE THE INDIVIDUAL'S ABILITY TO LIVE INDEPENDENTLY AND PARTICIPATE MEANINGFULLY IN THE COMMUNITY~~ OR ENGAGE IN MEANINGFUL RELATIONSHIPS IN THE HOME OR COMMUNITY.**

[(q)**]** ~~(X)~~ **(Y)** "Treatment" means any education, training, professional care or attention, or other program that is given to an individual with developmental disability.

[(r)**]** ~~(Y)~~ **(Z)** "Vocational services" means a service that provides job training and placement, supported employment and training in acceptable work behaviors, and vocationally–related social and other skills.

~~(Z)~~ **(AA) "WAIVER PROGRAM" MEANS EACH MEDICAID HOME– AND COMMUNITY–BASED SERVICES WAIVER FUNDING PROGRAM SUBMITTED BY THE DEPARTMENT AND APPROVED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES IN ACCORDANCE WITH § 1915(C) OF THE SOCIAL SECURITY ACT THAT IS OVERSEEN AND ADMINISTERED BY THE ADMINISTRATION.**

~~(AA)~~ **(BB) "WAIVER PROGRAM SERVICES" MEANS SERVICES FUNDED BY THE ADMINISTRATION IN ACCORDANCE WITH A WAIVER PROGRAM, INCLUDING:**

(1) MEANINGFUL DAY SERVICES;

(2) RESIDENTIAL SERVICES; AND

(3) SUPPORT SERVICES.

7–308.

(A) IN THIS SECTION, "PILOT PROGRAM" MEANS THE FEE–FOR–SERVICE PAYMENT PILOT PROGRAM.

(B) THE DEPARTMENT SHALL ESTABLISH A FEE–FOR–SERVICE PAYMENT PILOT PROGRAM.

(C) A PROVIDER THAT PROVIDES WAIVER PROGRAM SERVICES TO INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY WHO ARE ELIGIBLE FOR SERVICES UNDER SUBTITLE 4 OF THIS TITLE MAY PARTICIPATE IN THE PILOT PROGRAM.

(D) THE DEPARTMENT SHALL:

(1) DETERMINE AND ESTABLISH RATES FOR WAIVER PROGRAM SERVICES; AND

(2) PUBLISH THE RATES FOR WAIVER PROGRAM SERVICES, AND ANY SUBSEQUENT CHANGES TO THOSE RATES, IN REGULATION.

(E) (1) A PROVIDER PARTICIPATING IN THE PILOT PROGRAM SHALL SUBMIT A CLAIM FOR PAYMENT TO THE DEPARTMENT ON A FORM THAT THE DEPARTMENT REQUIRES.

(2) PAYMENT FOR A CLAIM IS SUBJECT TO THE FOLLOWING LIMITATIONS:

(I) PAYMENT MAY NOT BE MADE FOR A CLAIM THAT IS RECEIVED BY THE DEPARTMENT MORE THAN 1 CALENDAR YEAR AFTER THE DATE THE SERVICES WERE PROVIDED; AND

(II) A CLAIM THAT IS NOT SUBMITTED WITHIN THE TIME PERIOD REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH MAY NOT BE CHARGED TO THE RECIPIENT OF SERVICES.

(F) A PROVIDER MAY NOT <u>KNOWINGLY</u> SUBMIT TO THE DEPARTMENT:

(1) A FALSE OR FRAUDULENT CLAIM FOR PAYMENT; OR

(2) DOCUMENTATION SUPPORTING A CLAIM THAT CONTAINS FALSE INFORMATION.

(G) (1) A PROVIDER THAT PARTICIPATES IN THE PILOT PROGRAM MUST COMPLETE AND SUBMIT TO THE DEPARTMENT EACH YEAR FINANCIAL STATEMENTS FOR EACH FISCAL YEAR THAT WERE AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(2) A PROVIDER PARTICIPATING IN THE PILOT PROGRAM SHALL SUBMIT INFORMATION REQUIRED BY THE DEPARTMENT, ON A FORM APPROVED BY THE DEPARTMENT, RELATING TO WAGES AND BENEFITS PAID TO DIRECT SUPPORT PROFESSIONALS.

(3) THE DEPARTMENT MAY REQUIRE A PROVIDER PARTICIPATING IN THE PILOT PROGRAM TO SUBMIT ~~ADDITIONAL REPORTS AND~~ INFORMATION RELATED TO THE PROVISION OF SERVICES TO INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY AS IT RELATES TO THE EXECUTION OF THE PILOT PROGRAM.

(H) THE DEPARTMENT MAY:

(1) CONDUCT AN AUDIT OF ANY RECORDS SUPPORTING A CLAIM FOR PAYMENT OF A PROVIDER PARTICIPATING IN THE PILOT PROGRAM; AND

(2) RECOVER OVERPAYMENTS FROM A PROVIDER.

(I) A PROVIDER PARTICIPATING IN THE PILOT PROGRAM SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS GOVERNING FINANCIAL DOCUMENTATION, REPORTING, AND OTHER PAYMENT–RELATED REQUIREMENTS FOR MEDICAID PROVIDERS.

~~(J) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE PILOT PROGRAM REGARDING THE GOVERNANCE OF FEE–FOR–SERVICE PAYMENTS AND REPORTING REQUIREMENTS AND PROCEDURES CONSISTENT WITH THIS SUBTITLE AND OTHER APPLICABLE LAWS.~~

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

Approved by the Governor, May 13, 2019.

Chapter 391

(House Bill 1421)

AN ACT concerning

Maryland Health Benefit Exchange – Functions and Outreach

FOR the purpose of requiring the Maryland Health Benefit Exchange to conduct outreach and education activities for certain purposes; requiring the Exchange to perform certain functions for Maryland Medical Assistance programs, as requested by the Maryland Department of Health and approved by the Board of Trustees for the Exchange, for a certain purpose; defining a certain term; and generally relating to the functions and operations of the Maryland Health Benefit Exchange.

BY renumbering
Article – Insurance
Section 31–101(h) through (aa), respectively
to be Section 31–101(i) through (bb), respectively
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Insurance
Section 31–101(h)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 31–108(b)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 31–101(h) through (aa), respectively, of Article – Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 31–101(i) through (bb), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

31–101.

(H) "HEALTH LITERACY" MEANS THE DEGREE TO WHICH AN INDIVIDUAL HAS THE CAPACITY TO OBTAIN, PROCESS, AND UNDERSTAND HEALTH INFORMATION AND SERVICES IN ORDER TO MAKE AN APPROPRIATE HEALTH DECISION.

31–108.

(b) **[**On or before January 1, 2014, in**]** **IN** compliance with § 1311(d)(4) of the Affordable Care Act, the Exchange shall:

(1) make qualified plans available to qualified individuals and qualified employers;

(2) allow a carrier to offer a qualified dental plan through the Exchange that provides limited scope dental benefits that meet the requirements of § 9832(c)(2)(A) of the Internal Revenue Code, either separately, in conjunction with, or as an endorsement to a qualified health plan, provided that the qualified health plan provides pediatric dental benefits that meet the requirements of § 1302(b)(1)(J) of the Affordable Care Act;

(3) allow a carrier to offer a qualified vision plan through the Exchange that provides limited scope vision benefits that meet the requirements of § 9832(c)(2)(A) of the Internal Revenue Code, either separately, in conjunction with, or as an endorsement to a qualified health plan, provided that the qualified health plan provides pediatric vision benefits that meet the requirements of § 1302(b)(1)(J) of the Affordable Care Act;

(4) consistent with the guidelines developed by the Secretary under § 1311(c) of the Affordable Care Act, implement procedures for the certification, recertification, and decertification of:

(i) health benefit plans as qualified health plans;

(ii) dental plans as qualified dental plans; and

(iii) vision plans as qualified vision plans;

(5) provide for the operation of a toll–free telephone hotline to respond to requests for assistance;

(6) provide for initial, annual, and special enrollment periods, in accordance with guidelines adopted by the Secretary under § 1311(c)(6) of the Affordable Care Act;

(7) maintain a Web site through which enrollees and prospective enrollees of qualified plans may obtain standardized comparative information on qualified health plans, qualified dental plans, and qualified vision plans;

(8) with respect to each qualified plan offered through the Exchange:

(i) assign a rating to each qualified plan in accordance with the criteria developed by the Secretary under § 1311(c)(3) of the Affordable Care Act and any additional criteria that may be applicable under the laws of the State and regulations adopted by the Exchange under this title; and

(ii) determine each qualified health plan's coverage level in accordance with regulations adopted by the Secretary under § 1302(d)(2)(A) of the Affordable Care Act and any additional regulations adopted by the Exchange under this title;

(9) (i) present qualified plan options offered by the Exchange in a standardized format, including the use of the uniform outline of coverage established under § 2715 of the federal Public Health Service Act; and

(ii) to the extent necessary, modify the standardized format to accommodate differences in qualified health plan, qualified dental plan, and qualified vision plan options;

(10) in accordance with § 1413 of the Affordable Care Act, provide information and make determinations regarding eligibility for the following programs:

(i) the Maryland Medical Assistance Program under Title XIX of the Social Security Act;

(ii) the Maryland Children's Health Program under Title XXI of the Social Security Act; and

(iii) any applicable State or local public health insurance program;

(11) facilitate the enrollment of any individual who the Exchange determines is eligible for a program described in item (10) of this subsection;

(12) establish and make available by electronic means a calculator to determine the actual cost of coverage of a qualified plan offered by the Exchange after application of any premium tax credit under § 36B of the Internal Revenue Code and any cost–sharing reduction under § 1402 of the Affordable Care Act;

(13) in accordance with this title, establish a SHOP Exchange through which qualified employers may access coverage for their employees at specified coverage levels and meet standards for the federal qualified employer tax credit;

(14) implement a certification process for individuals exempt from the individual responsibility requirement and penalty under § 5000A of the Internal Revenue Code on the grounds that:

(i) no affordable qualified health plan that covers the individual is available through the Exchange or the individual's employer; or

(ii) the individual meets other requirements under the Affordable Care Act that make the individual eligible for the exemption;

(15) implement a process for transfer to the United States Secretary of the

Treasury the name and taxpayer identification number of each individual who:

(i) is certified as exempt from the individual responsibility requirement;

(ii) is employed but determined eligible for the premium tax credit on the grounds that:

1. the individual's employer does not provide minimum essential coverage; or

2. the employer's coverage is determined to be unaffordable for the individual or does not provide the requisite minimum actuarial value;

(iii) notifies the Exchange under § 1411(b)(4) of the Affordable Care Act that the individual has changed employers; or

(iv) ceases coverage under a qualified health plan during the plan year, together with the date coverage ceased;

(16) provide notice to employers of employees who cease coverage under a qualified health plan during a plan year, together with the date coverage ceased;

(17) conduct processes required by the Secretary and the United States Secretary of the Treasury to determine eligibility for premium tax credits, reduced cost–sharing, and individual responsibility requirement exemptions;

(18) establish a Navigator Program in accordance with § 1311(i) of the Affordable Care Act and this title;

(19) carry out a plan to provide appropriate assistance for consumers seeking to purchase products through the Exchange, including the implementation of:

(i) a navigator program for the SHOP Exchange and a navigator program for the Individual Exchange; and

(ii) the toll–free hotline required under item (5) of this subsection; **[**and**]**

(20) carry out a public relations and advertising campaign to promote the Exchange**;**

(21) CONDUCT OUTREACH AND EDUCATION ACTIVITIES TO INCREASE HEALTH LITERACY AND TO EDUCATE CONSUMERS ABOUT THE EXCHANGE AND INSURANCE AFFORDABILITY PROGRAMS THAT:

(I) INCLUDE MINORITY POPULATIONS;

(II) DO NOT INCLUDE CLINICAL OR INDIVIDUAL HEALTH INFORMATION RELATED TO A SPECIFIC HEALTH CONDITION; AND

(III) INCREASE PARTICIPATION IN THE EXCHANGE; AND

(22) PERFORM ADMINISTRATIVE, TECHNOLOGICAL, OPERATIONAL, AND REPORTING FUNCTIONS FOR MARYLAND MEDICAL ASSISTANCE PROGRAMS, AS REQUESTED BY THE MARYLAND DEPARTMENT OF HEALTH AND APPROVED BY THE BOARD, TO THE EXTENT THAT THE PERFORMANCE OF THE FUNCTIONS AID IN THE EFFICIENT OPERATIONS OF THE EXCHANGE AND THE MARYLAND MEDICAL ASSISTANCE PROGRAMS.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 392

(Senate Bill 64)

AN ACT concerning

Maryland School for the Deaf – Employees – Annual and Personal Leave

FOR the purpose of providing that certain employees of the Maryland School for the Deaf are not entitled to annual leave with pay; clarifying that certain employees of the Maryland School for the Deaf are entitled to a certain amount of personal leave with pay for each calendar year under certain circumstances; and generally relating to annual and personal leave for employees of the Maryland School for the Deaf.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 9–301 and 9–401
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Personnel and Pensions

9–301.

(A) THIS SUBTITLE DOES NOT APPLY TO:

(1) A TEMPORARY EMPLOYEE; OR

(2) AN EMPLOYEE OF THE MARYLAND SCHOOL FOR THE DEAF WHO WORKS 11 MONTHS OR LESS IN A CALENDAR YEAR.

[(a)**] (B)** Each employee in the State Personnel Management System**[**, except a temporary employee,**]** is entitled to annual leave with pay as provided in this subtitle.

[(b)**] (C)** Annual leave may be used for any purpose.

9–401.

(a) (1) Except as provided in paragraphs (2) **[**and**],** (3)**, AND (4)** of this subsection, or otherwise provided by law, each employee in the State Personnel Management System, except a temporary employee, is entitled to 6 days, not to exceed 48 hours, of personal leave with pay at the beginning of the first full pay period of the calendar year.

(2) For the calendar year in which an employee begins employment, the employee is entitled only to the following personal leave with pay:

(i) 6 days, not to exceed 48 hours, if employment begins on or after January 1 and on or before the last day in February;

(ii) 5 days, not to exceed 40 hours, if employment begins on or after March 1 and on or before April 30;

(iii) 4 days, not to exceed 32 hours, if employment begins on or after May 1 and on or before June 30; or

(iv) 3 days, not to exceed 24 hours, if employment begins on or after July 1.

(3) For each calendar year that is a leap year, each employee in the State Personnel Management System, except a temporary employee, is entitled to 7 days, not to exceed 56 hours, of personal leave with pay at the beginning of the first full pay period of the calendar year.

(4) FOR EACH CALENDAR YEAR, AN EMPLOYEE OF THE MARYLAND SCHOOL FOR THE DEAF WHO WORKS 11 MONTHS OR LESS IN A CALENDAR YEAR IS ENTITLED TO 3 DAYS, NOT TO EXCEED 24 HOURS, OF PERSONAL LEAVE WITH PAY AT THE BEGINNING OF THE FIRST FULL PAY PERIOD OF THE CALENDAR YEAR.

(b) Personal leave may be used for any purpose.

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

Approved by the Governor, May 13, 2019.

Chapter 393

(House Bill 106)

AN ACT concerning

Environmental Trust Fund – Surcharge Extension

FOR the purpose of extending the termination date of a certain environmental surcharge on electrical energy distributed to retail electric customers in the State; making stylistic changes; and generally relating to the Environmental Trust Fund.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–302(a) and (b)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–203(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–203(f)
Annotated Code of Maryland
(2010 Replacement Volume and 2018 Supplement)

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

Article – Natural Resources

3–302.

(a) (1) There is an Environmental Trust Fund.

(2) **(I)** For the purpose of this subtitle, there is established as an added cost of electricity distributed to retail electric customers within the State, an environmental surcharge per kilowatt hour of electric energy distributed in the State to be paid by any electric company as defined in § 1–101 of the Public Utilities Article.

(II) The Public Service Commission shall impose the surcharge per kilowatt hour of electric energy distributed to retail electric customers within the State and shall authorize the electric companies to add the full amount of the surcharge to retail electric customers' bills.

(III) To the extent that the surcharge is not collected from retail electric customers, the surcharge shall be deemed a cost of distribution and shall be allowed and computed as such, together with other allowable expenses, for rate–making purposes.

(IV) Revenues from the surcharge shall be collected by the Comptroller and placed in the Fund.

(b) (1) **(I)** The Secretary, in consultation with the Director of the Maryland Energy Administration, annually shall coordinate the preparation of a budget required to carry out the provisions of this subtitle.

(II) **[**Upon**]** **ON** approval of the budget by the General Assembly, the Public Service Commission shall establish the amount of the surcharge per kilowatt hour for the fiscal year beginning July 1, 1972, and for each subsequent fiscal year.

(2) Notwithstanding any other provisions of this subtitle, the amount of the surcharge for each account for each retail electric customer may not exceed the lesser of 0.15 mill per kilowatt hour or $1,000 per month and the surcharge may not continue beyond fiscal year **[**2020**]** ~~**2025**~~ **2030**.

(3) **(I)** The Comptroller shall maintain the method of collection of the surcharge from the companies and the collections shall accrue to the Fund.

(II) The Department shall credit against the amount required to be paid into the Environmental Trust Fund by each electric company an amount equal to 0.75% of the total surcharge attributed to each company on the basis of the electricity distributed within Maryland.

Article – Public Utilities

7–203.

(a) (1) The Commission shall:

(i) impose an environmental surcharge per kilowatt hour of electricity distributed to retail electric customers within the State; and

(ii) authorize each electric company to add the full amount of the surcharge to its customers' bills.

(2) To the extent that an electric company fails to collect the surcharge from its customers, the amount uncollected shall be deemed a cost of power distribution and allowed and computed as such together with other allowable expenses for purposes of rate making.

(f) The surcharge imposed under this subtitle shall terminate on June 30, **[**2020**]** ~~**2025**~~ **2030**.

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

Approved by the Governor, May 13, 2019.

Chapter 394

(Senate Bill 901)

AN ACT concerning

Maryland Trauma Fund – State Primary Adult Resource Center – Reimbursement of On–Call and Standby Costs

FOR the purpose of altering the purpose of the Maryland Trauma Physician Services Fund to include subsidizing the documented costs incurred by the State primary adult resource center to maintain certain on–call and standby health care providers; requiring the Maryland Health Care Commission to develop certain guidelines for the reimbursement of certain costs; and generally relating to reimbursement of on–call and standby costs incurred by the State primary adult resource center.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–130(a)(1) and (5)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–130(b) and (d)
Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

19–130.

(a) (1) In this section the following words have the meanings indicated.

(5) (i) "Trauma center" means a facility designated by the Maryland Institute for Emergency Medical Services Systems as:

1. The State primary adult resource center;

2. A Level I trauma center;

3. A Level II trauma center;

4. A Level III trauma center;

5. A pediatric trauma center; or

6. The Maryland Trauma Specialty Referral Centers.

(ii) "Trauma center" includes an out–of–state pediatric trauma center that has entered into an agreement with the Maryland Institute for Emergency Medical Services Systems.

(b) (1) There is a Maryland Trauma Physician Services Fund.

(2) The purpose of the Fund is to subsidize the documented costs:

(i) Of uncompensated care incurred by a trauma physician in providing trauma care to a trauma patient on the State trauma registry;

(ii) Of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry;

(iii) Incurred by a trauma center to maintain trauma physicians on–call as required by the Maryland Institute for Emergency Medical Services Systems; **[**and**]**

(IV) INCURRED BY THE STATE PRIMARY ADULT RESOURCE CENTER TO MAINTAIN TRAUMA SURGEONS, ORTHOPEDIC SURGEONS,

NEUROSURGEONS, AND ANESTHESIOLOGISTS ON–CALL AND ON STANDBY AS REQUIRED BY THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS; AND

[(iv)**] (V)** Incurred by the Commission and the Health Services Cost Review Commission to administer the Fund and audit reimbursement requests to assure appropriate payments are made from the Fund.

(3) The Commission and the Health Services Cost Review Commission shall administer the Fund.

(4) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(5) Interest on and other income from the Fund shall be separately accounted for and credited to the Fund, and are not subject to § 6–226(a) of the State Finance and Procurement Article.

(d) (1) Disbursements from the Fund shall be made in accordance with a methodology established jointly by the Commission and the Health Services Cost Review Commission to calculate costs incurred by trauma physicians and trauma centers that are eligible to receive reimbursement under subsection (b) of this section.

(2) The Fund shall transfer to the Maryland Department of Health an amount sufficient to fully cover the State's share of expenditures for the costs of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry.

(3) The methodology developed under paragraph (1) of this subsection shall:

(i) Take into account:

1. The amount of uncompensated care provided by trauma physicians;

2. The amount of undercompensated care attributable to the treatment of Medicaid enrollees in trauma centers;

3. The cost of maintaining trauma physicians on–call;

4. The number of patients served by trauma physicians in trauma centers;

5. The number of Maryland residents served by trauma physicians in trauma centers; and

6. The extent to which trauma–related costs are otherwise subsidized by hospitals, the federal government, and other sources; and

(ii) Include an incentive to encourage hospitals to continue to subsidize trauma–related costs not otherwise included in hospital rates.

(4) The methodology developed under paragraph (1) of this subsection shall use the following parameters to determine the amount of reimbursement made to trauma physicians and trauma centers from the Fund:

(i) 1. The cost incurred by a Level II trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on–call shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on–call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level II trauma centers;

2. The cost incurred by a Level III trauma center to maintain trauma surgeons, orthopedic surgeons, neurosurgeons, and anesthesiologists on–call shall be reimbursed:

A. At a rate of up to 35% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on–call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level III trauma centers;

3. The cost incurred by a Level I trauma center or pediatric trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on–call when a post–graduate resident is attending in the trauma center shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. When a post–graduate resident is permitted to be in the

trauma center, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level I trauma centers or pediatric trauma centers;

4. The cost incurred by a Maryland Trauma Specialty Referral Center to maintain trauma surgeons on–call in the specialty of the Center when a post–graduate resident is attending in the Center shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. When a post–graduate resident is permitted to be in the Center, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for a Maryland Trauma Specialty Referral Center; and

5. A. A Level II trauma center is eligible for a maximum of 24,500 hours of trauma on–call per year;

B. A Level III trauma center is eligible for a maximum of 35,040 hours of trauma on–call per year;

C. A Level I trauma center shall be eligible for a maximum of 4,380 hours of trauma on–call per year;

D. A pediatric trauma center shall be eligible for a maximum of 4,380 hours of trauma on–call per year; and

E. A Maryland Trauma Specialty Referral Center shall be eligible for a maximum of 2,190 hours of trauma on–call per year;

(ii) The cost of undercompensated care incurred by a trauma physician in providing trauma care to enrollees of the Maryland Medical Assistance Program who are trauma patients on the State trauma registry shall be reimbursed at a rate of up to 100% of the Medicare payment for the service, minus any amount paid by the Maryland Medical Assistance Program;

(iii) The cost of uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry shall be reimbursed at a rate of 100% of the Medicare payment for the service, minus any recoveries made by the trauma physician for the care;

(iv) The Commission, in consultation with the Health Services Cost Review Commission, may establish a payment rate for uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry that is above 100% of the Medicare payment for the service if:

1. The Commission determines that increasing the payment rate above 100% of the Medicare payment for the service will address an unmet need in the State trauma system; and

2. The Commission reports on its intention to increase the payment rate to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, at least 60 days before any adjustment to the rate; **[**and**]**

(V) THE COMMISSION SHALL DEVELOP GUIDELINES FOR THE REIMBURSEMENT OF THE DOCUMENTED COSTS OF THE STATE PRIMARY ADULT RESOURCE CENTER UNDER SUBSECTION (B)(2)(IV) OF THIS SECTION; AND

[(v)**] (VI)** The total reimbursement to emergency physicians from the Fund may not exceed $300,000 annually.

(5) In order to receive reimbursement, a trauma physician in the case of costs of uncompensated care under subsection (b)(2)(i) of this section, or a trauma center in the case of on–call costs under subsection (b)(2)(iii) of this section, shall apply to the Fund on a form and in a manner approved by the Commission and the Health Services Cost Review Commission.

(6) (i) The Commission and the Health Services Cost Review Commission shall adopt regulations that specify the information that trauma physicians and trauma centers must submit to receive money from the Fund.

(ii) The information required shall include:

1. The name and federal tax identification number of the trauma physician rendering the service;

2. The date of the service;

3. Appropriate codes describing the service;

4. Any amount recovered for the service rendered;

5. The name of the trauma patient;

6. The patient's trauma registry number; and

7. Any other information the Commission and the Health Services Cost Review Commission consider necessary to disburse money from the Fund.

(iii) It is the intent of the General Assembly that trauma physicians and trauma centers shall cooperate with the Commission and the Health Services Cost

Review Commission by providing information required under this paragraph in a timely and complete manner.

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

Approved by the Governor, May 13, 2019.

Chapter 395

(House Bill 607)

AN ACT concerning

Maryland Trauma Fund – State Primary Adult Resource Center – Reimbursement of On–Call and Standby Costs

FOR the purpose of altering the purpose of the Maryland Trauma Physician Services Fund to include subsidizing the documented costs incurred by the State primary adult resource center to maintain certain on–call and standby health care providers; requiring the Maryland Health Care Commission to develop certain guidelines for the reimbursement of certain costs; and generally relating to reimbursement of on–call and standby costs incurred by the State primary adult resource center.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–130(a)(1) and (5)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–130(b) and (d)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

19–130.

(a) (1) In this section the following words have the meanings indicated.

(5) (i) "Trauma center" means a facility designated by the Maryland Institute for Emergency Medical Services Systems as:

1. The State primary adult resource center;

2. A Level I trauma center;

3. A Level II trauma center;

4. A Level III trauma center;

5. A pediatric trauma center; or

6. The Maryland Trauma Specialty Referral Centers.

(ii) "Trauma center" includes an out–of–state pediatric trauma center that has entered into an agreement with the Maryland Institute for Emergency Medical Services Systems.

(b) (1) There is a Maryland Trauma Physician Services Fund.

(2) The purpose of the Fund is to subsidize the documented costs:

(i) Of uncompensated care incurred by a trauma physician in providing trauma care to a trauma patient on the State trauma registry;

(ii) Of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry;

(iii) Incurred by a trauma center to maintain trauma physicians on–call as required by the Maryland Institute for Emergency Medical Services Systems; **[**and**]**

(IV) INCURRED BY THE STATE PRIMARY ADULT RESOURCE CENTER TO MAINTAIN TRAUMA SURGEONS, ORTHOPEDIC SURGEONS, NEUROSURGEONS, AND ANESTHESIOLOGISTS ON–CALL AND ON STANDBY AS REQUIRED BY THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS; AND

[(iv)**] (V)** Incurred by the Commission and the Health Services Cost Review Commission to administer the Fund and audit reimbursement requests to assure appropriate payments are made from the Fund.

(3) The Commission and the Health Services Cost Review Commission shall administer the Fund.

(4) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(5) Interest on and other income from the Fund shall be separately accounted for and credited to the Fund, and are not subject to § 6–226(a) of the State Finance and Procurement Article.

(d) (1) Disbursements from the Fund shall be made in accordance with a methodology established jointly by the Commission and the Health Services Cost Review Commission to calculate costs incurred by trauma physicians and trauma centers that are eligible to receive reimbursement under subsection (b) of this section.

(2) The Fund shall transfer to the Maryland Department of Health an amount sufficient to fully cover the State's share of expenditures for the costs of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry.

(3) The methodology developed under paragraph (1) of this subsection shall:

(i) Take into account:

1. The amount of uncompensated care provided by trauma physicians;

2. The amount of undercompensated care attributable to the treatment of Medicaid enrollees in trauma centers;

3. The cost of maintaining trauma physicians on–call;

4. The number of patients served by trauma physicians in trauma centers;

5. The number of Maryland residents served by trauma physicians in trauma centers; and

6. The extent to which trauma–related costs are otherwise subsidized by hospitals, the federal government, and other sources; and

(ii) Include an incentive to encourage hospitals to continue to subsidize trauma–related costs not otherwise included in hospital rates.

(4) The methodology developed under paragraph (1) of this subsection shall use the following parameters to determine the amount of reimbursement made to trauma physicians and trauma centers from the Fund:

(i) 1. The cost incurred by a Level II trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on–call shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on–call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level II trauma centers;

2. The cost incurred by a Level III trauma center to maintain trauma surgeons, orthopedic surgeons, neurosurgeons, and anesthesiologists on–call shall be reimbursed:

A. At a rate of up to 35% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on–call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level III trauma centers;

3. The cost incurred by a Level I trauma center or pediatric trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on–call when a post–graduate resident is attending in the trauma center shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. When a post–graduate resident is permitted to be in the trauma center, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level I trauma centers or pediatric trauma centers;

4. The cost incurred by a Maryland Trauma Specialty Referral Center to maintain trauma surgeons on–call in the specialty of the Center when a post–graduate resident is attending in the Center shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and

Medicaid Services; and

B. When a post–graduate resident is permitted to be in the Center, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for a Maryland Trauma Specialty Referral Center; and

5. A. A Level II trauma center is eligible for a maximum of 24,500 hours of trauma on–call per year;

B. A Level III trauma center is eligible for a maximum of 35,040 hours of trauma on–call per year;

C. A Level I trauma center shall be eligible for a maximum of 4,380 hours of trauma on–call per year;

D. A pediatric trauma center shall be eligible for a maximum of 4,380 hours of trauma on–call per year; and

E. A Maryland Trauma Specialty Referral Center shall be eligible for a maximum of 2,190 hours of trauma on–call per year;

(ii) The cost of undercompensated care incurred by a trauma physician in providing trauma care to enrollees of the Maryland Medical Assistance Program who are trauma patients on the State trauma registry shall be reimbursed at a rate of up to 100% of the Medicare payment for the service, minus any amount paid by the Maryland Medical Assistance Program;

(iii) The cost of uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry shall be reimbursed at a rate of 100% of the Medicare payment for the service, minus any recoveries made by the trauma physician for the care;

(iv) The Commission, in consultation with the Health Services Cost Review Commission, may establish a payment rate for uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry that is above 100% of the Medicare payment for the service if:

1. The Commission determines that increasing the payment rate above 100% of the Medicare payment for the service will address an unmet need in the State trauma system; and

2. The Commission reports on its intention to increase the payment rate to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, at least 60 days before any adjustment to the rate; **[**and**]**

(V) THE COMMISSION SHALL DEVELOP GUIDELINES FOR THE

REIMBURSEMENT OF THE DOCUMENTED COSTS OF THE STATE PRIMARY ADULT RESOURCE CENTER UNDER SUBSECTION (B)(2)(IV) OF THIS SECTION; AND

[(v)**] (VI)** The total reimbursement to emergency physicians from the Fund may not exceed $300,000 annually.

(5) In order to receive reimbursement, a trauma physician in the case of costs of uncompensated care under subsection (b)(2)(i) of this section, or a trauma center in the case of on–call costs under subsection (b)(2)(iii) of this section, shall apply to the Fund on a form and in a manner approved by the Commission and the Health Services Cost Review Commission.

(6) (i) The Commission and the Health Services Cost Review Commission shall adopt regulations that specify the information that trauma physicians and trauma centers must submit to receive money from the Fund.

(ii) The information required shall include:

1. The name and federal tax identification number of the trauma physician rendering the service;

2. The date of the service;

3. Appropriate codes describing the service;

4. Any amount recovered for the service rendered;

5. The name of the trauma patient;

6. The patient's trauma registry number; and

7. Any other information the Commission and the Health Services Cost Review Commission consider necessary to disburse money from the Fund.

(iii) It is the intent of the General Assembly that trauma physicians and trauma centers shall cooperate with the Commission and the Health Services Cost Review Commission by providing information required under this paragraph in a timely and complete manner.

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

Approved by the Governor, May 13, 2019.

Chapter 396

(House Bill 1169)

AN ACT concerning

Business Regulation – Tobacco Products and Electronic Smoking Devices – Revisions

FOR the purpose of ~~increasing the amount of certain license fees;~~ requiring certain licensees to post a certain sign in a certain location; altering the minimum age for an individual to purchase or be sold tobacco products; *exempting certain individuals from a certain minimum age requirement for an individual to purchase or be sold tobacco products;* authorizing the Maryland Department of Health to conduct certain inspections of licensed retailers for a certain purpose; authorizing the Department to use certain individuals to assist in conducting a certain inspection; prohibiting the sale of tobacco products through a vending machine unless it is located in a certain establishment; renaming electronic nicotine delivery systems to be electronic smoking devices; prohibiting repealing certain provisions of law authorizing an affirmative defense for examining employer and school identifications; repealing a provision of law prohibiting an underage individual from using or possessing tobacco products or obtaining tobacco products with false identification; requiring certain retailers to pay for certain civil fines on behalf of certain other individuals; altering the definitions of certain terms; making conforming changes; and generally relating to tobacco products.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section ~~16–204(b),~~ 16–209, 16–302, 16–3A–01, and 16–3A–02~~, and 16.5–203(b)~~; and 16.7–101, 16.7–102, 16.7–201 through 16.7–204, 16.7–206, 16.7–207, 16.7–209(e), 16.7–211, and 16.7–213 to be under the amended title "Title 16.7. Electronic Smoking Devices Licenses"
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – Business Regulation
Section 16–308.2, 16.5–214.1, 16.5–217.1, 16.7–204.1, and 16.7–213.1
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–101 and 10–107
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing
Article – Criminal Law
Section 10–108
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–1001(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–1001(u), 13–1015, 24–305(b), (c), and (d), and 24–307(a) through (d)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Local Government
Section 1–1201 and 1–1203(c) and (d)
Annotated Code of Maryland
(2013 Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Local Government
Section 1–1203(a)
Annotated Code of Maryland
(2013 Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–317(f)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

~~16–204.~~

~~(b) (1) An applicant for a license to act as a retailer shall:~~

~~(i) obtain the county license required under § 16–301 of this title;~~

~~(ii) submit to the clerk an application for each permanent or temporary place of business located in the same enclosure and operated by the same applicant; and~~

~~(iii) pay to the clerk a fee of~~ **[**~~$30~~**] $300**~~.~~

~~(2) The application shall:~~

~~(i) be made on the form that the clerk requires; and~~

~~(ii) contain the information that the Comptroller requires.~~

16–209.

(a) A licensee shall display a license in the way that the Comptroller requires by regulation.

(b) A licensee who sells cigarettes through a vending machine:

(1) shall place each package of cigarettes in the machine so that when the package is visible the tax stamps required by § 12–304 of the Tax – General Article are also visible; and

(2) in the way that the Comptroller requires by regulation, shall:

(i) identify each vending machine with a conspicuous label that states the licensee's name, address, and telephone number; and

(ii) display on a conspicuous label applicable prohibitions and penalties under § 10–107 of the Criminal Law Article.

(C) (1) A LICENSEE SHALL POST A SIGN IN A LOCATION THAT IS CLEARLY VISIBLE TO THE CONSUMER THAT STATES:

"NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS *WITHOUT MILITARY IDENTIFICATION*".

(2) THE SIGN REQUIRED UNDER THIS SUBSECTION SHALL BE WRITTEN IN LETTERS AT LEAST ONE–HALF INCH HIGH.

16–302.

(a) For each county license, an applicant shall:

(1) submit an application to the clerk; and

(2) pay to the clerk a license fee of:

(i) $25 in a county other than Cecil County or Montgomery County;

(ii) $50 in Cecil County; or

(iii) $125 in Montgomery County.

(b) (1) From each license fee collected under subsection (a) of this section, the Clerk of the Circuit Court for Montgomery County shall distribute:

(i) $25 to the Comptroller; and

(ii) $100 to Montgomery County to be used to enforce existing laws banning the sale or distribution of tobacco or tobacco products to **[**minors**]** **INDIVIDUALS UNDER THE AGE OF 21 YEARS**.

(2) Funds distributed under paragraph (1)(ii) of this subsection may not be used to supplant existing funding for the enforcement of laws banning the sale or distribution of tobacco or tobacco products to **[**minors**]** **INDIVIDUALS UNDER THE AGE OF 21 YEARS**.

16–308.2.

(A) THE MARYLAND DEPARTMENT OF HEALTH MAY CONDUCT UNANNOUNCED INSPECTIONS OF A LICENSED RETAILER TO ENSURE THE LICENSEE'S COMPLIANCE WITH THE PROVISIONS OF THIS TITLE AND § 10–107 OF THE CRIMINAL LAW ARTICLE.

(B) THE MARYLAND DEPARTMENT OF HEALTH MAY USE AN INDIVIDUAL UNDER THE AGE OF 21 YEARS TO ASSIST IN CONDUCTING AN INSPECTION UNDER THIS SECTION.

16–3A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) "Owner" means the person that owns or operates an establishment in which a vending machine is located.

(c) **(1)** "Tobacco product" means any **[**substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco**]** **PRODUCT THAT IS:**

(I) INTENDED FOR HUMAN INHALATION, ABSORPTION, INGESTION, SMOKING, HEATING, CHEWING, DISSOLVING, OR ANY OTHER MANNER OF CONSUMPTION THAT IS MADE OF, DERIVED FROM, OR CONTAINS:

1. TOBACCO; OR

2. NICOTINE; OR

(II) AN ACCESSORY OR A COMPONENT USED IN ANY MANNER OF CONSUMPTION OF A PRODUCT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) "TOBACCO PRODUCT" INCLUDES:

(I) CIGARETTES, CIGARS, PIPE TOBACCO, CHEWING TOBACCO, SNUFF, AND SNUS;

(II) ELECTRONIC SMOKING DEVICES; AND

(III) FILTERS, ROLLING PAPERS, PIPES, AND LIQUIDS USED IN ELECTRONIC SMOKING DEVICES REGARDLESS OF NICOTINE CONTENT.

(3) "TOBACCO PRODUCT" DOES NOT INCLUDE A DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(d) "Vending machine" means any mechanical, electronic, or similar self–service device that on insertion of a coin, coins, token, or other similar means dispenses a tobacco product.

16–3A–02.

A person may not sell or dispense or offer to sell or dispense a tobacco product through a vending machine in the State, unless the vending machine**[**:

(1)**]** is located in an establishment that **[**minors**]** **INDIVIDUALS UNDER THE AGE OF 21 YEARS** are prohibited by law from entering **[**or an establishment that is a bona fide fraternal or veterans organization; or

(2) can only be operated with a token, card, or similar device that an individual can only obtain or purchase from the owner or an employee or agent of the owner**]** **AT ANY TIME**.

~~16.5–203.~~

~~(b) (1) An applicant for a license to act as an other tobacco products retailer or a tobacconist:~~

~~(i) shall obtain a county license by submitting to the clerk an application for each permanent or temporary place of business located in the same enclosure and operated by the same applicant; and~~

~~(ii) except as provided in paragraph (2) of this subsection, shall pay to the clerk a fee of~~ **[**~~$15~~**] $300**~~.~~

~~(2) A person who has a license issued under Title 16 of this article to act as a cigarette retailer or to act as a special cigarette retailer is not required to pay the license fee.~~

~~(3) The application shall:~~

~~(i) be made on the form that the clerk requires; and~~

~~(ii) contain the information that the Comptroller requires.~~

16.5–214.1.

(A) A LICENSED OTHER TOBACCO PRODUCTS RETAILER SHALL POST A SIGN IN A LOCATION THAT IS CLEARLY VISIBLE TO THE CONSUMER THAT STATES:

"NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS *WITHOUT MILITARY IDENTIFICATION*".

(B) THE SIGN REQUIRED UNDER THIS SECTION SHALL BE WRITTEN IN LETTERS AT LEAST ONE–HALF INCH HIGH.

16.5–217.1.

(A) THE MARYLAND DEPARTMENT OF HEALTH MAY CONDUCT UNANNOUNCED INSPECTIONS OF A LICENSED RETAILER TO ENSURE THE LICENSEE'S COMPLIANCE WITH THE PROVISIONS OF THIS TITLE AND § 10–107 OF THE CRIMINAL LAW ARTICLE.

(B) THE MARYLAND DEPARTMENT OF HEALTH MAY USE AN INDIVIDUAL UNDER THE AGE OF 21 YEARS TO ASSIST IN CONDUCTING AN INSPECTION UNDER THIS SECTION.

Title 16.7. Electronic **[**Nicotine Delivery Systems**] SMOKING DEVICES** Licenses.

16.7–101.

(a) In this title the following words have the meanings indicated.

(b) "County license" means a license issued by the clerk to sell electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to consumers in a county.

(c) (1) "Electronic **[**nicotine delivery system"**]** **SMOKING DEVICE"** means **[**an electronic**]** **A** device**[**, a component for an electronic device, or a product used to refill or resupply an electronic device**]** that can be used to deliver **AEROSOLIZED OR VAPORIZED** nicotine to an individual inhaling from the device.

(2) "Electronic **[**nicotine delivery system"**]** **SMOKING DEVICE"** includes**:**

(I) an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, **AN ELECTRONIC HOOKAH, A VAPE PEN,** and vaping liquid**; AND**

(II) ANY COMPONENT, PART, OR ACCESSORY OF SUCH A DEVICE REGARDLESS OF WHETHER OR NOT IT IS SOLD SEPARATELY, INCLUDING ANY SUBSTANCE INTENDED TO BE AEROSOLIZED OR VAPORIZED DURING USE OF THE DEVICE.

(3) "Electronic **[**nicotine delivery system"**]** **SMOKING DEVICE"** does not include**[**:

(i) a nicotine device that contains or delivers nicotine intended for human consumption if the device has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for that purpose;

(ii) cannabis oil or any other unlawful substance; or

(iii) an electronic device that is being used to deliver cannabis oil or another unlawful substance**]** **A DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT**.

(d) "Electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer" means a person that:

(1) manufactures, mixes, or otherwise produces electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** intended for sale in the State, including electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** intended for sale in the United States through an importer; and

(2) (i) sells electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to a consumer, if the consumer purchases or orders the **[**systems**]** **DEVICES** through the mail, a computer network, a telephonic network, or another electronic network, a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor, or a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer in the State;

(ii) if the electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer also holds a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or a vape shop vendor, sells electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to consumers located in the State; or

(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or vape shop vendor.

(e) "Electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer" means a person that:

(1) sells electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to consumers;

(2) holds electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** for sale to consumers; or

(3) unless otherwise prohibited or restricted under local law, this article, the Criminal Law Article, or § 24–305 of the Health – General Article, distributes sample electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to consumers in the State.

(f) "Electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor" means a person that:

(1) obtains at least 70% of its electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** from a holder of an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer license under this subtitle or a business entity located in the United States; and

(2) (i) holds electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** for sale to another person for resale; or

(ii) sells electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to another person for resale.

(g) "Electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer" means a person that:

(1) obtains at least 70% of its electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** from a business entity located in a foreign country; and

(2) (i) holds electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** for sale to another person for resale; or

(ii) sells electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to another person for resale.

(h) "License" means:

(1) a license issued by the Comptroller under § 16.7–203(a) of this title to:

(i) act as a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer;

(ii) act as a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor; or

(iii) act as a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer; or

(2) a license issued by the clerk under § 16.7–203(b) of this title to:

(i) act as a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer; or

(ii) act as a licensed vape shop vendor.

(i) "Sell" means to exchange or transfer, or to agree to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.

(j) "Vape shop vendor" means an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** business that derives at least 70% of its revenues, measured by average daily receipts, from the sale of electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** and related accessories.

(k) "Vaping liquid" means a liquid that:

(1) consists of propylene glycol, vegetable glycerin, or other similar substance;

(2) may or may not contain natural or artificial flavors;

(3) may or may not contain nicotine; and

(4) converts to vapor intended for inhalation when heated in an electronic device.

16.7–102.

(a) The Comptroller may delegate any power or duty of the Comptroller under this title.

(b) Any person licensed under Title 16 or Title 16.5 of this article, or an affiliate, as defined under § 16–402(c) of this article, of a person licensed under Title 16 of this article:

(1) is authorized to manufacture, distribute, or sell electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** pursuant to this title in the same capacity as the person is licensed under Title 16 or Title 16.5 of this article; and

(2) may not be required to obtain an additional license under this title.

16.7–201.

(a) A person must hold an appropriate license before the person may act as:

(1) an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer;

(2) an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer;

(3) an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor;

(4) an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer; or

(5) a vape shop vendor.

(b) A place of business in which a person acts as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or a vape shop vendor must hold an appropriate license.

16.7–202.

(a) (1) An applicant for a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer, electronic **[**nicotine delivery systems**]**

SMOKING DEVICES wholesaler distributor, or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer shall:

(i) obtain an appropriate county license by submitting an application to the Comptroller on the form and containing the information that the Comptroller requires;

(ii) indicate the licenses for which the applicant is applying; and

(iii) except as provided in paragraph (2) of this subsection, pay to the Comptroller a fee of $25 for each license for which the applicant applies.

(2) An applicant for a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer shall pay to the Comptroller a fee of ~~**[**~~$150~~**]**~~ ~~**$300**~~.

(b) (1) An applicant for a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or a vape shop vendor:

(i) shall obtain a county license by submitting to the clerk an application for each permanent or temporary place of business located in the same enclosure and operated by the same applicant; and

(ii) except as provided in paragraph (2) of this subsection, shall pay to the clerk a fee of ~~**[**~~$25~~**]**~~ ~~**$300**~~.

(2) The application shall:

(i) be made on the form that the clerk requires; and

(ii) contain the information that the Comptroller requires.

(c) A licensee shall display a license in the way that the Comptroller requires by regulation.

(d) If a person has had a license revoked under § 16.7–207 of this subtitle, the person may not reapply for a license within 1 year after the date when the prior license was revoked.

16.7–203.

(a) The Comptroller shall issue an appropriate license to each applicant that meets the requirements of this subtitle for a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer, electronic **[**nicotine delivery systems**]**

SMOKING DEVICES wholesaler distributor, or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer.

(b) The clerk shall issue to each applicant that meets the requirements of this subtitle a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or a vape shop vendor.

(c) The clerk shall forward a copy of an application received for each license issued under subsection (b) of this section to the Comptroller within 30 days of issuance of the license.

16.7–204.

(a) An electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer license authorizes the licensee to:

(1) sell electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to:

(i) a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler located in the State;

(ii) an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler or retailer located outside the State if the electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** may be sold lawfully in Maryland;

(iii) a licensed vape shop vendor; and

(iv) a consumer if:

1. the licensee manufactured the **[**systems**]** **DEVICES**; and

2. the consumer purchases or orders the **[**systems**]** **DEVICES** through the mail, a computer network, a telephonic network, or another electronic network;

(2) if the electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer licensee also holds a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or a vape shop vendor, transfer electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to inventory for sale under the retail license or vape shop license; and

(3) except as otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distribute electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** products to a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or vape shop vendor.

(b) An electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer license authorizes the licensee to:

(1) sell electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to consumers;

(2) buy electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** from an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer;

(3) if the electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer licensee also holds a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer, sell at retail electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufactured under the manufacturer license; and

(4) except as otherwise prohibited or restricted under local law, this article, the Criminal Law Article, or § 24–305 of the Health – General Article, distribute sample electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** products to consumers in the State.

(c) An electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor license or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer license authorizes the licensee to:

(1) sell electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailers and vape shop vendors;

(2) buy electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** directly from an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer and an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer;

(3) hold electronic **[**nicotine delivery systems**]** **SMOKING DEVICES**; and

(4) sell electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to another licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer.

(d) A vape shop vendor license authorizes the licensee to:

(1) sell electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** as a vape shop vendor;

(2) if the vape shop vendor licensee also holds a license to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer, sell at retail electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufactured under the manufacturer license; and

(3) buy electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** from an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer, an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor, or an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer.

16.7–204.1.

(A) A RETAIL LICENSEE SHALL POST A SIGN IN A LOCATION THAT IS CLEARLY VISIBLE TO THE CONSUMER THAT STATES:

"NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS *WITHOUT MILITARY IDENTIFICATION*".

(B) THE SIGN REQUIRED UNDER THIS SECTION SHALL BE WRITTEN IN LETTERS AT LEAST ONE–HALF INCH HIGH.

16.7–206.

(a) (1) A licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or a licensed vape shop vendor may not assign the license.

(2) If a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer sells the licensee's electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** business and pays to the Comptroller a license assignment fee of $10, the licensee may assign the license to the buyer of the business if the buyer otherwise qualifies under this title for an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler's distributor or importer license.

(b) If the electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** business of a licensee is transferred because of bankruptcy, death, incompetency, receivership, or otherwise by operation of law, the Comptroller shall transfer the license without charge to the new owner of the licensee's business if the transferee otherwise qualifies under this title for the license being transferred.

(c) (1) If a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor or electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler importer surrenders the license to the Comptroller and if no disciplinary proceedings are pending against the licensee, the Comptroller shall refund a pro rata portion of the license fee for the unexpired term of the license.

(2) A licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer or a licensed vape shop vendor is not allowed a refund for the unexpired term of the license.

16.7–207.

(a) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or another person;

(2) fraudulently or deceptively uses a license;

(3) buys electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** for resale:

(i) in violation of a license; or

(ii) from a person that is not a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer or a licensed electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler;

(4) is convicted, under the laws of the United States or of any other state, of:

(i) a felony; or

(ii) a misdemeanor that is a crime of moral turpitude and is directly related to the fitness and qualification of the applicant or licensee;

(5) violates federal, State, or local law regarding the sale of electronic **[**nicotine delivery systems**]** **SMOKING DEVICES**; or

(6) violates this title, Title 16, or Title 16.5 of this article or regulations adopted under these titles.

(b) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Comptroller shall deny a license to any applicant that has had a license revoked under this section until:

(1) 1 year has passed since the license was revoked; and

(2) it satisfactorily appears to the Comptroller that the applicant will comply with this title and any regulations adopted under this title.

(c) Prior to the issuance or renewal of any license, the Comptroller shall conduct an investigation with regard to:

(1) the applicant;

(2) the business to be operated; and

(3) the facts set forth in the application.

16.7–209.

(e) (1) (i) Except as provided in subparagraph (ii) of this paragraph, if a license issued under the provisions of this subtitle is suspended or revoked by the Comptroller, the licensee may, before the effective date of the suspension or revocation, petition the Comptroller for permission to make an offer of compromise consisting of a sum of money in lieu of serving the suspension or revocation.

(ii) Subparagraph (i) of this paragraph does not apply if a license is suspended or revoked for a violation of § 24–305 of the Health – General Article, or any other federal, State, or local law prohibiting the sale of electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** to **[**minors**]** **INDIVIDUALS UNDER THE AGE OF 21 YEARS**.

(2) Money paid in lieu of suspension or revocation shall be paid into the General Fund of the State.

(3) An offer of compromise may not exceed $2,000 for retail licensees or $50,000 for other licensees.

(4) The Comptroller may accept the offer of compromise if:

(i) the public welfare and morals would not be impaired by allowing the licensee to operate during the period set for the suspension or revocation; and

(ii) the payment of the sum of money will achieve the desired disciplinary purposes.

(5) The Comptroller may adopt regulations to carry out this subsection.

16.7–211.

(a) A person may not act, attempt to act, or offer to act as an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** manufacturer, an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** retailer, an electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** wholesaler distributor, an electronic **[**nicotine delivery systems**]** **SMOKING**

DEVICES wholesaler importer, or a vape shop vendor in the State unless the person has an appropriate license.

(b) (1) A person that violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 30 days or both.

(2) Each day that a violation of this section continues is a separate offense.

16.7–213.

(a) A person may not ship, import, or sell into or within the State any electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** unless the person holds any license required by this subtitle.

(b) A person that ships, imports, or sells electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** into or within the State:

(1) shall comply with any federal and State requirements concerning the placement of warning labels or other information on the containers or individual packages of electronic **[**nicotine delivery systems**]** **SMOKING DEVICES**; and

(2) shall ensure that the containers or individual packages of electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** do not contain any information or markings that are false, misleading, or contrary to:

(i) federal trademark laws; or

(ii) the trademark law of the State under Title 1, Subtitle 4 of this article.

(c) A person that ships, imports, or sells electronic **[**nicotine delivery systems**]** **SMOKING DEVICES** into or within the State in violation of this section is subject to disciplinary action by the Comptroller under § 16.7–207 of this subtitle.

16.7–213.1.

(A) THE MARYLAND DEPARTMENT OF HEALTH MAY CONDUCT UNANNOUNCED INSPECTIONS OF LICENSED RETAILERS TO ENSURE THE LICENSEE'S COMPLIANCE WITH THE PROVISIONS OF THIS TITLE AND § 10–107 OF THE CRIMINAL LAW ARTICLE.

(B) THE MARYLAND DEPARTMENT OF HEALTH MAY USE AN INDIVIDUAL UNDER THE AGE OF 21 YEARS TO ASSIST IN CONDUCTING AN INSPECTION UNDER THIS SECTION.

Article – Criminal Law

10–101.

(a) In this part the following words have the meanings indicated.

(b) "Distribute" means to:

(1) give, sell, deliver, dispense, issue, or offer to give, sell, deliver, dispense, or issue; or

(2) cause or hire a person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense, or issue.

(c) (1) "Tobacco paraphernalia" means any object used, intended for use, or designed for use in inhaling or otherwise introducing tobacco products into the human body.

(2) "Tobacco paraphernalia" includes:

(i) a cigarette rolling paper;

(ii) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without screen, permanent screen, or punctured metal bowl;

(iii) a water pipe;

(iv) a carburetion tube or device;

(v) a smoking or carburetion mask;

(vi) an object known as a roach clip used to hold burning material, such as a cigarette that has become too small or too short to be held in the hand;

(vii) a chamber pipe;

(viii) a carburetor pipe;

(ix) an electric pipe;

(x) an air–driven pipe;

(xi) a chillum;

(xii) a bong; and

(xiii) an ice pipe or chiller.

(d) (1) "Tobacco product" means a **[**substance containing tobacco**]** **PRODUCT THAT IS:**

(I) INTENDED FOR HUMAN INHALATION, ABSORPTION, INGESTION, SMOKING, HEATING, CHEWING, DISSOLVING, OR ANY OTHER MANNER OF CONSUMPTION THAT IS MADE OF, DERIVED FROM, OR CONTAINS:

1. TOBACCO; OR

2. NICOTINE; OR

(II) AN ACCESSORY OR A COMPONENT USED IN ANY MANNER OF CONSUMPTION OF A PRODUCT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) "Tobacco product" includes**:**

(I) cigarettes, cigars, **[**smoking tobacco,**]** **PIPE TOBACCO, CHEWING TOBACCO,** snuff, **[**smokeless tobacco,**]** and **[**candy–like products that contain tobacco**]** **SNUS;**

(II) ELECTRONIC SMOKING DEVICES; AND

(III) FILTERS, ROLLING PAPERS, PIPES, AND LIQUIDS USED IN ELECTRONIC SMOKING DEVICES REGARDLESS OF NICOTINE CONTENT.

(3) "TOBACCO PRODUCT" DOES NOT INCLUDE A DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(e) "Venereal disease" includes gonorrhea, syphilis, chancroid, and any diseased condition of the human genitalia caused by, related to, or resulting from a venereal disease.

10–107.

(a) This section does not apply to the distribution of a coupon that is redeemable for a tobacco product, if the coupon is:

(1) contained in a newspaper, magazine, or other type of publication in which the coupon is incidental to the primary purpose of the publication; or

(2) sent through the mail.

(b) (1) This subsection does not apply to the distribution of a tobacco product**[**,**]** **OR** tobacco paraphernalia**[**, or an electronic nicotine delivery system**]** to**:**

(I) **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** who is acting solely as the agent of the **[**minor's**]** **INDIVIDUAL'S** employer if the employer distributes tobacco products**[**,**]** **OR** tobacco paraphernalia**[**, or electronic nicotine delivery systems**]** for commercial purposes~~.~~***; OR***

(II) A PURCHASER OR RECIPIENT WHO:

1. IS AT LEAST 18 YEARS OF AGE;

2. IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

3. PRESENTS A VALID MILITARY IDENTIFICATION.

(2) A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS**:

(i) a tobacco product;

(ii) tobacco paraphernalia; **OR**

(iii) a coupon redeemable for a tobacco product**[**; or

(iv) an electronic nicotine delivery system, as defined in § 16.7–101 of the Business Regulation Article**]**.

(c) A person not described in subsection (b)(2) of this section may not:

(1) purchase for or sell a tobacco product **[**or an electronic nicotine delivery system**]** to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS*, UNLESS THE INDIVIDUAL:***

(I) IS AT LEAST 18 YEARS OF AGE;

(II) IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

(III) PRESENTS A VALID MILITARY IDENTIFICATION; or

(2) distribute tobacco paraphernalia to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS*, UNLESS THE INDIVIDUAL:***

(I) IS AT LEAST 18 YEARS OF AGE;

(II) IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

(III) PRESENTS A VALID MILITARY IDENTIFICATION.

(d) In a prosecution for a violation of this section, it is a defense that the defendant examined the purchaser's or recipient's driver's license or other valid identification issued by **[**an employer,**]** **A** government unit**[**, or institution of higher education**]** that positively identified the purchaser or recipient as at least **[**18**]** **21** years of age ***OR AS AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY***.

(e) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(i) $300 for a first violation;

(ii) $1,000 for a second violation occurring within 2 years after the first violation; and

(iii) $3,000 for each subsequent violation occurring within 2 years after the preceding violation.

(2) Issuance of a civil citation for the sale of a tobacco product **[**or an electronic nicotine delivery system**]** to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** precludes a prosecution for a violation of § 24–307 of the Health – General Article arising out of the same violation.

(f) For purposes of this section, each separate incident at a different time and occasion is a violation.

[10–108.

(a) In this section, "violation" has the meaning stated in § 3–8A–01 of the Courts Article.

(b) This section does not apply to the possession of a tobacco product, cigarette rolling paper, or an electronic nicotine delivery system by a minor who is acting as the agent of the minor's employer within the scope of employment.

(c) A minor may not:

(1) use or possess a tobacco product, cigarette rolling paper, or an electronic nicotine delivery system; or

(2) obtain or attempt to obtain a tobacco product, cigarette rolling paper, or an electronic nicotine delivery system by using a form of identification that:

(i) is falsified; or

(ii) identifies an individual other than the minor.

(d) (1) A violation of this section is a civil offense.

(2) A minor who violates this section is subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

(e) A law enforcement officer authorized to make arrests shall issue a citation to a minor if the law enforcement officer has probable cause to believe that the minor is committing or has committed a violation of this section.**]**

Article – Health – General

13–1001.

(a) In this subtitle the following words have the meanings indicated.

(u) **(1)** "Tobacco product" **[**includes cigars, cigarettes, pipe tobacco, and smokeless tobacco**]** **MEANS ANY PRODUCT THAT IS:**

(I) INTENDED FOR HUMAN INHALATION, ABSORPTION, INGESTION, SMOKING, HEATING, CHEWING, DISSOLVING, OR ANY OTHER MANNER OF CONSUMPTION THAT IS MADE OF, DERIVED FROM, OR CONTAINS:

1. TOBACCO; OR

2. NICOTINE; OR

(II) AN ACCESSORY OR COMPONENT USED IN ANY MANNER OF CONSUMPTION OF A PRODUCT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) "TOBACCO PRODUCT" INCLUDES:

(I) CIGARETTES, CIGARS, PIPE TOBACCO, CHEWING TOBACCO, SNUFF, AND SNUS;

(II) ELECTRONIC SMOKING DEVICES; AND

(III) FILTERS, ROLLING PAPERS, PIPES, AND LIQUIDS USED IN ELECTRONIC SMOKING DEVICES REGARDLESS OF NICOTINE CONTENT.

(3) "TOBACCO PRODUCT" DOES NOT INCLUDE A DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

13–1015.

(a) For fiscal year 2011 and fiscal year 2012, the Governor shall include at least $6,000,000 in the annual budget in appropriations for activities aimed at reducing tobacco use in Maryland as recommended by the Centers for Disease Control and Prevention, including:

(1) Media campaigns aimed at reducing smoking initiation and encouraging smokers to quit smoking;

(2) Media campaigns educating the public about the dangers of secondhand smoke exposure;

(3) Enforcement of existing laws banning the sale or distribution of tobacco products to **[**minors**]** **INDIVIDUALS UNDER THE AGE OF 21 YEARS**;

(4) Promotion and implementation of smoking cessation programs; and

(5) Implementation of school–based tobacco education programs.

(b) For fiscal year 2013 and each fiscal year thereafter, the Governor shall include at least $10,000,000 in the annual budget in appropriations for the purposes described in subsection (a) of this section.

24–305.

(b) (1) Except as provided in paragraph (2) of this subsection, a person may not sell, distribute, or offer for sale to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** an electronic **[**nicotine delivery system**]** **SMOKING DEVICE**, as defined in § 16.7–101(c) of the Business Regulation Article.

(2) This subsection does not apply to ~~an~~***:***

(I) AN electronic **[**nicotine delivery system**]** **SMOKING DEVICE** that contains or delivers nicotine intended for human consumption if the device has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for this purpose~~.~~***; OR***

(II) A PURCHASER OR RECIPIENT WHO:

1. IS AT LEAST 18 YEARS OF AGE;

2. IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

3. PRESENTS A VALID MILITARY IDENTIFICATION.

(c) (1) A person that violates this section is subject to a civil penalty not exceeding:

(i) $300 for a first violation;

(ii) $1,000 for a second violation occurring within 24 months after the first violation; and

(iii) $3,000 for each subsequent violation occurring within 24 months after the preceding violation.

(2) Issuance of a civil citation for a violation of this section precludes prosecution under § 10–107 of the Criminal Law Article arising out of the same violation.

(3) IF A VIOLATION IS COMMITTED BY A PERSON ACTING ON BEHALF OF A RETAILER, THE CIVIL PENALTY IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PAID BY THE RETAILER.

(d) In a prosecution for a violation of this section, it is a defense that the defendant examined the purchaser's or recipient's driver's license or other valid identification issued by **[**an employer,**]** A government unit**[**, or institution of higher education**]** that positively identified the purchaser or recipient as at least **[**18**]** **21** years of age ***OR AS AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY***.

24–307.

(a) (1) This section does not apply to the distribution of a coupon that is redeemable for a tobacco product if the coupon is:

(i) Contained in a newspaper, a magazine, or any other type of publication in which the coupon is incidental to the primary purpose of the publication; or

(ii) Sent through the mail.

(2) This section does not apply to the distribution of a tobacco product or tobacco paraphernalia to **[**a minor**]** ~~AN~~***:***

(I) AN **INDIVIDUAL UNDER THE AGE OF 21 YEARS** who is acting solely as the agent of the **[**minor's**]** **INDIVIDUAL'S** employer if the employer distributes tobacco products or tobacco paraphernalia for commercial purposes~~.~~***; OR***

(II) A PURCHASER OR RECIPIENT WHO:

1. IS AT LEAST 18 YEARS OF AGE;

2. IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

3. PRESENTS A VALID MILITARY IDENTIFICATION.

(b) A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS**:

(1) A tobacco product;

(2) Tobacco paraphernalia; or

(3) A coupon redeemable for a tobacco product.

(c) (1) A person who violates subsection (b) of this section is subject to a civil penalty not exceeding:

(i) $300 for a first violation;

(ii) $1,000 for a second violation occurring within 24 months after the first violation; and

(iii) $3,000 for each subsequent violation occurring within 24 months after the preceding violation.

(2) The local health departments shall report violations of subsection (b) of this section to the Comptroller's Office.

(3) Issuance of a civil citation for a violation of this section precludes prosecution under § 10–107 of the Criminal Law Article arising out of the same violation.

(4) IF A VIOLATION IS COMMITTED BY A PERSON ACTING ON BEHALF OF A RETAILER, THE CIVIL PENALTY IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PAID BY THE RETAILER.

(d) In a prosecution for a violation of subsection (b) of this section, it is a defense that the defendant examined the purchaser's or recipient's driver's license or other valid identification issued by **[**an employer,**]** a governmental unit**[**, or an institution of higher education**]** that positively identified the purchaser or recipient as at least **[**18**]** **21** years old ***OR AS AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY***.

Article – Local Government

1–1201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Distribute" means to:

(1) give, sell, deliver, dispense, or issue;

(2) offer to give, sell, deliver, dispense, or issue; or

(3) cause or hire any person to give, sell, deliver, dispense, or issue or offer to give, sell, deliver, dispense, or issue.

(c) (1) "Tobacco product" means a product **[**containing tobacco**]** **THAT IS:**

(I) INTENDED FOR HUMAN INHALATION, ABSORPTION, INGESTION, SMOKING, HEATING, CHEWING, DISSOLVING, OR ANY OTHER MANNER OF CONSUMPTION THAT IS MADE OF, DERIVED FROM, OR CONTAINS:

1. TOBACCO; OR

2. NICOTINE; OR

(II) AN ACCESSORY OR A COMPONENT USED IN ANY MANNER OF CONSUMPTION OF A PRODUCT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) "Tobacco product" includes**:**

(I) cigarettes, cigars, **[**smoking tobacco,**]** **PIPE TOBACCO, CHEWING TOBACCO,** snuff, and **[**smokeless tobacco**]** **SNUS;**

(II) ELECTRONIC SMOKING DEVICES; AND

(III) FILTERS, ROLLING PAPERS, PIPES, AND LIQUIDS USED IN ELECTRONIC SMOKING DEVICES REGARDLESS OF NICOTINE CONTENT.

(3) "TOBACCO PRODUCT" DOES NOT INCLUDE A DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

1–1203.

(a) This section applies only in:

(1) Carroll County;

(2) Cecil County;

(3) Garrett County; and

(4) St. Mary's County.

(c) A person may not:

(1) distribute a tobacco product to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS**, unless***:***

(I) the **[**minor**]** **INDIVIDUAL** is acting solely as the agent of the **[**minor's**]** **INDIVIDUAL'S** employer who is engaged in the business of distributing tobacco products; ***OR***

(II) THE INDIVIDUAL:

1. IS AT LEAST 18 YEARS OF AGE;

2. IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

3. PRESENTS A VALID MILITARY IDENTIFICATION;

(2) distribute cigarette rolling papers to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS*, UNLESS THE INDIVIDUAL:***

(I) IS AT LEAST 18 YEARS OF AGE;

(II) IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

(III) PRESENTS A VALID MILITARY IDENTIFICATION; or

(3) distribute to **[**a minor**]** **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** a coupon redeemable for a tobacco product***, UNLESS THE INDIVIDUAL:***

(I) IS AT LEAST 18 YEARS OF AGE;

(II) IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

(III) PRESENTS A VALID MILITARY IDENTIFICATION.

(d) A person has not violated this section if:

(1) the person examined the driver's license or other valid government–issued identification presented by the recipient of a tobacco product, cigarette rolling paper, or coupon redeemable for a tobacco product; and

(2) the license or other identification positively identified the recipient as being at least **[**18**]** **21** years old ***OR AS BEING AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY***.

Article – State Finance and Procurement

7–317.

(f) (1) The Cigarette Restitution Fund shall be used to fund:

(i) the Tobacco Use Prevention and Cessation Program established under Title 13, Subtitle 10 of the Health – General Article;

(ii) the Cancer Prevention, Education, Screening, and Treatment Program established under Title 13, Subtitle 11 of the Health – General Article; and

(iii) other programs that serve the following purposes:

1. reduction of the use of tobacco products by **[**minors**]** **INDIVIDUALS UNDER THE AGE OF 21 YEARS**;

2. implementation of the Southern Maryland Regional Strategy–Action Plan for Agriculture adopted by the Tri–County Council for Southern Maryland with an emphasis on alternative crop uses for agricultural land now used for growing tobacco;

3. public and school education campaigns to decrease tobacco use with initial emphasis on areas targeted by tobacco manufacturers in marketing and promoting cigarette and tobacco products;

4. smoking cessation programs;

5. enforcement of the laws regarding tobacco sales;

6. the purposes of the Maryland Health Care Foundation under Title 20, Subtitle 5 of the Health – General Article;

7. primary health care in rural areas of the State and areas targeted by tobacco manufacturers in marketing and promoting cigarette and tobacco products;

8. prevention, treatment, and research concerning cancer, heart disease, lung disease, tobacco product use, and tobacco control, including operating costs and related capital projects;

9. substance abuse treatment and prevention programs; and

10. any other public purpose.

(2) The provisions of this subsection may not be construed to affect the Governor's powers with respect to a request for an appropriation in the annual budget bill.

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

Approved by the Governor, May 13, 2019.

Chapter 397

(House Bill 666)

AN ACT concerning

Alcoholic Beverages – Nonprofit Beer, Wine, and Liquor Festival Permit – Retail Off–Site Permit

FOR the purpose of altering a nonprofit beer festival permit to be a nonprofit beer, wine, and liquor festival permit; altering the scope of authorization, fee, and various requirements to establish the nonprofit beer, wine, and liquor festival permit; repealing a certain wine festival permit and a liquor festival permit; altering a farmers' market off–site permit to be a retail off–site permit; altering the scope of authorization, fee, and various requirements to establish the retail off–site permit; making conforming changes; defining a certain term; and generally relating to alcoholic beverages festivals and permits.

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 2–130(g), 2–131, 2–132.2(e), 2–133(e) and (f), 2–136, and 11–1304(g)
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY repealing
Article – Alcoholic Beverages
Section 2–132.3 and 2–134
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 11–102
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

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

Article – Alcoholic Beverages

2–130.

(g) A person that holds a brewing company off–site permit may use the permit at a nonprofit beer**, WINE, AND LIQUOR** festival that:

(1) has as its primary purpose the promotion of Maryland beer**, WINE, AND LIQUOR**; and

(2) is authorized by a local licensing board under § 2–131 of this subtitle.

2–131.

(a) **IN THIS SECTION, "OFF–SITE PERMIT" INCLUDES:**

(1) A BREWING COMPANY OFF–SITE PERMIT;

(2) A DISTILLERY OFF–SITE PERMIT;

(3) A RETAIL OFF–SITE PERMIT; AND

(4) A WINERY OFF–SITE PERMIT.

(B) There is a nonprofit beer**, WINE, AND LIQUOR** festival permit.

[(b)**] (C)** The Comptroller may issue the permit to a nonprofit organization, as defined by § 501(c) of the Internal Revenue Code, that meets the requirements of this section.

[(c)**] (D)** (1) The permit authorizes the permit holder to:

(i) conduct a nonprofit beer**, WINE, AND LIQUOR** festival for at least 1 day and not more than 3 consecutive days; **[**and**]**

(ii) purchase beer**, WINE, AND LIQUOR** at wholesale to:

1. provide to a consumer a sample that may not exceed**:**

A. FOR BEER, 4 fluid ounces for each offering; **[**and**]**

B. FOR WINE, 1 FLUID OUNCE FOR EACH OFFERING; AND

C. FOR LIQUOR, FOUR SAMPLES OF ONE–QUARTER OF 1 FLUID OUNCE FOR EACH OFFERING; AND

2. sell to a consumer beer**, WINE, AND LIQUOR** for on– and off–premises consumption**; AND**

(III) CONTRACT WITH A HOLDER OF A RETAIL OFF–SITE PERMIT TO OPERATE A SAMPLING AND SALES AREA.

(2) The permit holder shall provide space at a nonprofit beer**, WINE, AND LIQUOR** festival for holders of **[**brewing company**]** off–site permits.

(3) A holder of **[**a brewing company**] AN** off–site permit that attends a nonprofit beer**, WINE, AND LIQUOR** festival may provide beer**, WINE, AND LIQUOR** to a consumer in the same manner as the holder of the nonprofit beer**, WINE, AND LIQUOR** festival permit.

(4) The permit holder may provide or sell at the nonprofit beer**, WINE, AND LIQUOR** festival only alcoholic beverages provided by the permit holder or a holder of **[**a brewing company**] AN** off–site permit that is in attendance.

[(d)**] (E)** At all times during the nonprofit beer**, WINE, AND LIQUOR** festival, the permit holder shall have present at least two agents, one of whom may be the permit holder, who are certified by an approved alcohol awareness program.

[(e)**] (F)** (1) Not less than 30 days before the nonprofit beer**, WINE, AND LIQUOR** festival, a person shall submit an application to the Comptroller.

(2) The application shall:

(i) be on a form that the Comptroller provides;

(ii) state that the primary purpose of the nonprofit beer**, WINE, AND LIQUOR** festival is to promote Maryland beer**, WINE, AND LIQUOR**;

(iii) provide details of the nonprofit beer**, WINE, AND LIQUOR** festival, including the location, dates, and times of operation; and

(iv) include appropriate evidence that the applicant has been given permission by the owner of the property where the nonprofit beer**, WINE, AND LIQUOR** festival is to be held.

[(f)**] (G)** Not less than 15 days before the nonprofit beer**, WINE, AND LIQUOR**

festival, the permit holder shall provide the Comptroller with a list of **[**brewing company**]** off–site permit holders that will attend.

[(g)**] (H)** The permit fee is**:**

(1) $100**, TO PROMOTE A SINGLE PRODUCT CATEGORY;**

(2) $150, TO PROMOTE TWO PRODUCT CATEGORIES; AND

(3) $200, TO PROMOTE THREE PRODUCT CATEGORIES.

2–132.2.

(e) The permit may be used at the following events:

(1) the Frederick County Agricultural Fair;

(2) the Maryland State Agricultural Fair;

(3) the Montgomery County Agricultural Fair;

(4) the North Beach Friday Night Farmers' Market and four other farmers' markets that are listed on the farmers' market directory of the Maryland Department of Agriculture;

(5) a **NONPROFIT BEER, WINE, AND** liquor festival under § **[**2–132.3**] 2–131** of this subtitle; and

(6) not more than six other events in a year that have as the major purpose of the event an activity:

(i) that is other than the sale and promotion of alcoholic beverages; and

(ii) for which the participation of a distillery is a subordinate activity.

[2–132.3.

(a) There is a liquor festival permit.

(b) The Comptroller may grant the permit to a nonprofit organization, as defined by § 501(c) of the Internal Revenue Code, that meets the requirements of this section.

(c) (1) The permit authorizes the permit holder to:

(i) conduct a liquor festival for at least 1 day but not more than 3 consecutive days; and

(ii) purchase liquor at wholesale to:

1. provide to a consumer at no cost or for a fee not more than four samples that do not exceed one–quarter of 1 fluid ounce for each offering; and

2. sell to a consumer liquor for off–premises consumption.

(2) The permit holder shall provide space at a liquor festival for holders of distillery off–site permits.

(3) A holder of a distillery off–site permit that attends a liquor festival may provide liquor to a consumer in the same manner as the holder of the liquor festival permit.

(4) (i) The permit holder may provide or sell at the liquor festival only alcoholic beverages provided by the permit holder or a holder of a distillery off–site permit who is in attendance.

(ii) A sample may be served that is blended with products manufactured by a holder of a distillery off–site permit and nonalcoholic ingredients.

(d) At all times during the liquor festival, the permit holder shall have present at least two individuals, one of whom may be the permit holder, who are certified by an approved alcohol awareness program.

(e) (1) Not less than 30 days before the day the liquor festival is scheduled to begin, an applicant for the permit shall submit a completed application to the Comptroller.

(2) The application shall:

(i) be on a form that the Comptroller provides;

(ii) state that the primary purpose of the liquor festival is to promote Maryland liquor;

(iii) provide details of the liquor festival, including the location, dates, and times of operation; and

(iv) include appropriate evidence that the applicant has been given permission by the owner of the property where the liquor festival is to be held.

(f) Not less than 15 days before the liquor festival, the permit holder shall provide the Comptroller with a list of distillery off–site permit holders that will attend.

(g) The permit fee is $100.**]**

2–133.

(e) The permit may be used only:

(1) at the Montgomery County Agricultural Fair;

(2) at the Harford County Farm Fair;

(3) 1 night each week from June through November at the North Beach Friday Night Farmers' Market;

(4) at an event that has as its major purpose an activity:

(i) that is other than the sale and promotion of alcoholic beverages; and

(ii) for which the participation of a winery is a subordinate activity;

(5) at a farmers' market that is listed on the Farmers' Market Directory of the Maryland Department of Agriculture; and

(6) at a **NONPROFIT BEER,** wine**, AND LIQUOR** festival that:

(i) has as its primary purpose the promotion of Maryland **BEER,** wine**, AND LIQUOR**; and

(ii) is authorized by the Comptroller under § **[**2–134**]** **2–131** of this subtitle.

(f) Each calendar year, a permit holder may participate in no more than:

(1) 32 events described in subsection (e)(4) of this section or **NONPROFIT BEER,** wine**, AND LIQUOR** festivals described in § **[**2–134**]** **2–131** of this subtitle statewide; and

(2) nine events at any single venue.

[2–134.

(a) There is a wine festival permit.

(b) The Comptroller may issue the permit to a nonprofit organization, as defined by § 501(c) of the Internal Revenue Code, that meets the requirements of this section.

(c) (1) The permit authorizes the permit holder to:

(i) conduct a wine festival for at least 1 day but not more than 3 consecutive days; and

(ii) purchase wine at wholesale to:

1. provide to a consumer a sample that does not exceed 1 fluid ounce for each offering; and

2. sell to a consumer wine for on– and off–premises consumption.

(2) The permit holder shall provide space at a wine festival for holders of winery off–site permits.

(3) A holder of a winery off–site permit that attends a wine festival may provide wine to a consumer in the same manner as the holder of the wine festival permit.

(4) The permit holder may provide or sell at the wine festival only alcoholic beverages provided by the permit holder or a holder of a winery off–site permit that is in attendance.

(d) At all times during the wine festival, the permit holder shall have present at least two agents, one of whom may be the permit holder, who are certified by an approved alcohol awareness program.

(e) (1) Not less than 30 days before the wine festival, a person shall submit an application for the permit to the Comptroller.

(2) The application shall:

(i) be on a form that the Comptroller provides;

(ii) state that the primary purpose of the wine festival is to promote Maryland wine;

(iii) provide details of the wine festival, including the location, dates, and times of operation; and

(iv) include appropriate evidence that the applicant has been given permission by the owner of the property where the wine festival is to be held.

(f) Not less than 15 days before the wine festival, the permit holder shall provide the Comptroller with a list of winery off–site permit holders that will attend.

(g) The permit fee is $100.**]**

2–136.

(a) There is a **[**farmers' market**]** **RETAIL OFF–SITE** permit.

(b) (1) The Comptroller may issue the permit to a holder of a license **ISSUED BY A LOCAL LICENSING BOARD**:

(i) **[**other than a Class 4 limited winery license,**]** that allows the license holder to sell alcoholic beverages to the public for off–premises consumption; and

[(ii) that was issued by the local licensing board of the jurisdiction in which the farmers' market will be held.**]**

(II) OTHER THAN A CHAIN STORE.

(2) The holder of a permit shall notify the local licensing board of the jurisdiction in which the **[**farmers' market**]** **OFF–SITE EVENT** will be held that the permit has been issued.

(c) (1) A permit may be used only:

(i) at **[**a farmers' market that is**]** **NOT MORE THAN THREE FARMERS' MARKETS IN THE JURISDICTION IN WHICH THE LOCAL LICENSE HAS BEEN ISSUED, THAT ARE** listed in the farmers' market directory of the Maryland Department of Agriculture;

[(ii) at the farmers' market named in the permit; and**]**

(II) ON INVITATION BY A HOLDER OF A NONPROFIT BEER, WINE, AND LIQUOR FESTIVAL PERMIT, AT THE LOCATION OF THE PERMIT, IF THE FESTIVAL IS LOCATED IN THE JURISDICTION IN WHICH THE LOCAL LICENSE HAS BEEN ISSUED OR IN AN ADJOINING JURISDICTION; AND

(iii) during the hours of operation of the farmers' market **[**for which it is obtained**]** **OR THE NONPROFIT BEER, WINE, AND LIQUOR FESTIVAL**.

(2) A permit authorizes the holder to:

[(i) occupy stall space at a farmers' market; and

(ii) subject to subsection (e) of this subsection:

1. offer and sell sealed containers of wine to consumers for consumption off the licensed premises of the farmers' market; and**]**

(I) AT A FARMERS' MARKET, OFFER AND SELL BEER, WINE, AND LIQUOR PRODUCED BY STATE–LICENSED MANUFACTURERS TO CONSUMERS FOR CONSUMPTION OFF THE LICENSED PREMISES;

(II) AT A NONPROFIT BEER, WINE, AND LIQUOR FESTIVAL, OFFER AND SELL BEER, WINE, AND LIQUOR TO CONSUMERS FOR CONSUMPTION ON AND OFF THE LICENSED PREMISES; AND

[2.**] (III)** provide at no charge samples of**:**

1. BEER, NOT TO EXCEED 4 FLUID OUNCES;

2. wine**,** not to exceed 1 fluid ounce **[**for each offering to consumers for consumption on the licensed premises of the farmers' market**]; AND**

3. LIQUOR, NOT TO EXCEED FOUR SAMPLES THAT DO NOT EXCEED ONE–QUARTER OF 1 FLUID OUNCE.

[(d) The Comptroller may issue not more than one permit for use at each farmers' market.

(e) All wine offered for sale or samplings by the permit holder shall be the product of a Class 4 limited winery.**]**

(D) THE FEE IS $100.

11–102.

This title applies only in Anne Arundel County.

11–1304.

(g) (1) The license holder may hold another license of a different class or nature.

(2) The license holder may display and sell beer or wine at a festival without holding**[**:

(i)**]** a nonprofit beer**, WINE, AND LIQUOR** festival permit under § 2–131 of this article**[**; or

(ii) a wine festival permit under § 2–134 of this article**]**.

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

Approved by the Governor, May 13, 2019.

Chapter 398

(House Bill 245)

AN ACT concerning

Education – Student Data Privacy Council

FOR the purpose of establishing the Student Data Privacy Council; providing for the composition, chair, and staffing of the Council; prohibiting a member of the Council from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Council to study and make recommendations regarding certain matters; requiring the Council to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; defining a certain term; providing for the termination of this Act; and generally relating to the Student Data Privacy Council.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) In this section, "Council" means the Student Data Privacy Council.

(b) There is a Student Data Privacy Council.

(c) The Council consists of the following members:

(1) ~~two members~~ one member of the Senate of Maryland, appointed by the President of the Senate;

(2) ~~two members~~ one member of the House of Delegates, appointed by the Speaker of the House;

(3) the State Superintendent of Schools, or the Superintendent's designee;

(4) ~~the Attorney General, or the Attorney General's designee;~~

~~(5) the President of the State Board of Education, or the President's designee;~~

~~(6)~~ the Secretary of Information Technology, or the Secretary's designee;

~~(7)~~ (5) the Executive Director of the Public School Superintendents' Association of Maryland, or the Executive Director's designee;

~~(8)~~ (6) the Executive Director of the Maryland Association of Boards of Education, or the Executive Director's designee;

~~(9)~~ (7) the President of the Maryland State Education Association, or the President's designee;

~~(10)~~ (8) the President of the Maryland PTA, or the President's designee; and

~~(11)~~ (9) the following members appointed by the Chair of the Council:

(i) one School Data Privacy Officer, or the Officer's designee;

(ii) one School Information Technology Officer, or the Officer's designee;

(iii) ~~two representatives of companies, trade associations, or groups who have~~ one representative of a company, trade association, or group who has professional experience in the area of student data privacy or online educational technology services;

(iv) ~~two members~~ one member of the academic community who ~~study~~ studies K–12 student data privacy; ~~and~~

(v) ~~two advocates~~ one advocate for student data privacy who ~~do~~ does not have a professional relationship with a provider of online educational technology services*;*

(vi) one attorney who is knowledgeable in the laws and regulations that pertain to local school systems;

(vii) one school–based administrator from a public school in the State; and

(viii) one teacher from a public school in the State~~; and~~

~~(vi) two parents of a student enrolled in a public school in the State~~.

(d) The State Superintendent of Schools or the Superintendent's designee shall chair the Council and is responsible for the administration of the Council.

(e) The State Department of Education shall provide staff for the Council.

(f) A member of the Council:

(1) may not receive compensation as a member of the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Council shall:

(1) study the development and implementation of the Student Data Privacy Act of 2015 to evaluate the impact of the Act on:

(i) the protection of covered information from unauthorized access, destruction, use, modification, or disclosure;

(ii) the implementation and maintenance of reasonable security procedures and practices to protect covered information under the Act; and

(iii) the implementation and maintenance of reasonable privacy controls to protect covered information under the Act;

(2) review and analyze similar laws and best practices in other states;

(3) review and analyze developments in technologies as they may relate to student data privacy; and

(4) make recommendations regarding:

(i) statutory and regulatory changes to the Student Data Privacy Act based on the findings of the Council; and

(ii) repealing the termination date on the Act that established the Council to allow the Council to continue its evaluation of student data privacy in the State on a permanent basis.

(h) On or before December 31, 2020, the Student Data Privacy Council shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019. It shall remain effective for a period of 2 years and, at the end of May 31, 2021, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2019.

Chapter 399

(House Bill 738)

AN ACT concerning

Dental Hygienist – Scope of Practice – ~~Authority to Practice~~ Practice Settings Under General Supervision ~~of Licensed Dentist~~

FOR the purpose of altering a certain provision of law to provide that a general license to practice dental hygiene authorizes the licensee to practice dental hygiene under the general supervision of a licensed dentist in certain facilities, rather than only in a long–term care facility; altering the requirements, including the time period of active clinical experience, that a dental hygienist is required to meet before being authorized to practice dental hygiene under the general supervision of a licensed dentist in certain facilities; altering the requirements that must be met by a dental hygienist who is practicing under the general supervision of a licensed dentist in certain facilities and performing a certain dental hygiene service; making conforming changes; defining ~~a certain term~~ certain terms; repealing a certain definition; and generally relating to the authority of dental hygienists to practice under the general supervision of licensed dentists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–308(m)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

4–308.

(m) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Assisted living program" has the meaning stated in § 19–1801 of the Health – General Article.

(III) "FACILITY" MEANS:

1. A NURSING HOME;

2. AN ASSISTED LIVING PROGRAM;

3. MEDICAL OFFICES; OR

4. A GROUP HOME OR ADULT DAY CARE CENTER~~; OR~~.

~~**5. A FACILITY THAT IS OPERATED BY:**~~

~~**A. A FEDERAL, STATE, OR MUNICIPAL GOVERNMENT AGENCY; OR**~~

~~**B. A BONA FIDE CHARITABLE ORGANIZATION.**~~

[(iii)**]** **(IV)** "General supervision" means supervision of a dental hygienist by a dentist, where the dentist may or may not be present when the dental hygienist performs the dental hygiene procedures.

[(iv) "Long–term care facility" means:

1. A nursing home; or

2. An assisted living program.**]**

(v) **"GROUP HOME OR ADULT DAY CARE CENTER" MEANS A GROUP HOME OR ADULT DAY CARE CENTER WHERE THE PATIENT'S MEDICAL RECORDS ARE MADE AVAILABLE TO THE DENTIST AND THE DENTAL HYGIENIST AND THAT OBTAINS THE CONSENT OF THE PATIENT OR THE PATIENT'S GUARDIAN FOR DENTAL HYGIENE SERVICES TO BE PROVIDED UNDER THIS SUBSECTION.**

(VI) "MEDICAL OFFICE" MEANS AN OFFICE OF A LICENSED PHYSICIAN WHO PROVIDES PRENATAL OR PRIMARY MEDICAL CARE AND IN WHICH THE PHYSICIAN, SUPERVISING DENTIST, AND DENTAL HYGIENIST COMMUNICATE IN PROVIDING DENTAL HYGIENE SERVICES TO A PATIENT.

(VII) "Nursing home" has the meaning stated in § 19–1401 of the Health – General Article.

(2) (i) While it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene under the general supervision of a licensed dentist in a **[**long–term care**]** facility in accordance with this subsection.

(ii) This subsection may not be construed to:

1. Authorize a dental hygienist to practice dental hygiene independent of a supervising dentist;

2. Prohibit a dentist from being available for personal consultation or on the premises where a dental hygienist is practicing;

3. Prohibit a dental hygienist, without the supervision of a dentist, from performing a preliminary dental examination with subsequent referral to a dentist; or

4. Require a waiver under subsection (f) of this section.

(3) Before a dental hygienist is authorized to practice dental hygiene under general supervision in a **[**long–term care**]** facility in accordance with this subsection, the dental hygienist shall:

(i) Hold an active license to practice dental hygiene in the State;

(ii) Hold a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation;

(iii) Have at least ~~2 years~~ **3,000 HOURS** of active clinical practice in direct patient care; and

(iv) Ensure that the **[**long–term care**]** facility where the dental hygienist will practice under general supervision has:

1. A written medical emergency plan in place;

2. ~~**[**~~Adequate~~**]** **UNLESS THE DENTAL HYGIENIST IS PROVIDING THE EQUIPMENT, ADEQUATE**~~ equipment, including portable equipment and appropriate armamentarium, available for the appropriate delivery of dental hygiene services**, UNLESS THE DENTAL HYGIENIST PROVIDES THE EQUIPMENT DESCRIBED**; and

3. Adequate safeguards to protect the patient's health and safety.

(4) Before a dental hygienist is authorized to practice dental hygiene under general supervision in a **[**long–term care**]** facility in accordance with this subsection, the supervising dentist shall:

(i) Hold an active general license to practice dentistry in the State;

(ii) Hold a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation; ~~and~~

(iii) Have at least ~~2 years~~ **3,000 HOURS** of active clinical practice in direct patient care**; AND**

(IV) HAVE A WRITTEN AGREEMENT BETWEEN THE SUPERVISING DENTIST AND THE DENTAL HYGIENIST THAT:

1. CLEARLY SETS FORTH THE TERMS AND CONDITIONS UNDER WHICH THE DENTAL HYGIENIST MAY PRACTICE, INCLUDING A STATEMENT THAT THE DENTAL HYGIENIST MAY PROVIDE DENTAL HYGIENE SERVICES WITHOUT THE SUPERVISING DENTIST ON THE PREMISES UNLESS THIS TITLE REQUIRES THAT A LICENSED DENTIST BE ON THE PREMISES IN ORDER FOR THE SERVICE TO BE PERFORMED BY THE DENTAL HYGIENIST;

2. INDICATES THE POPULATION TO BE SERVED;

3. STATES THE METHOD BY WHICH THE SERVICES ARE TO BE PROVIDED AND THE PROCEDURES TO BE USED BY THE SUPERVISING DENTIST TO OVERSEE AND DIRECT THE DENTAL HYGIENIST; AND

4. STATES THE NAMES AND LICENSE NUMBERS OF THE DENTIST AND DENTAL HYGIENIST PERFORMING SERVICES UNDER THE WRITTEN AGREEMENT.

(5) A dental hygienist practicing under the general supervision of a licensed dentist in a **[**long–term care**]** facility ~~IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE~~ and performing an authorized dental hygiene service for a patient's ~~[~~initial~~]~~ appointment shall:

~~(I) ASSESS WITH THE SUPERVISING DENTIST THE APPROPRIATE RECALL INTERVAL BASED ON THE NEEDS OF THE PATIENT;~~

~~(II) LIMIT SERVICES TO THE PREVENTIVE SERVICES AUTHORIZED UNDER THE CURRENT SCOPE OF PRACTICE OF A LICENSED DENTAL HYGIENIST THAT DO NOT REQUIRE A LICENSED DENTIST TO BE ON THE PREMISES WHEN THE SERVICES ARE PERFORMED;~~

~~(III) REPORT PATIENT CLINICAL FINDINGS TO THE SUPERVISING DENTIST AND, WITH THE SUPERVISING DENTIST, DETERMINE WHETHER THE PATIENT SHOULD BE REFERRED FOR A FOLLOW–UP EXAMINATION OR CARE BY THE SUPERVISING DENTIST;~~

~~[~~(i)~~]~~ ~~(IV)~~ Have a written agreement between the supervising dentist and the dental hygienist that ~~[~~clearly~~]~~:

~~1. CLEARLY~~ sets forth the terms and conditions under which the dental hygienist may practice, including a statement that the dental hygienist may

~~provide dental hygiene services without the supervising dentist on the premises UNLESS THIS TITLE REQUIRES THAT A LICENSED DENTIST BE ON THE PREMISES IN ORDER FOR THE SERVICE TO BE PERFORMED BY THE DENTAL HYGIENIST;~~

~~2. INDICATES THE POPULATION TO BE SERVED;~~

~~3. STATES THE METHOD BY WHICH THE SERVICES ARE TO BE PROVIDED AND THE PROCEDURES TO BE USED BY THE SUPERVISING DENTIST TO OVERSEE AND DIRECT THE DENTAL HYGIENIST; AND~~

~~4. STATES THE NAMES AND LICENSE NUMBERS OF THE DENTIST AND DENTAL HYGIENIST PERFORMING SERVICES UNDER THE WRITTEN AGREEMENT;~~

[(ii)**]** ~~(V)~~ **(I)** Ensure that**, WHILE THE DENTAL HYGIENIST IS PERFORMING THE SERVICE,** the supervising dentist is available for consultation with the dental hygienist:

1. In person;

2. By telephone; or

3. Electronically;

~~[~~(iii)~~]~~ **(II)** Consult with the supervising dentist or a treating physician before proceeding with initial treatment if there is a change in **OR CONCERNS ABOUT** a ~~recall~~ patient's medical history;~~]~~

~~(VI) ENSURE THAT THE SUPERVISING DENTIST IS AVAILABLE ON A REGULARLY SCHEDULED BASIS TO:~~

~~1. PROVIDE CONSULTATION TO THE DENTAL HYGIENIST; AND~~

~~2. REVIEW PATIENT RECORDS OF THE DENTAL HYGIENIST;~~

[(iv)**]** ~~(VII)~~ **(III)** Assess the appropriate recall interval based on the ~~individual~~ needs of the patient, or as otherwise recommended by the supervising dentist; ~~AND~~

~~[~~(v)~~]~~ **(IV)** Limit dental hygiene tasks and procedures **PROVIDED DURING THE INITIAL APPOINTMENT** to:

1. Toothbrush prophylaxis;

2. Application of fluoride;

3. Dental hygiene instruction;

4. FULL MOUTH DEBRIDEMENT;

~~4.~~ **5.** ~~Assessment of~~ **ASSESSING** the patient's apparent need for further evaluation by a dentist in order to diagnose the presence of dental disease; and

~~5.~~ **6.** Other duties as may be delegated, verbally or in writing, by the supervising dentist; and~~]~~

[(vi)**]** ~~(VIII)~~ **(V)** Submit findings of ~~[~~the~~]~~ ~~AN~~ initial assessment to the supervising dentist for a **COLLABORATIVE** determination of future treatment **BASED ON THE PATIENT'S OVERALL HEALTH STATUS**.

(6) A dental hygienist may perform subsequent authorized dental hygiene services **FOLLOWING THE INITIAL APPOINTMENT** without the supervising dentist on the premises only if:

(i) The supervising dentist **[**examines**]:**

1. EXAMINES the **[**patient and authorizes**]** **PATIENT AND THE PATIENT'S CHARTS AND OTHER DENTAL RECORDS** ~~**AFTER INITIAL TREATMENT BY THE DENTAL HYGIENIST**~~**;**

2. AUTHORIZES in the patient's record **THE SCOPE OF** a prescription of specific treatment to be provided by the dental hygienist; **AND**

3. EXAMINES THE PATIENT AT LEAST ONCE EVERY ~~**2 YEARS**~~ **12 MONTHS, OR MORE FREQUENTLY AS DETERMINED BY THE DENTIST** ~~**AND DENTAL HYGIENIST**~~**;**

(ii) An authorized treatment is provided by the dental hygienist as soon as possible, but no later than 7 months from the date the **[**patient was examined**]** **PATIENT AND THE PATIENT'S CHARTS AND OTHER DENTAL RECORDS WERE REVIEWED** by the supervising dentist; and

(iii) **[**Upon expiration**]** **ON COMPLETION** of **[**a**]** **THE TREATMENT** prescribed ~~treatment,~~ **FOLLOWING THE INITIAL APPOINTMENT,** the supervising dentist **[**is responsible for determining**]** ~~**AND**~~ **DETERMINES, IN CONSULTATION WITH THE DENTAL HYGIENIST** ~~**JOINTLY DETERMINE,**~~ future protocols for the treatment of the patient.

(7) WHILE PERFORMING DENTAL HYGIENE SERVICES FOR A PATIENT UNDER PARAGRAPH (6)(III) OF THIS SUBSECTION, A DENTAL HYGIENIST SHALL:

(I) ASSESS WITH THE SUPERVISING DENTIST THE APPROPRIATE RECALL INTERVAL BASED ON THE NEEDS OF THE PATIENT;

(II) LIMIT SERVICES TO THE PREVENTIVE SERVICES AUTHORIZED UNDER THE CURRENT SCOPE OF PRACTICE OF A LICENSED DENTAL HYGIENIST EXCEPT FOR THOSE SERVICES FOR WHICH THE PRESENCE OF A LICENSED DENTIST ON THE PREMISES IS REQUIRED UNDER THIS TITLE; AND

(III) REPORT PATIENT CLINICAL FINDINGS TO THE SUPERVISING DENTIST AND, WITH THE SUPERVISING DENTIST, DETERMINE WHETHER THE PATIENT SHOULD BE REFERRED FOR A FOLLOW–UP EXAMINATION OR CARE BY THE SUPERVISING DENTIST.

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

Approved by the Governor, May 13, 2019.

Chapter 400

(House Bill 754)

AN ACT concerning

Health Insurance and Pharmacy Benefits Managers – Cost Pricing and Reimbursement

FOR the purpose of ~~authorizing a pharmacist or a pharmacy to decline to dispense a prescription drug or provide a pharmacy service to a certain member if the amount reimbursed by a certain insurer, nonprofit health service plan, or health maintenance organization is less than a certain acquisition cost;~~ providing that certain provisions of this Act apply in a certain manner to contracts between pharmacy benefits managers that contract with managed care organizations; prohibiting a certain contract or amendment to a certain contract from becoming effective except under certain circumstances; clarifying that certain provisions of law apply to certain appeals; providing that a certain process required to be included in certain contracts must include a requirement that a pharmacy benefits manager provide a certain mathematical calculation; requiring the Commissioner to take certain actions if a designee of the contracted pharmacy files a complaint; requiring a pharmacy benefits manager to provide certain information to the Commissioner for a certain purpose under certain circumstances; requiring that each contract

between a pharmacy benefits manager and a contracted pharmacy include a certain process to appeal, investigate, and resolve disputes regarding cost pricing and reimbursement~~, rather than only maximum allowable cost pricing~~; requiring that the appeals process include a requirement that a pharmacy benefits manager provide ~~a certain formulary under certain circumstances~~ certain information; repealing the authority of a pharmacy benefits manager to retroactively deny or modify reimbursement to a pharmacy or pharmacist for an approved claim that caused certain monetary loss; prohibiting pharmacy benefits managers and certain purchasers from directly or indirectly charging a contracted pharmacy, or holding a contracted pharmacy responsible for, fees or reimbursements related to the adjudication of certain claims; providing that certain actions are a violation of certain provisions of law; defining ~~a certain term~~ certain terms; making conforming and technical changes; making this Act an emergency measure; providing for the application of certain provisions of this Act; and generally relating to cost pricing and reimbursement of prescription drugs.

BY adding to
Article – Health – General
Section 15–102.3(g)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–1601(a)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Insurance
Section ~~15–1012 and 15–1628.2~~ 15–1601(c–1), (c–2), and (h–1), 15–1628.2, and 15–1628.3
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

~~BY repealing~~
~~Article – Insurance~~
~~Section 15–1628.1(f) through (i)~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Insurance
Section ~~15–1631~~ 15–1628, 15–1628.1, 15–1631, and 15–1642
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Health – General

15–102.3.

(G) THE PROVISIONS OF § 15–1628.3 OF THE INSURANCE ARTICLE APPLY TO PHARMACY BENEFITS MANAGERS THAT CONTRACT WITH MANAGED CARE ORGANIZATIONS IN THE SAME MANNER AS THEY APPLY TO A PHARMACY BENEFITS MANAGERS THAT CONTRACT WITH CARRIERS.

Article – Insurance

~~**15–1012.**~~

~~**(A) IN THIS SECTION, "MEMBER" MEANS AN INDIVIDUAL ENTITLED TO HEALTH CARE BENEFITS FOR PRESCRIPTION DRUGS OR PHARMACY SERVICES UNDER A POLICY OR CONTRACT ISSUED OR DELIVERED IN THE STATE BY AN ENTITY SUBJECT TO THIS SECTION.**~~

~~**(B) (1) THIS SECTION APPLIES TO:**~~

~~**(I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE COVERAGE FOR PRESCRIPTION DRUGS AND PHARMACY SERVICES UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND**~~

~~**(II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE COVERAGE FOR PRESCRIPTION DRUGS AND PHARMACY SERVICES UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.**~~

~~**(2) AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND PHARMACY SERVICES THROUGH A PHARMACY BENEFITS MANAGER IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.**~~

~~**(C) IF THE AMOUNT REIMBURSED BY AN ENTITY SUBJECT TO THIS SECTION FOR A PRESCRIPTION DRUG OR PHARMACY SERVICE IS LESS THAN THE PHARMACY ACQUISITION COST FOR THE SAME PRESCRIPTION DRUG OR PHARMACY SERVICE, THE PHARMACIST OR PHARMACY MAY DECLINE TO DISPENSE THE PRESCRIPTION DRUG OR PROVIDE THE PHARMACY SERVICE TO A MEMBER.**~~

15–1601.

(a) In this subtitle the following words have the meanings indicated.

(C–1) "COMPENSATION PROGRAM" MEANS A PROGRAM, POLICY, OR PROCESS THROUGH WHICH SOURCES AND PRICING INFORMATION ARE USED BY A PHARMACY BENEFITS MANAGER TO DETERMINE THE TERMS OF PAYMENT AS STATED IN A PARTICIPATING PHARMACY CONTRACT.

(C–2) "CONTRACTED PHARMACY" MEANS A PHARMACY THAT PARTICIPATES IN THE NETWORK OF A PHARMACY BENEFITS MANAGER THROUGH A CONTRACT WITH:

(I) THE PHARMACY BENEFITS MANAGER; OR

(II) A PHARMACY SERVICES ADMINISTRATION ORGANIZATION OR A GROUP PURCHASING ORGANIZATION.

(H–1) "PARTICIPATING PHARMACY CONTRACT" MEANS A CONTRACT FILED WITH THE COMMISSIONER IN ACCORDANCE WITH § 15–1628(B) OF THIS SUBTITLE.

15–1628.

(A) At the time of entering into a contract with a pharmacy or a pharmacist, and at least 30 working days before any contract change, a pharmacy benefits manager shall disclose to the pharmacy or pharmacist:

(1) the applicable terms, conditions, and reimbursement rates;

(2) the process and procedures for verifying pharmacy benefits and beneficiary eligibility;

(3) the dispute resolution and audit appeals process; and

(4) the process and procedures for verifying the prescription drugs included on the formularies used by the pharmacy benefits manager.

(B) (1) A CONTRACT OR AN AMENDMENT TO A CONTRACT BETWEEN A PHARMACY BENEFITS MANAGER, A PHARMACY SERVICES ADMINISTRATION ORGANIZATION, OR A GROUP PURCHASING ORGANIZATION AND A PHARMACY MAY NOT BECOME EFFECTIVE UNLESS:

(I) AT LEAST 30 DAYS BEFORE THE CONTRACT OR AMENDMENT IS TO BECOME EFFECTIVE, THE PHARMACY BENEFITS MANAGER, PHARMACY SERVICES ADMINISTRATION ORGANIZATION, OR GROUP PURCHASING ORGANIZATION FILES THE CONTRACT OR AMENDMENT WITH THE COMMISSIONER IN THE FORM REQUIRED BY THE COMMISSIONER; AND

(II) THE COMMISSIONER DOES NOT DISAPPROVE THE FILING WITHIN 30 DAYS AFTER THE CONTRACT OR AMENDMENT IS FILED.

(2) THE COMMISSIONER SHALL ADOPT REGULATIONS TO ESTABLISH THE CIRCUMSTANCES UNDER WHICH THE COMMISSIONER MAY DISAPPROVE A CONTRACT.

15–1628.1.

(a) (1) In this section the following words have the meanings indicated.

[(2) "Contracted pharmacy" means a pharmacy that participates in the network of a pharmacy benefits manager through a contract with:

(i) the pharmacy benefits manager; or

(ii) a pharmacy services administration organization or a group purchasing organization.**]**

[(3)**] (2)** "Drug shortage list" means a list of drug products listed on the federal Food and Drug Administration's Drug Shortages website.

[(4)**] (3)** (i) "Maximum allowable cost" means the maximum amount that a pharmacy benefits manager or a purchaser will reimburse a contracted pharmacy for the cost of a multisource generic drug, a medical product, or a device.

(ii) "Maximum allowable cost" does not include dispensing fees.

[(5)**] (4)** "Maximum allowable cost list" means a list of multisource generic drugs, medical products, and devices for which a maximum allowable cost has been established by a pharmacy benefits manager or a purchaser.

(b) In each **PARTICIPATING PHARMACY** contract **[**between a pharmacy benefits manager and a contracted pharmacy**]**, the pharmacy benefits manager shall include the sources used to determine maximum allowable cost pricing.

(c) A pharmacy benefits manager shall:

(1) update its pricing information at least every 7 days;

(2) establish a reasonable process by which a contracted pharmacy has access to the current and applicable maximum allowable cost price lists in an electronic format as updated in accordance with the requirements of this section; and

(3) immediately after a pricing information update under item (1) of this subsection, use the updated pricing information in calculating the payments made to all contracted pharmacies.

(d) (1) A pharmacy benefits manager shall maintain a procedure to eliminate products from the list of drugs subject to maximum allowable cost pricing as necessary to:

(i) remain consistent with pricing changes;

(ii) remove from the list drugs that no longer meet the requirements of subsection (e) of this section; and

(iii) reflect the current availability of drugs in the marketplace.

(2) A product on the maximum allowable cost list shall be eliminated from the list by the pharmacy benefits manager within 7 days after the pharmacy benefits manager knows of a change in the availability of the product.

(e) Before placing a prescription drug on a maximum allowable cost list, a pharmacy benefits manager shall ensure that:

(1) the drug is listed as "A" or "B" rated in the most recent version of the U.S. Food and Drug Administration's approved drug products with therapeutic equivalence evaluations, also known as the Orange Book, or has an "NR" or "NA" rating or similar rating by a nationally recognized reference;

(2) (i) if a drug is manufactured by more than one manufacturer, the drug is generally available for purchase by contracted pharmacies, including contracted retail pharmacies, in the State from a wholesale distributor with a permit in the State; or

(ii) if a drug is manufactured by only one manufacturer, the drug is generally available for purchase by contracted pharmacies, including contracted retail pharmacies, in the State from at least two wholesale distributors with a permit in the State; and

(3) the drug is not obsolete, temporarily unavailable, or listed on a drug shortage list as currently in shortage.

~~(~~(f) ~~Each~~ **FOR DISPUTES REGARDING MAXIMUM ALLOWABLE COST PRICING, EACH PARTICIPATING PHARMACY** contract ~~between a pharmacy benefits manager and a contracted pharmacy~~ must include a process to appeal, investigate, and resolve disputes regarding maximum allowable cost pricing that includes:

(1) a requirement that an appeal be filed by the contract pharmacy no later than 21 days after the date of the initial adjudicated claim;

(2) a requirement that, within 21 days after the date the appeal is filed, the pharmacy benefits manager investigate and resolve the appeal and report to the contracted pharmacy on the pharmacy benefits manager's determination on the appeal;

(3) a requirement that a pharmacy benefits manager make available on its website information about the appeal process, including:

(i) a telephone number at which the contracted pharmacy may directly contact the department or office responsible for processing appeals for the pharmacy benefits manager to speak to an individual or leave a message for an individual who is responsible for processing appeals;

(ii) an e–mail address of the department or office responsible for processing appeals to which an individual who is responsible for processing appeals has access; and

(iii) a notice indicating that the individual responsible for processing appeals shall return a call or an e–mail made by a contracted pharmacy to the individual within 3 business days or less of receiving the call or e–mail;

(4) a requirement that a pharmacy benefits manager provide:

(i) a reason for any appeal denial; ~~and~~

(ii) the national drug code of a drug and the name of the wholesale distributor from which the drug was available on the date the claim was adjudicated at a price at or below the maximum allowable cost determined by the pharmacy benefits manager; and

(III) THE MATHEMATICAL CALCULATION USED TO DETERMINE THE MAXIMUM ALLOWABLE COST; AND

(5) if an appeal is upheld, a requirement that a pharmacy benefits manager:

(i) for the appealing pharmacy:

1. adjust the maximum allowable cost for the drug as of the date of the original claim for payment; and

2. without requiring the appealing pharmacy to reverse and rebill the claims, provide reimbursement for the claim and any subsequent and similar claims under similarly applicable contracts with the pharmacy benefits manager:

A. for the original claim, in the first remittance to the pharmacy after the date the appeal was determined; and

B. for subsequent and similar claims under similarly applicable contracts, in the second remittance to the pharmacy after the date the appeal was determined; and

(ii) for a similarly situated contracted pharmacy in the State:

1. adjust the maximum allowable cost for the drug as of the date the appeal was determined; and

2. provide notice to the pharmacy or pharmacy's contracted agent that:

A. an appeal has been upheld; and

B. without filing a separate appeal, the pharmacy or the pharmacy's contracted agent may reverse and rebill a similar claim.

(g) A pharmacy benefits manager may not retaliate against a contracted pharmacy for exercising its right to appeal under this section or filing a complaint with the Commissioner under this subsection.

(h) A pharmacy benefits manager may not charge a contracted pharmacy a fee related to the readjudication of a claim or claims resulting from carrying out the requirement of a contract specified in subsection (f)(5) of this section or the upholding of an appeal under subsection (i) of this section.

(i) (1) If a pharmacy benefits manager denies an appeal and a contracted pharmacy **OR A DESIGNEE OF THE CONTRACTED PHARMACY** files a complaint with the Commissioner, the Commissioner shall:

(i) review the compensation program of the pharmacy benefits manager to ensure that the reimbursement for pharmacy benefits management services paid to the pharmacist or a pharmacy complies with this subtitle and the terms of the **PARTICIPATING PHARMACY** contract; and

(ii) based on a determination made by the Commissioner under item (i) of this paragraph, dismiss the appeal or uphold the appeal and order the pharmacy benefits manager to pay the claim or claims in accordance with the Commissioner's findings.

(2) ON REQUEST, THE PHARMACY BENEFITS MANAGER SHALL PROVIDE TO THE COMMISSIONER ON REQUEST ALL MATHEMATICAL CALCULATIONS, ACCOUNTS, RECORDS, DOCUMENTS, FILES, LOGS, CORRESPONDENCE, OR OTHER INFORMATION NECESSARY TO COMPLETE THE COMMISSIONER'S REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(2)~~ **(3)** All ~~pricing~~ information and data collected by the Commissioner during a review ~~required by paragraph (1) of this subsection~~:

(i) is considered to be confidential and proprietary information; and

(ii) is not subject to disclosure under the Public Information Act.~~]~~

15–1628.2.

~~(A) IN THIS SECTION, "CONTRACTED PHARMACY" MEANS A PHARMACY THAT PARTICIPATES IN THE NETWORK OF A PHARMACY BENEFITS MANAGER THROUGH A CONTRACT WITH:~~

~~(1) THE PHARMACY BENEFITS MANAGER; OR~~

~~(2) A PHARMACY SERVICES ADMINISTRATION ORGANIZATION OR A GROUP PURCHASING ORGANIZATION.~~

~~(B)~~ **(A)** ~~EACH~~ **FOR DISPUTES REGARDING COST PRICING AND REIMBURSEMENT UNDER A PARTICIPATING PHARMACY CONTRACT, EACH PARTICIPATING PHARMACY CONTRACT** ~~BETWEEN A PHARMACY BENEFITS MANAGER AND A CONTRACTED PHARMACY~~ **MUST INCLUDE A PROCESS TO APPEAL, INVESTIGATE, AND RESOLVE DISPUTES REGARDING COST PRICING AND REIMBURSEMENT THAT INCLUDES:**

(1) A REQUIREMENT THAT AN APPEAL BE FILED BY THE CONTRACT PHARMACY NOT LATER THAN 21 DAYS AFTER ~~THE DATE OF THE INITIAL ADJUDICATED CLAIM~~**:**

(I) THE DATE A DIRECT OR INDIRECT REMUNERATION FEE IS CHARGED; OR

(II) ANOTHER DATE AS DETERMINED BY THE COMMISSIONER;

~~(2) A REQUIREMENT THAT, WITHIN 21 DAYS AFTER THE DATE THE APPEAL IS FILED, THE PHARMACY BENEFITS MANAGER INVESTIGATE AND RESOLVE THE APPEAL AND REPORT TO THE CONTRACTED PHARMACY ON THE PHARMACY BENEFITS MANAGER'S DETERMINATION ON THE APPEAL;~~

~~(3)~~ **(2) A REQUIREMENT THAT A PHARMACY BENEFITS MANAGER MAKE AVAILABLE ON ITS WEBSITE INFORMATION ABOUT THE APPEAL PROCESS, INCLUDING:**

(I) A TELEPHONE NUMBER AT WHICH THE CONTRACTED PHARMACY MAY DIRECTLY CONTACT THE DEPARTMENT OR OFFICE RESPONSIBLE FOR PROCESSING APPEALS FOR THE PHARMACY BENEFITS MANAGER TO SPEAK TO AN INDIVIDUAL OR LEAVE A MESSAGE FOR AN INDIVIDUAL WHO IS RESPONSIBLE FOR PROCESSING APPEALS;

(II) AN E–MAIL ADDRESS OF THE DEPARTMENT OR OFFICE RESPONSIBLE FOR PROCESSING APPEALS TO WHICH AN INDIVIDUAL WHO IS RESPONSIBLE FOR PROCESSING APPEALS HAS ACCESS; AND

(III) A NOTICE INDICATING THAT THE INDIVIDUAL RESPONSIBLE FOR PROCESSING APPEALS SHALL RETURN A CALL OR AN E–MAIL MADE BY A CONTRACTED PHARMACY TO THE INDIVIDUAL WITHIN 3 BUSINESS DAYS OR LESS AFTER RECEIVING THE CALL OR E–MAIL;

~~(4)~~ (3) A REQUIREMENT THAT A PHARMACY BENEFITS MANAGER PROVIDE:

(I) A REASON FOR ANY APPEAL DENIAL; AND

~~(II) 1. THE NATIONAL DRUG CODE OF A DRUG AND THE NAME OF THE WHOLESALE DISTRIBUTOR FROM WHICH THE DRUG WAS AVAILABLE ON THE DATE THE CLAIM WAS ADJUDICATED AT A PRICE AT OR BELOW THE MAXIMUM ALLOWABLE COST DETERMINED BY THE PHARMACY BENEFITS MANAGER; OR~~

~~2.~~ (II) ~~IF THE PHARMACY BENEFITS MANAGER DOES NOT USE MAXIMUM ALLOWABLE COST IN DETERMINING THE AMOUNT OF REIMBURSEMENT TO A PHARMACY OR PHARMACIST,~~ THE ~~FORMULARY~~ MATHEMATICAL CALCULATION USED TO DETERMINE THE AMOUNT OF REIMBURSEMENT; AND

~~(5)~~ (4) IF AN APPEAL IS UPHELD, A REQUIREMENT THAT A PHARMACY BENEFITS MANAGER:

~~(I) FOR THE APPEALING PHARMACY:~~

~~1. ADJUST THE COST OR REIMBURSEMENT FOR THE DRUG AS OF THE DATE OF THE ORIGINAL CLAIM FOR PAYMENT; AND~~

~~2. WITHOUT REQUIRING THE APPEALING PHARMACY TO REVERSE AND REBILL THE CLAIMS, PROVIDE REIMBURSEMENT FOR THE CLAIM AND ANY SUBSEQUENT AND SIMILAR CLAIMS UNDER SIMILARLY APPLICABLE CONTRACTS WITH THE PHARMACY BENEFITS MANAGER:~~

~~A. FOR THE ORIGINAL CLAIM, IN THE FIRST REMITTANCE TO THE PHARMACY AFTER THE DATE THE APPEAL WAS DETERMINED; AND~~

~~B. FOR SUBSEQUENT AND SIMILAR CLAIMS UNDER SIMILARLY APPLICABLE CONTRACTS, IN THE SECOND REMITTANCE TO THE PHARMACY AFTER THE DATE THE APPEAL WAS DETERMINED; AND~~

~~(II) FOR A SIMILARLY SITUATED CONTRACTED PHARMACY IN THE STATE:~~

~~1. ADJUST THE COST OR REIMBURSEMENT FOR THE DRUG AS OF THE DATE THE APPEAL WAS DETERMINED; AND~~

(I) MAKE ADJUSTMENTS AS NECESSARY TO COMPLY WITH THE COMPENSATION PROGRAM AS STATED IN THE PARTICIPATING PHARMACY CONTRACT AS OF THE DATE THE APPEAL WAS DETERMINED; AND

~~2.~~ (II) PROVIDE NOTICE TO THE PHARMACY OR PHARMACY'S CONTRACTED AGENT THAT~~:~~

~~A.~~ AN APPEAL HAS BEEN UPHELD~~; AND~~

~~B. WITHOUT FILING A SEPARATE APPEAL, THE PHARMACY OR THE PHARMACY'S CONTRACTED AGENT MAY REVERSE AND REBILL A SIMILAR CLAIM~~.

(C) A PHARMACY BENEFITS MANAGER MAY NOT RETALIATE AGAINST A CONTRACTED PHARMACY FOR EXERCISING ITS RIGHT TO APPEAL UNDER THIS SECTION OR FILING A COMPLAINT WITH THE COMMISSIONER UNDER THIS SECTION.

(D) A PHARMACY BENEFITS MANAGER MAY NOT CHARGE A CONTRACTED PHARMACY A FEE RELATED TO THE READJUDICATION OF A CLAIM OR CLAIMS RESULTING FROM ~~CARRYING OUT THE REQUIREMENT OF A CONTRACT SPECIFIED IN SUBSECTION (B)(5) OF THIS SECTION OR~~ THE UPHOLDING OF AN APPEAL UNDER SUBSECTION (E) OF THIS SECTION.

(E) (1) IF A PHARMACY BENEFITS MANAGER DENIES AN APPEAL AND A CONTRACTED PHARMACY OR A DESIGNEE OF THE CONTRACTED PHARMACY FILES A COMPLAINT WITH THE COMMISSIONER, THE COMMISSIONER SHALL:

(I) REVIEW THE COMPENSATION PROGRAM OF THE PHARMACY BENEFITS MANAGER TO ENSURE THAT THE REIMBURSEMENT FOR PHARMACY BENEFITS MANAGEMENT SERVICES PAID TO THE PHARMACIST OR A PHARMACY

COMPLIES WITH THIS SUBTITLE AND THE TERMS OF THE PARTICIPATING PHARMACY CONTRACT; AND

(II) BASED ON A DETERMINATION MADE BY THE COMMISSIONER UNDER ITEM (I) OF THIS PARAGRAPH, DISMISS THE APPEAL OR UPHOLD THE APPEAL AND ORDER THE PHARMACY BENEFITS MANAGER TO PAY THE CLAIM OR CLAIMS IN ACCORDANCE WITH THE COMMISSIONER'S FINDINGS.

(2) ON REQUEST, THE PHARMACY BENEFITS MANAGER SHALL PROVIDE TO THE COMMISSIONER ON REQUEST ALL MATHEMATICAL CALCULATIONS, ACCOUNTS, RECORDS, DOCUMENTS, FILES, LOGS, CORRESPONDENCE, OR OTHER INFORMATION NECESSARY TO COMPLETE THE COMMISSIONER'S REVIEW.

~~(2)~~ (3) ALL ~~PRICING~~ INFORMATION AND DATA COLLECTED BY THE COMMISSIONER DURING A REVIEW ~~REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION~~:

(I) IS CONSIDERED TO BE CONFIDENTIAL AND PROPRIETARY INFORMATION; AND

(II) IS NOT SUBJECT TO DISCLOSURE UNDER THE PUBLIC INFORMATION ACT.

15–1628.3.

A PHARMACY BENEFITS MANAGER OR A PURCHASER MAY NOT DIRECTLY OR INDIRECTLY CHARGE A CONTRACTED PHARMACY, OR HOLD A CONTRACTED PHARMACY RESPONSIBLE FOR, A FEE OR PERFORMANCE–BASED REIMBURSEMENT RELATED TO THE ADJUDICATION OF A CLAIM OR AN INCENTIVE PROGRAM THAT IS NOT:

(1) SPECIFICALLY ENUMERATED BY THE PHARMACY BENEFITS MANAGER OR PURCHASER AT THE TIME OF CLAIM PROCESSING; OR

(2) REPORTED ON THE INITIAL REMITTANCE ADVICE OF AN ADJUDICATED CLAIM.

15–1631.

Except for an overpayment as defined in § 15–1629(h) of this subtitle, if a claim has been approved by a pharmacy benefits manager through adjudication, the pharmacy benefits manager may not retroactively deny or modify reimbursement to a pharmacy or pharmacist for the approved claim unless:

(1) the claim was fraudulent;

(2) the pharmacy or pharmacist had been reimbursed for the claim previously; **OR**

(3) the services reimbursed were not rendered by the pharmacy or pharmacist**[**; or

(4) subject to § 15–1629(h)(2) of this part, the claim otherwise caused monetary loss to the pharmacy benefits manager, provided that the pharmacy benefits manager allowed the pharmacy a reasonable opportunity to remedy the cause of the monetary loss**]**.

15–1642.

(A) IT IS A VIOLATION OF THIS SUBTITLE FOR A PHARMACY BENEFITS MANAGER TO:

(1) MISREPRESENT PERTINENT FACTS OR POLICY PROVISIONS THAT RELATE TO A CLAIM OR THE COMPENSATION PROGRAM AT ISSUE IN A COMPLAINT OR AN APPEAL OF A DECISION REGARDING A COMPLAINT;

(2) REFUSE TO PAY A CLAIM FOR AN ARBITRARY OR CAPRICIOUS REASON BASED ON ALL AVAILABLE INFORMATION;

(3) FAIL TO SETTLE A CLAIM OR DISPUTE PROMPTLY WHENEVER LIABILITY IS REASONABLY CLEAR UNDER ONE PART OF A POLICY OR CONTRACT, IN ORDER TO INFLUENCE SETTLEMENTS UNDER OTHER PARTS OF THE POLICY OR CONTRACT; OR

(4) FAIL TO ACT IN GOOD FAITH.

(B) IT IS A VIOLATION OF THIS SUBTITLE FOR A PHARMACY BENEFITS MANAGER, WHEN COMMITTED AT A FREQUENCY TO INDICATE A GENERAL BUSINESS PRACTICE, TO:

(1) MISREPRESENT PERTINENT FACTS OR POLICY PROVISIONS THAT RELATE TO A CLAIM, THE COMPENSATION PROGRAM, OR THE COVERAGE AT ISSUE IN A COMPLAINT OR AN APPEAL OF A DECISION REGARDING A COMPLAINT;

(2) FAIL TO MAKE A PROMPT, FAIR, AND EQUITABLE GOOD–FAITH ATTEMPT TO SETTLE CLAIMS FOR WHICH LIABILITY HAS BECOME REASONABLY CLEAR;

(3) FAIL TO SETTLE A CLAIM PROMPTLY WHENEVER LIABILITY IS REASONABLY CLEAR UNDER ONE PART OF A POLICY OR CONTRACT, IN ORDER TO INFLUENCE SETTLEMENTS UNDER OTHER PARTS OF THE POLICY OR CONTRACT; OR

(4) REFUSE TO PAY A CLAIM FOR AN ARBITRARY OR CAPRICIOUS REASON BASED ON ALL AVAILABLE INFORMATION.

[(a)**] (C)** If the Commissioner determines that a pharmacy benefits manager has violated any provision of this subtitle or any regulation adopted under this subtitle, the Commissioner may issue an order that requires the pharmacy benefits manager to:

(1) cease and desist from the identified violation and further similar violations;

(2) take specific affirmative action to correct the violation;

(3) make restitution of money, property, or other assets to a person that has suffered financial injury because of the violation; or

(4) pay a fine in an amount determined by the Commissioner.

[(b)**] (D)** (1) An order of the Commissioner issued under this section may be served on a pharmacy benefits manager that is registered under Part II of this subtitle in the manner provided in § 2–204 of this article.

(2) An order of the Commissioner issued under this section may be served on a pharmacy benefits manager that is not registered under Part II of this subtitle in the manner provided in § 4–206 or § 4–207 of this article for service on an unauthorized insurer that does an act of insurance business in the State.

(3) A request for a hearing on any order issued under this section does not stay that portion of the order that requires the pharmacy benefits manager to cease and desist from conduct identified in the order.

(4) The Commissioner may file a petition in the circuit court of any county to enforce an order issued under this section, whether or not a hearing has been requested or, if requested, whether or not a hearing has been held.

(5) If the Commissioner prevails in an action brought under this section, the Commissioner may recover, for the use of the State, reasonable attorney's fees and the costs of the action.

[(c)**] (E)** In addition to any other enforcement action taken by the Commissioner under this section, the Commissioner may impose a civil penalty not exceeding $10,000 for each violation of this subtitle.

[(d)**] (F)** The Commissioner may adopt regulations:

(1) to carry out this subtitle; and

(2) to establish a complaint process to address grievances and appeals brought in accordance with this subtitle.

[(e)**] (G)** This section does not limit any other regulatory authority of the Commissioner under this article.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 13, 2019.

Chapter 401

(House Bill 1098)

AN ACT concerning

Health Insurance – Maryland Health Benefit Exchange – Small Business Tax Credit Subsidy

FOR the purpose of altering the contents of the Maryland Health Benefit Exchange Fund; ~~requiring~~ authorizing the Maryland Health Benefit Exchange, in consultation with the Maryland Insurance Commissioner and as approved by the Board of Trustees of the Exchange, to submit a waiver under certain provisions of federal law ~~as soon as practicable but not later than a certain date~~ to allow the State to administer certain tax credit assistance to small businesses; requiring the Exchange to determine, before applying for a certain waiver of certain provisions of federal law, whether the State needs to apply for a certain waiver to distribute certain tax credit assistance to small businesses to certain employers on a certain basis; and generally relating to the Maryland Health Benefit Exchange and a small business tax credit subsidy.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 31–102(a) and (c)(3) and 31–107(a), (b)(1)(i), and (f)(1)
Annotated Code of Maryland

(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 31–107(e)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Insurance
Section 31–121
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

31–102.

(a) There is a Maryland Health Benefit Exchange.

(c) The purposes of the Exchange are to:

(3) assist qualified employers in the State in facilitating the enrollment of their employees in qualified health plans in the small group market in the State and in accessing small business tax credits;

31–107.

(a) There is a Maryland Health Benefit Exchange Fund.

(b) (1) The purpose of the Fund is to:

(i) provide funding for the operation and administration of the Exchange in carrying out the purposes of the Exchange under this title; and

(e) The Fund consists of:

(1) any user fees or other assessments collected by the Exchange;

(2) all revenue deposited into the Fund that is received from the distribution of the premium tax under § 6–103.2 of this article;

(3) income from investments made on behalf of the Fund;

(4) interest on deposits or investments of money in the Fund;

(5) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Exchange or the Fund;

(6) money donated to the Fund;

(7) money awarded to the Fund through grants;

(8) any pass–through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act;

(9) any funds designated by the federal government to provide reinsurance to carriers that offer individual health benefit plans in the State;

(10) any funds designated by the State to provide reinsurance to carriers that offer individual health benefit plans in the State; **[**and**]**

(11) ANY FEDERAL FUNDS ~~DESIGNATED~~ RECEIVED IN ACCORDANCE WITH § 31–121 OF THIS TITLE FOR THE ~~STATE–BASED SUBSIDY FOR THE SMALL BUSINESS TAX CREDIT~~ ADMINISTRATION OF SMALL BUSINESS TAX CREDITS; AND

[(11)**] (12)** any other money from any other source accepted for the benefit of the Fund.

(f) The Fund may be used only:

(1) for the operation and administration of the Exchange in carrying out the purposes authorized under this title; and

31–121.

(A) ~~AS SOON AS PRACTICABLE BUT NOT LATER THAN JANUARY 1, 2020, THE~~ THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, ~~SHALL~~ MAY SUBMIT A STATE INNOVATION WAIVER APPLICATION UNDER § 1332 OF THE AFFORDABLE CARE ACT TO ALLOW THE STATE TO ADMINISTER ~~STATE–BASED TAX CREDIT ASSISTANCE~~ THE FEDERAL SMALL BUSINESS HEALTH CARE TAX CREDIT TO SMALL BUSINESSES FOR MONTHLY PREMIUM PAYMENTS.

(B) BEFORE APPLYING FOR A STATE INNOVATION WAIVER UNDER SUBSECTION (A) OF THIS SECTION, THE EXCHANGE SHALL DETERMINE WHETHER THE STATE NEEDS TO APPLY FOR A STATE INNOVATION WAIVER IN ORDER TO DISTRIBUTE THE FEDERAL SMALL BUSINESS HEALTH CARE TAX CREDIT ON A MONTHLY BASIS TO ELIGIBLE EMPLOYERS ENROLLING IN THE SHOP EXCHANGE.

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

Approved by the Governor, May 13, 2019.

Chapter 402

(House Bill 1284)

AN ACT concerning

Organ Donation – Prohibition on Discrimination by Insurer and Unpaid Leave

FOR the purpose of prohibiting certain insurers, based solely on the status of an applicant or individual as an organ donor, from taking certain actions relating to certain insurance policies; prohibiting certain insurers from prohibiting an applicant or individual from donating an organ as a condition of insurance; providing that, with respect to all other medical conditions, a certain applicant or individual is subject to certain standards as an applicant or individual who is not an organ donor; providing that certain employees are entitled to a certain number of business days of unpaid organ donation leave in a certain period; requiring an eligible employee to provide certain written physician verification to the employer to receive organ donation leave; prohibiting organ donation leave from being taken concurrently with any leave taken under the federal Family and Medical Leave Act; prohibiting an employer from considering any period of organ donation leave to be a break in the eligible employee's continuous service for certain purposes; requiring, except under certain circumstances, that an eligible employee returning to work after taking organ donation leave be restored to a certain position of employment; requiring an employer to maintain in a certain manner certain health coverage for the duration of the eligible employee's organ donation leave; requiring an employer to pay certain commissions to certain employees during any period of organ donation leave; requiring the Commissioner of Labor and Industry to adopt certain regulations; requiring the Commissioner to take certain actions regarding certain violations of certain provisions of law; authorizing the Attorney General to bring a certain action; prohibiting an employer from committing certain acts; authorizing the Commissioner to conduct, under certain circumstances, an investigation regarding whether a certain provision of law has been violated; providing for the construction of certain provisions of this Act; prohibiting certain rights for employees from being diminished by a collective bargaining agreement or an employment benefit program or plan; providing for a delayed effective date for certain provisions of this Act; providing for the application of certain provisions of this Act; and generally relating to organ donation.

BY adding to

Article – Insurance
Section 27–501(s)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Labor and Employment
Section 3–103(l); and 3–1401 through 3–1409 to be under the new subtitle "Subtitle 14. Organ Donation Leave"
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Insurance

27–501.

(S) (1) THIS SUBSECTION APPLIES ONLY TO LIFE INSURANCE, DISABILITY INSURANCE, OR LONG–TERM CARE INSURANCE.

(2) AN INSURER MAY NOT, BASED SOLELY ON THE STATUS OF AN APPLICANT OR INDIVIDUAL AS AN ORGAN DONOR:

(I) CANCEL, REFUSE TO UNDERWRITE OR RENEW, OR REFUSE TO ISSUE AN INSURANCE POLICY;

(II) REFUSE TO PAY A CLAIM, CANCEL, OR OTHERWISE TERMINATE AN INSURANCE POLICY;

(III) INCREASE PREMIUM RATES FOR AN INSURANCE POLICY; OR

(IV) ADD A SURCHARGE, APPLY A RATING FACTOR, OR USE ANY OTHER UNDERWRITING PRACTICE THAT ADVERSELY TAKES THE INFORMATION INTO ACCOUNT.

(3) WITH RESPECT TO ALL OTHER MEDICAL CONDITIONS, AN APPLICANT OR INDIVIDUAL WHO IS AN ORGAN DONOR SHALL BE SUBJECT TO THE SAME STANDARDS OF SOUND ACTUARIAL PRINCIPLES OR ACTUAL OR REASONABLY ANTICIPATED EXPERIENCE AS AN APPLICANT OR INDIVIDUAL WHO IS NOT AN ORGAN DONOR.

~~(3)~~ (4) **AN INSURER MAY NOT PROHIBIT AN APPLICANT OR INDIVIDUAL FROM DONATING ALL OR PART OF AN ORGAN AS A CONDITION OF INSURANCE.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

3–103.

(L) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER SUBTITLE 14 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.

SUBTITLE 14. ORGAN DONATION LEAVE.

3–1401.

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

(B) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL WHO HAS REQUESTED THAT AN EMPLOYER PROVIDE ORGAN DONATION LEAVE AND WHO, AS OF THE DATE THAT THE REQUESTED ORGAN DONATION LEAVE BEGINS, WILL HAVE BEEN EMPLOYED BY THAT EMPLOYER FOR AT LEAST:

(1) A 12–MONTH PERIOD; AND

(2) 1,250 HOURS DURING THE PREVIOUS 12 MONTHS.

(C) "EMPLOYER" MEANS A PERSON THAT EMPLOYS AT LEAST 15 INDIVIDUALS IN THE STATE.

(D) "ORGAN DONATION LEAVE" MEANS LEAVE DESCRIBED IN § 3–1402(A) OF THIS SUBTITLE.

3–1402.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN ELIGIBLE EMPLOYEE IS ENTITLED TO THE FOLLOWING UNPAID ORGAN DONATION LEAVE:

(1) UP TO 60 BUSINESS DAYS IN ANY 12–MONTH PERIOD TO SERVE AS AN ORGAN DONOR; AND

(2) UP TO 30 BUSINESS DAYS IN ANY 12–MONTH PERIOD TO SERVE AS A BONE MARROW DONOR.

(B) TO RECEIVE ORGAN DONATION LEAVE, THE ELIGIBLE EMPLOYEE SHALL PROVIDE WRITTEN PHYSICIAN VERIFICATION TO THE EMPLOYER THAT:

(1) THE ELIGIBLE EMPLOYEE IS AN ORGAN DONOR OR A BONE MARROW DONOR; AND

(2) THERE IS A MEDICAL NECESSITY FOR THE DONATION OF THE ORGAN OR BONE MARROW.

(C) ORGAN DONATION LEAVE MAY NOT BE TAKEN CONCURRENTLY WITH ANY LEAVE TAKEN UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT.

3–1403.

(A) AN EMPLOYER MAY NOT CONSIDER ANY PERIOD OF TIME DURING WHICH AN ELIGIBLE EMPLOYEE TAKES ORGAN DONATION LEAVE TO BE A BREAK IN THE ELIGIBLE EMPLOYEE'S CONTINUOUS SERVICE FOR THE PURPOSE OF THE ELIGIBLE EMPLOYEE'S RIGHT TO SALARY ADJUSTMENTS, SICK LEAVE, VACATION, PAID TIME OFF, ANNUAL LEAVE, OR SENIORITY.

(B) AN ELIGIBLE EMPLOYEE WHO RETURNS TO WORK AFTER TAKING ORGAN DONATION LEAVE IS ENTITLED TO BE RESTORED BY AN EMPLOYER:

(1) TO THE POSITION OF EMPLOYMENT HELD BY THE ELIGIBLE EMPLOYEE WHEN THE ORGAN DONATION LEAVE BEGAN; OR

(2) TO AN EQUIVALENT POSITION WITH EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

(C) AN EMPLOYER MAY DENY RESTORATION OF THE ELIGIBLE EMPLOYEE'S POSITION OF EMPLOYMENT UNDER SUBSECTION (B) OF THIS SECTION BECAUSE OF CONDITIONS UNRELATED TO THE EXERCISE OF RIGHTS ESTABLISHED UNDER THIS SUBTITLE.

3–1404.

(A) DURING ANY PERIOD THAT AN ELIGIBLE EMPLOYEE TAKES ORGAN DONATION LEAVE, AN EMPLOYER SHALL MAINTAIN COVERAGE OF A GROUP HEALTH PLAN FOR THE DURATION OF THE ORGAN DONATION LEAVE AND IN THE SAME MANNER THAT COVERAGE WOULD HAVE BEEN PROVIDED IF THE ELIGIBLE

EMPLOYEE HAD CONTINUED IN EMPLOYMENT CONTINUOUSLY FOR THE DURATION OF THE ORGAN DONATION LEAVE.

(B) IF AN ELIGIBLE EMPLOYEE WORKS ON A COMMISSION BASIS, AN EMPLOYER SHALL PAY TO THE ELIGIBLE EMPLOYEE DURING ANY PERIOD OF ORGAN DONATION LEAVE ANY COMMISSION THAT BECOMES DUE BECAUSE OF WORK THE ELIGIBLE EMPLOYEE PERFORMED BEFORE TAKING ORGAN DONATION LEAVE.

3–1405.

THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

3–1406.

(A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER SHALL:

(1) TRY TO RESOLVE INFORMALLY BY MEDIATION ANY ISSUE INVOLVED IN THE VIOLATION; OR

(2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE ELIGIBLE EMPLOYEE.

(B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED.

3–1407.

(A) AN EMPLOYER MAY NOT:

(1) VIOLATE ANY PROVISION OF THIS SUBTITLE;

(2) HINDER, DELAY, OR OTHERWISE INTERFERE WITH THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER IN THE ENFORCEMENT OF THIS SUBTITLE; OR

(3) DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS:

(I) REQUESTED OR TAKEN ORGAN DONATION LEAVE AUTHORIZED UNDER THIS SUBTITLE;

(II) MADE A COMPLAINT TO THE EMPLOYER, THE COMMISSIONER, OR ANOTHER PERSON; OR

(III) TESTIFIED OR WILL TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING THAT RELATES TO THE SUBJECT OF THIS SUBTITLE.

(B) THE COMMISSIONER MAY BRING AN ACTION FOR INJUNCTIVE RELIEF AND DAMAGES AGAINST A PERSON WHO VIOLATES SUBSECTION (A)(1) OR (3) OF THIS SECTION.

3–1408.

(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO DIMINISH THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT BENEFIT PROGRAM OR PLAN THAT PROVIDES GREATER ORGAN DONATION LEAVE RIGHTS TO EMPLOYEES THAN THE RIGHTS ESTABLISHED UNDER THIS SUBTITLE.

(B) THE RIGHTS ESTABLISHED FOR EMPLOYEES UNDER THIS SUBTITLE MAY NOT BE DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT BENEFIT PROGRAM OR PLAN.

3–1409.

THIS SUBTITLE MAY NOT BE CONSTRUED TO DISCOURAGE EMPLOYERS FROM ADOPTING OR RETAINING LEAVE POLICIES MORE GENEROUS THAN POLICIES THAT COMPLY WITH THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2020, and shall apply to all life insurance, disability insurance, and long–term care insurance policies issued, delivered, or renewed in the State on or after January 1, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 403

(Senate Bill 743)

AN ACT concerning

Election Law – Election Service Providers – Contract Clauses and Termination of Contract

FOR the purpose of prohibiting the State Board of Elections from approving a contract with an election service provider unless the contract includes a certain clause regarding notice of ownership of or investment in the election service provider or control of the election service provider by a foreign national; requiring that the notice include certain information; authorizing the State Administrator of Elections to terminate, in whole or in part, the contract with an election service provider on the making of a certain determination; *requiring the State Administrator to notify certain persons in writing of the termination, in whole or in part, of a contract with an election service provider and the State Administrator's reasons for terminating the contract within a certain period of time;* defining certain terms; and generally relating to election service provider contracts.

BY adding to
Article – Election Law
Section 2–109
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Election Law

2–109.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "APPROPRIATE PERSONS" MEANS:

(I) THE STATE BOARD;

(II) THE GOVERNOR;

(III) THE PRESIDENT OF THE SENATE OF MARYLAND;

(IV) THE SPEAKER OF THE HOUSE OF DELEGATES;

(V) THE ATTORNEY GENERAL; AND

(VI) THE DEPARTMENT OF INFORMATION TECHNOLOGY.

~~(2)~~ *(3)* **"CONTRACT" MEANS AN AGREEMENT IN ANY FORM ENTERED INTO BY A GOVERNMENTAL ENTITY FOR A PROCUREMENT AS DEFINED IN § 11–101(M)(1) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

~~(3)~~ *(4)* **(I) "ELECTION SERVICE PROVIDER" MEANS ANY PERSON PROVIDING, SUPPORTING, OR MAINTAINING AN ELECTION SYSTEM ON BEHALF OF THE STATE BOARD.**

(II) "ELECTION SERVICE PROVIDER" INCLUDES A CONTRACTOR AND VENDOR.

~~(4)~~ *(5)* **"ELECTION SYSTEM" INCLUDES:**

(I) A VOTING SYSTEM;

(II) AN ELECTION MANAGEMENT SYSTEM;

(III) A VOTER REGISTRATION WEBSITE OR DATABASE;

(IV) AN ELECTRONIC POLLBOOK;

(V) A SYSTEM FOR TABULATING OR REPORTING ELECTION RESULTS; AND

(VI) ANY OTHER INFORMATION SYSTEM THAT IS DETERMINED TO BE CENTRAL TO THE MANAGEMENT, SUPPORT, OR ADMINISTRATION OF AN ELECTION.

~~(5)~~ *(6)* **"FOREIGN NATIONAL" INCLUDES:**

(I) AN INDIVIDUAL WHO IS A CITIZEN OF A FOREIGN COUNTRY; AND

(II) AN INDIVIDUAL, A PARTNERSHIP, AN ASSOCIATION, A CORPORATION, AN ORGANIZATION, OR ANY OTHER COMBINATION OF INDIVIDUALS ORGANIZED UNDER THE LAWS OF OR HAVING ITS PRINCIPAL PLACE OF BUSINESS IN A FOREIGN COUNTRY.

(B) THE STATE BOARD MAY NOT APPROVE A CONTRACT WITH AN ELECTION SERVICE PROVIDER UNLESS THE CONTRACT INCLUDES A CLAUSE REQUIRING THE ELECTION SERVICE PROVIDER TO PROVIDE THE STATE BOARD NOTICE OF:

(1) ANY OWNERSHIP OF OR INVESTMENT IN THE ELECTION SERVICE PROVIDER OR CONTROL OF THE ELECTION SERVICE PROVIDER BY A FOREIGN NATIONAL AT THE TIME OF THE AWARD OF THE CONTRACT; AND

(2) ANY MATERIAL CHANGE IN ANY OWNERSHIP OF OR INVESTMENT IN THE ELECTION SERVICE PROVIDER OR CONTROL OF THE ELECTION SERVICE PROVIDER BY A FOREIGN NATIONAL AT ANY TIME FOR THE DURATION OF THE CONTRACT.

(C) THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) THE NAME AND NATIONALITY OF THE FOREIGN NATIONAL THAT HAS OWNERSHIP OF OR INVESTMENT IN OR CONTROL OF THE ELECTION SERVICE PROVIDER; AND

(2) THE NATURE AND EXTENT OF THE OWNERSHIP, INVESTMENT, OR CONTROL.

(D) ON A DETERMINATION BY THE STATE ADMINISTRATOR THAT THE FOREIGN NATIONAL HAS THE ABILITY TO CONTROL, INFLUENCE, OR DIRECT THE ELECTION SERVICE PROVIDER IN ANY MANNER THAT WOULD COMPROMISE OR INFLUENCE, OR GIVE THE APPEARANCE OF COMPROMISING OR INFLUENCING, THE INDEPENDENCE AND INTEGRITY OF AN ELECTION, THE STATE ADMINISTRATOR MAY TERMINATE, IN WHOLE OR IN PART, THE CONTRACT WITH THE ELECTION SERVICE PROVIDER.

(E) WITHIN 7 DAYS AFTER THE STATE ADMINISTRATOR EXERCISES THE AUTHORITY TO TERMINATE, IN WHOLE OR IN PART, A CONTRACT WITH AN ELECTION SERVICE PROVIDER UNDER SUBSECTION (D) OF THIS SECTION, THE STATE ADMINISTRATOR SHALL NOTIFY THE APPROPRIATE PERSONS IN WRITING OF THE TERMINATION OF THE CONTRACT AND THE STATE ADMINISTRATOR'S REASONS FOR TERMINATING THE CONTRACT.

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

Approved by the Governor, May 13, 2019.

Chapter 404

(Senate Bill 122)

AN ACT concerning

Property Tax Credits – Real Property Used for Robotics Programs

FOR the purpose of authorizing the governing body of a county or municipal corporation to grant, by law, a certain property tax credit against the county or municipal corporation property tax imposed on real property used for the purposes of certain youth robotics programs in the State; authorizing the governing body of a county or municipal corporation to provide, by law, for certain matters relating to the tax credit; providing for the application of this Act; and generally relating to a property tax credit for real property used for youth robotics programs in the State.

BY adding to
Article – Tax – Property
Section 9–263
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Tax – Property

9–263.

(A) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON REAL PROPERTY THAT IS USED FOR THE PURPOSES OF A PUBLIC SCHOOL ROBOTICS PROGRAM OR NONPROFIT ROBOTICS PROGRAM IN THE STATE.

(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(1) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SECTION;

(2) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION; AND

(3) ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019, and shall be applicable to all taxable years beginning after June 30, 2019.

Approved by the Governor, May 13, 2019.

Chapter 405

(Senate Bill 729)

AN ACT concerning

~~**Task Force on Forest Conservation in Maryland**~~
Technical Study on Changes in Forest Cover and Tree Canopy in Maryland

FOR the purpose of requiring the Harry R. Hughes Center for Agro–Ecology, in consultation with the Department of Natural Resources, the Department of the Environment, the Department of Planning, the Department of Agriculture, and the Chesapeake Bay Program, to conduct a technical study to review changes in forest cover and tree canopy in the State; providing for the scope of the technical study; requiring the Harry R. Hughes Center for Agro–Ecology to submit a report of its findings to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to a technical study to review changes in forest cover and tree canopy in Maryland. ~~establishing the Task Force on Forest Conservation in Maryland; providing for the composition, chair, and staffing of the Task Force; authorizing the Task Force to establish subcommittees; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force on Forest Conservation in Maryland.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

~~(a) There is a Task Force on Forest Conservation in Maryland.~~

~~(b) The Task Force consists of the following members:~~

~~(1) the State Forester;~~

~~(2) one member of the Senate of Maryland, appointed by the President of the Senate;~~

~~(3) one member of the House of Delegates, appointed by the Speaker of the House;~~

~~(4) two representatives of county government, designated by the Maryland Association of Counties;~~

~~(5) two representatives of municipal government, designated by the Maryland Municipal League; and~~

~~(6) the following members, appointed jointly by the President of the Senate and the Speaker of the House:~~

~~(i) one representative of the Sustainable Forestry Council;~~

~~(ii) one representative of the Chesapeake Bay Program Office within the University of Maryland College of Agriculture and Natural Resources;~~

~~(iii) one representative of the Department of Agricultural and Resource Economics within the University of Maryland College of Agriculture and Natural Resources;~~

~~(iv) one representative of the Chesapeake Bay Commission;~~

~~(v) two representatives from environmental organizations;~~

~~(vi) one representative from a land preservation organization;~~

~~(vii) two representatives from the commercial and residential development industries;~~

~~(viii) one representative from an environmental restoration business involved in forest mitigation banking;~~

~~(ix) one representative from a public utility; and~~

~~(x) one representative from a public health organization.~~

~~(c) The President of the Senate and the Speaker of the House shall jointly select the chair or cochairs of the Task Force.~~

~~(d) The Harry R. Hughes Center for Agro–Ecology shall:~~

~~(1) provide staff for the Task Force under contract with the Department of Natural Resources; and~~

~~(2) facilitate the meetings of the Task Force and the preparation of its final report with assistance, as required by the Task Force, from the Department of Legislative Services, the Department of Natural Resources, the Department of the Environment, the Department of Planning, and the Department of Agriculture.~~

~~(e) The Task Force may establish subcommittees as necessary to fulfill its duties.~~

~~(f) A member of the Task Force:~~

~~(1) may not receive compensation as a member of the Task Force; but~~

~~(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(g) The Task Force shall:~~

~~(1) undertake a technical review that includes, to the extent practicable:~~

(a) (1) The Harry R. Hughes Center for Agro–Ecology, in consultation with the Department of Natural Resources, the Department of the Environment, the Department of Planning, the Department of Agriculture, and the Chesapeake Bay Program, as appropriate, shall conduct a technical study to review changes in forest cover and tree canopy in the State.

(2) The technical study required under paragraph (1) of this subsection shall, to the extent practicable, include:

(i) a survey and mapping of:

1. existing forest cover and tree canopy in the State; and

2. potential afforestation and reforestation locations in the State;

(ii) an analysis of the health and quality of forests in the State;

(iii) an analysis of the progress toward the State's commitments to expand urban tree canopy acres and plant riparian forest buffers under the 2014 Chesapeake Bay Agreement;

~~(iii)~~ (iv) an analysis of observed and projected changes in land cover and the amount of forest cover in the State due to development or other causes, using the Chesapeake Bay Phase 6 Model, Chesapeake Assessment Scenario Tool (CAST), and county and municipal forest conservation annual reports and land use plans, including the extent and nature of:

1. mitigation activities involving existing forest conserved, tree planting, reforestation, or afforestation under the Forest Conservation Act;

2. forest clearing, planting, and mitigation activity inside and outside priority funding areas and locally designated growth areas; and

3. the clearing and mitigation of forest considered to be a priority for retention and protection under § 5–1607(c) of the Natural Resources Article and in State–identified targeted ecological areas and greenways, hubs, and corridors~~; and~~, and the zoned density and sewer status of those areas;

~~(iv)~~ (v) an analysis of observed and projected changes in the amount of forest cover in the State based on:

1. relevant State or local programs involving tree planting, reforestation, or afforestation; and

2. the amount of forest preserved through federal, State, and local programs, including agricultural preservation, open space, conservation easement, and other land preservation programs;

(vi) a review of forest mitigation banking in the State, including:

1. capacity and location of active banks;

2. regulation of ~~citing~~ *siting* and creation of new banks;

3. geographic limitations on the use of mitigation banks;

4. the relationship between fee–in–lieu rates under the Forest Conservation Act and the market for forest mitigation banks; and

5. whether expanding the use of forest mitigation banks could provide water quality improvements and other beneficial results; and

(vii) a programmatic and funding review of federal, State, and local tree and forest planting programs such as:

1. Marylanders Plant Trees;

2. Lawn to Woodland;

3. Backyard Buffers;

4. Conservation Reserve Enhance Program; and

5. other programs used to further TMDL Watershed Implementation Plans and MS4 permit compliance.

(b) On or before December 1, 2019, the Harry R. Hughes Center for Agro–Ecology shall submit a report of its findings of the technical study required under subsection (a) of this section to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

~~(2) consider the findings and recommendations of the Task Force to Study a No Net Loss of Forest Policy's Final Report of 2009 and the Sustainable Forestry Council's Report on Policies to Achieve a No Net Loss of Forests in Maryland in 2011;~~

~~(3) on or before October 1, 2019, conduct a public hearing to gather information to assist in making recommendations; and~~

~~(4) draft a report on the findings of the technical review and make recommendations regarding the statutory, regulatory, or policy changes needed to achieve the policy goals established under § 5–102(b) of the Natural Resources Article.~~

~~(h) On or before December 1, 2019, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 13, 2019.

Chapter 406

(Senate Bill 1010)

AN ACT concerning

Maryland Health Care Commission – Assessment of Services at the University of Maryland Shore Medical Center in Chestertown

FOR the purpose of requiring the Maryland Health Care Commission, in conjunction with the Office of Health Care Quality, to conduct a certain assessment of services provided at the University of Maryland Shore Medical Center in Chestertown; specifying the requirements of the assessment; requiring the Commission to report, on or before a certain date, to the General Assembly on the findings of the assessment; and generally relating to an assessment of services at the University of Maryland Shore Medical Center in Chestertown.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Maryland Health Care Commission, in conjunction with the Office of Health Care Quality, shall conduct an assessment of the types, quality, and level of services provided at the University of Maryland Shore Medical Center in Chestertown.

(b) The assessment under subsection (a) of this section shall, at a minimum:

(1) compare the services currently provided to the services provided in fiscal 2015; and

(2) identify whether, on or after July 1, 2015, any services from the University of Maryland Shore Medical Center in Chestertown were reduced or transferred to the University of Maryland Shore Medical Center in Easton.

(c) On or before January 1, 2020, the Maryland Health Care Commission shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, the findings of the assessment required under subsection (a) of this section.

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

Approved by the Governor, May 13, 2019.

Chapter 407

(Senate Bill 678)

AN ACT concerning

State Government – Notarial Acts and Notaries Public

FOR the purpose of altering the qualifications an individual must have to be appointed as a notary public; requiring the Secretary of State regularly to offer a certain course of study and examination; altering the types of actions the Governor may take against a notary public applicant or notary public and the circumstances under which the actions may be taken; altering the authority of the Governor to delegate certain acts; providing that a certain notice and hearing opportunity is not required to be given to certain applicants regarding a certain matter; altering the conditions under which a certain notice and hearing opportunity is deemed satisfied; providing that action taken under certain provisions of this Act does not preclude a person from seeking and obtaining certain other remedies; ~~altering the cap on the fee established by the Secretary of State for an original notarial act;~~ authorizing certain persons to charge a certain fee for the performance of a certain notarial act; altering the fee a notary

public may charge as compensation for travel; altering the authority of the Secretary of State to set by regulation certain fees; authorizing the Secretary of State to publish certain information; providing for the application of certain provisions of this Act; authorizing a notarial officer to perform certain notarial acts except under certain circumstances; establishing the duties and authority of notarial officers with respect to the performance of notarial acts; requiring that a certain individual personally appear before a notarial officer under certain circumstances; providing that a notarial officer has personal knowledge or satisfactory evidence of the identity of a certain individual under certain circumstances; prohibiting certain individuals from charging a fee to perform a notarial act; authorizing an individual to direct a certain individual to sign the individual's name on a record under certain circumstances; providing that notarial acts performed in certain other jurisdictions have the same effect under the laws of this State under certain circumstances; providing for the manner in which notarial acts for remotely located individuals are to be performed except under certain circumstances; requiring that each notarial act be evidenced by a certificate; providing for the contents of notarial certificates and official stamps; providing that a notary public's official stamp ~~and stamping device are~~ is a public ~~seals~~ seal for purposes of certain provisions of law; providing that a notary public's stamping device is a public seal; requiring a certain person to take certain actions with respect to a certain notary public's stamping device and journal; providing for the manner in which a notary public's journal is to be maintained; establishing certain prohibited acts; requiring a clerk of the circuit court to accept a certain copy of an electronic record for recording under certain provisions of law under certain circumstances; ~~requiring the Secretary of State to maintain a certain electronic database;~~ providing that, except under certain circumstances, the failure of a notarial officer to perform a duty or meet certain requirements does not invalidate a certain notarial act; authorizing the Secretary of State to adopt certain regulations; establishing requirements for identity proofing and credential analysis used by a notary public; requiring that, in applying and construing certain provisions of this Act, consideration be given to a certain need; providing that certain provisions of this Act modify, limit, and supersede certain provisions of federal law; providing that certain provisions of this Act do not modify, limit, or supersede certain provisions of federal law; establishing a certain short title; altering the circumstances under which a certain notary public may serve as a certain witness; repealing certain provisions of law regarding notaries public and acknowledgments that are rendered obsolete by certain provisions of this Act; making conforming changes; defining certain terms; making a technical correction; providing that a commission as notary public in effect on a certain date continues to be in effect until its date of expiration; providing that this Act does not affect the validity or effect of a notarial act performed before a certain date; providing for a delayed effective date; and generally relating to notarial acts.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 17–110(b)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 18–102, 18–103(d)(4), 18–104, 18–109, 18–110, 18–112, and 18–114 to be under the new subtitle "Subtitle 1. Notaries Public" and the amended title "Title 18. Notarial Acts"
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing
Article – State Government
Section 18–105 through 18–108, 18–111, and 18–113; and 19–101 through 19–301 and the title "Title 19. Acknowledgments"
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY adding to
Article – State Government
Section 18–201 through ~~18–228~~ *18–227* to be under the new subtitle "Subtitle 2. Revised Uniform Law on Notarial Acts"
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

17–110.

(b) The notary public before whom the principal acknowledges the power of attorney may also serve as one of the two or more adult witnesses **UNLESS THE NOTARY PUBLIC IS USING COMMUNICATION TECHNOLOGY UNDER § 18–214 OF THE STATE GOVERNMENT ARTICLE TO PERFORM THE NOTARIAL ACT FOR A REMOTELY LOCATED PRINCIPAL**.

Article – State Government

Title 18. **[**Notaries Public**]** **NOTARIAL ACTS**.

SUBTITLE 1. NOTARIES PUBLIC.

18–102.

(A) **[**Each**]** ~~**To**~~ **SUBJECT TO § 18–104 OF THIS SUBTITLE, TO BE APPOINTED AS A NOTARY PUBLIC, AN** individual **[**appointed as a notary public shall**]** **MUST**:

(1) be at least 18 years old;

~~[~~(2) be of good moral character and integrity;~~]~~

~~**(2) BE A CITIZEN OR PERMANENT LEGAL RESIDENT OF THE UNITED STATES;**~~

[(3) live or work in the State;**]**

(3) (I) BE A RESIDENT OF THE STATE; OR

(II) HAVE A PLACE OF EMPLOYMENT OR PRACTICE IN THE STATE;

~~**(4) BE ABLE TO READ AND WRITE ENGLISH;**~~

~~**(5)**~~ ***(4)*** **(I) FOR AN INITIAL APPLICANT, HAVE COMPLETED THE COURSE AND PASSED THE EXAMINATION OFFERED UNDER SUBSECTION (B) OF THIS SECTION; OR**

(II) FOR A RENEWAL APPLICANT, HAVE COMPLETED THE COURSE OFFERED UNDER SUBSECTION (B) OF THIS SECTION;

[(4)**]** ~~**(6)**~~ ***(5)*** if living in the State, be a resident of the senatorial district from which appointed; and

[(5)**]** ~~**(7)**~~ ***(6)*** if living outside the State, be a resident of a state that allows Maryland residents working in that state to serve as notaries public in that state.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS PARAGRAPH, THE SECRETARY OF STATE REGULARLY SHALL OFFER A COURSE OF STUDY AND AN EXAMINATION THAT COVER THE LAWS, REGULATIONS, PROCEDURES, AND ETHICS RELEVANT TO NOTARIAL ACTS.

(2) THE COURSE AND EXAMINATION MAY BE OFFERED THROUGH AN ENTITY APPROVED BY THE SECRETARY OF STATE.

18–103.

(d) (4) An out–of–state individual commissioned as a notary shall qualify before the clerk of the circuit court in any county **[**or Baltimore City**]** and pay the fees prescribed in subsection (e) of this section.

18–104.

(a) **[**(1) A notary public may be removed or suspended from office by the Governor for good cause either on the Governor's own initiative or on a request made to the Governor in writing by the Senator who approved the appointment.**]**

(1) ON THE GOVERNOR'S OWN INITIATIVE OR ON A REQUEST MADE TO THE GOVERNOR IN WRITING BY THE SENATOR FOR THE SENATORIAL DISTRICT IN WHICH THE APPLICANT OR NOTARY PUBLIC RESIDES, THE GOVERNOR MAY DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR IMPOSE CONDITIONS ON A COMMISSION AS NOTARY PUBLIC FOR ANY ACT OR OMISSION THAT DEMONSTRATES THE INDIVIDUAL LACKS THE HONESTY, INTEGRITY, COMPETENCE, OR RELIABILITY TO ACT AS A NOTARY PUBLIC, INCLUDING:

(I) A FAILURE TO COMPLY WITH THIS TITLE OR REGULATIONS ADOPTED UNDER THIS TITLE;

(II) A FRAUDULENT, DISHONEST, OR DECEITFUL MISSTATEMENT OR OMISSION IN THE APPLICATION FOR A COMMISSION;

(III) A CONVICTION OF A FELONY OR CRIME INVOLVING FRAUD, DISHONESTY, OR DECEIT;

(IV) A FINDING AGAINST OR AN ADMISSION OF LIABILITY IN A LEGAL PROCEEDING OR DISCIPLINARY ACTION BASED ON FRAUD, DISHONESTY, OR DECEIT;

(V) FAILURE TO DISCHARGE ANY DUTY REQUIRED OF A NOTARY PUBLIC, WHETHER IMPOSED BY ANY FEDERAL OR STATE LAW OR REGULATIONS ADOPTED BY THE SECRETARY OF STATE;

(VI) USE OF FALSE OR MISLEADING ADVERTISING OR REPRESENTATION BY THE NOTARY PUBLIC REPRESENTING THAT THE NOTARY PUBLIC HAS A DUTY, RIGHT, OR PRIVILEGE THAT THE NOTARY PUBLIC DOES NOT HAVE; AND

(VII) DENIAL, REFUSAL TO RENEW, REVOCATION, SUSPENSION, OR CONDITIONS OF A NOTARY PUBLIC COMMISSION BY ANOTHER STATE.

(2) ~~After~~ **SUBJECT TO SUBSECTION (C) OF THIS SECTION, AFTER** notice to the notary and the opportunity for a hearing before the Secretary of State or the Secretary of State's designee, the Secretary of State shall submit a recommendation to the Governor for action as the Governor determines to be required in the case.

(b) (1) The Governor may delegate to the Secretary of State or the Assistant Secretary of State **[**or both**]** the authority to **[**remove or suspend a notary from office**]** **TAKE AN ACTION** under **SUBSECTION (A) OF** this section.

(2) ~~The~~ **SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE** Secretary of State or Assistant Secretary of State shall give the notary notice and an opportunity for a hearing as provided in subsection (a) of this section, but is not required to submit a recommendation to the Governor before acting under this subsection.

(C) NOTICE AND THE OPPORTUNITY FOR A HEARING UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION ARE NOT REQUIRED TO BE GIVEN TO AN APPLICANT FOR AN INITIAL COMMISSION AS A NOTARY PUBLIC REGARDING THE DENIAL OF THE COMMISSION.

~~(c)~~ **(D)** A hearing under this section is not a contested case under Title 10, Subtitle 2 of this article.

~~(d)~~ **(E)** The notice and hearing opportunity under subsections (a) and (b) of this section is deemed satisfied if a letter informing the **APPLICANT OR** notary of the impending **[**removal from office**]** **ACTION** and hearing opportunity is mailed to the **APPLICANT OR** notary **BY FIRST–CLASS MAIL** at the last address the **APPLICANT OR** notary has given to the Secretary of State**[**, and the letter is returned to the Secretary of State by the United States Postal Service**]**.

~~(E)~~ **(F) AN ACTION TAKEN UNDER THIS SECTION AGAINST A NOTARY PUBLIC DOES NOT PRECLUDE A PERSON FROM SEEKING AND OBTAINING ANY OTHER CRIMINAL OR CIVIL REMEDY PROVIDED BY LAW FOR REDRESS OF HARM CAUSED BY THE NOTARY PUBLIC.**

[18–105.

(a) A notary public shall have the power to administer oaths according to law in all matters and cases of a civil nature in which a justice of the peace might have administered an oath on or before July 4, 1971, and with the same effect.

(b) A certificate under the notarial seal of a notary shall be sufficient evidence of the notary having administered the oath as notary public.**]**

[18–106.

A notary public may:

(1) receive the proof or acknowledgment of all instruments of writing relating to commerce or navigation and other writings as have been usually proved and acknowledged before notaries; and

(2) make protests and declarations and testify to the truth of the protests and declarations under the notary's notarial seal of office concerning all matters done by the notary in virtue of the notary's office.**]**

[18–107.

A notary public shall keep a fair register of all protests and other official acts done by the notary in virtue of the notary's office and shall, when required, give a certified copy of any record in the notary's office to any person applying for the record on payment of the usual fees for the certified copy by the person applying for it.**]**

[18–108.

(a) A notary public shall provide a public notarial seal or stamp with which the notary shall authenticate the notary's acts, instruments, and attestations, on which seal or stamp shall be shown a device that the notary thinks proper and for legend shall have the name, surname, and office of the notary and the notary's place of residence, which shall be designated by the county of the notary's residence or if the notary is a resident of the City of Baltimore, by the City of Baltimore.

(b) If the notary is an out–of–state notary, the legend shall have the name, surname, office of the notary, and the county where the notary qualified.

(c) Each notary shall include on each act, instrument, or attestation the expiration date of the notary's commission as a notary.**]**

[18–109.**] 18–105.**

A notary public may exercise all functions of the office of notary in any other county or city than the county or city for which the notary is appointed, with the same power and effect in all respects as if the same were exercised in the county or city for which the notary is appointed.

[18–110.**] 18–106.**

It is unlawful for any notary public to sign and issue any protest except in the form prescribed by the Comptroller.

[18–111.

(a) Subject to subsection (b) of this section, it is lawful for any notary public who is a stockholder, director, officer, or employee of a bank or other corporation to:

(1) take the acknowledgment of any party to any written instrument executed to or by the corporation, or to administer an oath to any other stockholder, director, officer, employee, or agent of the corporation; or

(2) protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes, and other negotiable instruments that may be owned or held for collection of the corporation.

(b) It is unlawful for any notary public to:

(1) take the acknowledgment of an instrument by or to a bank or other corporation of which the notary is a stockholder, director, officer, or employee if the notary is a party to the instrument, either individually or as a representative of the corporation; or

(2) protest any negotiable instrument owned or held for collection by the corporation, where the notary is individually a party to the instrument.**]**

[18–112.**] 18–107.**

(a) **(1)** The Secretary of State shall adopt regulations to establish fees, not to exceed **[**$4**] *$25*** for an original notarial act, and an appropriate lesser amount for the repetition of that original notarial act or to make a copy of the matter addressed by that original notarial act.

(2) A NOTARY PUBLIC OR PERSON ACTING ON BEHALF OF A NOTARY PUBLIC MAY CHARGE A FEE, NOT TO EXCEED *$25 $4*, FOR THE PERFORMANCE OF A NOTARIAL ACT UNDER § 18–214 OF THIS TITLE.

(b) **(1)** ~~A~~ **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A** notary public may charge **[**19 cents per mile**] THE PREVAILING RATE FOR MILEAGE ESTABLISHED BY THE INTERNAL REVENUE SERVICE FOR BUSINESS TRAVEL PER MILE**~~, or a higher amount set by regulation of the Secretary of State,~~ and a fee not to exceed $5, as compensation for travel required for the performance of a notarial act.

(2) (I) THE SECRETARY OF STATE MAY SET BY REGULATION A DIFFERENT AMOUNT THAT A NOTARY PUBLIC MAY CHARGE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) AN AMOUNT SET UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY EXCEED THE AMOUNT ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

[18–113.

(a) If a document presented for notarization does not contain a notarial certificate reflecting the taking of an oath or acknowledgment, a notary may nevertheless witness the signing of the document in the notary's official capacity, in accordance with subsection (b) of this section.

(b) A notary acting as a witness in the notary's official capacity under subsection (a) of this section shall:

(1) obtain satisfactory proof of the identity of the person signing the document;

(2) observe the signing of the document;

(3) date, sign, and seal or stamp the document; and

(4) record the act in the notary's fair register.**]**

[18–114.**] 18–108.**

(a) **(1)** Subject to § 4–332 of the General Provisions Article, the Secretary of State may provide lists of public information in its records to those persons who request them if the Secretary of State approves of the purpose for which the information is requested.

(2) (I) THE SECRETARY OF STATE MAY PUBLISH INFORMATION RELATING TO THE STATUS OF THE COMMISSION OF A NOTARY PUBLIC OR FORMER NOTARY PUBLIC, INCLUDING THE DATE OF COMMENCEMENT AND EXPIRATION OF ANY SUSPENSION, NONRENEWAL, OR REVOCATION OF THE COMMISSION.

(II) THE DISCLOSURE OF INFORMATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS DEEMED COMPLIANT WITH § 4–332(B)(4) OF THE GENERAL PROVISIONS ARTICLE.

(b) (1) The Secretary of State shall charge a reasonable fee, not less than the cost of preparing the list, for any list furnished under this section.

(2) The Secretary of State may charge a reduced fee to persons requesting a list for governmental or not–for–profit purposes.

(c) A person furnished any information under this section may not distribute or otherwise use the information for any purpose other than that for which it was furnished.

(d) The Secretary of State may not disclose information under this section for use in telephone solicitations as defined in § 4–320(a) of the General Provisions Article.

SUBTITLE 2. REVISED UNIFORM LAW ON NOTARIAL ACTS.

18–201.

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

(B) "ACKNOWLEDGMENT" MEANS A DECLARATION BY AN INDIVIDUAL BEFORE A NOTARIAL OFFICER THAT:

(1) THE INDIVIDUAL HAS SIGNED A RECORD FOR THE PURPOSE STATED IN THE RECORD; AND

(2) IF THE RECORD IS SIGNED IN A REPRESENTATIVE CAPACITY, THE INDIVIDUAL SIGNED THE RECORD WITH PROPER AUTHORITY AND SIGNED IT AS THE ACT OF THE INDIVIDUAL OR ENTITY IDENTIFIED IN THE RECORD.

(C) "COMMUNICATION TECHNOLOGY" MEANS AN ELECTRONIC DEVICE OR PROCESS THAT:

(1) ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED INDIVIDUAL TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY SIGHT AND SOUND; AND

(2) WHEN NECESSARY UNDER AND CONSISTENT WITH OTHER APPLICABLE LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED INDIVIDUAL WHO HAS A VISION, HEARING, OR SPEECH IMPAIRMENT.

(D) "CREDENTIAL ANALYSIS" MEANS A PROCESS OR SERVICE BY WHICH A THIRD PARTY CONFIRMS THE VALIDITY OF AN IDENTIFICATION CREDENTIAL BY A REVIEW OF PUBLIC OR PRIVATE DATA SOURCES.

(E) "ELECTRONIC" MEANS TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

(F) "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SYMBOL, SOUND, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A RECORD AND EXECUTED OR ADOPTED BY AN INDIVIDUAL WITH THE INTENT TO SIGN THE RECORD.

(G) "FOREIGN STATE" MEANS A JURISDICTION OTHER THAN THE UNITED STATES, A STATE, OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

(H) "IDENTITY PROOFING" MEANS A PROCESS OR SERVICE BY WHICH A THIRD PARTY PROVIDES A NOTARY PUBLIC WITH A MEANS TO VERIFY THE IDENTITY

OF A REMOTELY LOCATED INDIVIDUAL BY A REVIEW OF PERSONAL INFORMATION FROM PUBLIC OR PRIVATE DATA SOURCES.

(I) "IN A REPRESENTATIVE CAPACITY" MEANS ACTING AS:

(1) AN AUTHORIZED OFFICER, AGENT, PARTNER, TRUSTEE, OR OTHER REPRESENTATIVE FOR A PERSON OTHER THAN AN INDIVIDUAL;

(2) A PUBLIC OFFICER, PERSONAL REPRESENTATIVE, GUARDIAN, OR OTHER REPRESENTATIVE, IN THE CAPACITY STATED IN A RECORD;

(3) AN AGENT OR ATTORNEY–IN–FACT FOR A PRINCIPAL; OR

(4) AN AUTHORIZED REPRESENTATIVE OF ANOTHER IN ANY OTHER CAPACITY.

(J) (1) "NOTARIAL ACT" MEANS AN ACT, WHETHER PERFORMED WITH RESPECT TO A TANGIBLE OR ELECTRONIC RECORD, THAT A NOTARIAL OFFICER MAY PERFORM UNDER THE LAWS OF THE STATE.

(2) "NOTARIAL ACT" INCLUDES:

(I) TAKING AN ACKNOWLEDGMENT;

(II) ADMINISTERING AN OATH OR AFFIRMATION;

(III) TAKING A VERIFICATION ON OATH OR AFFIRMATION;

(IV) WITNESSING OR ATTESTING A SIGNATURE;

(V) CERTIFYING OR ATTESTING A COPY; AND

(VI) NOTING A PROTEST OF A NEGOTIABLE INSTRUMENT.

(K) "NOTARIAL OFFICER" MEANS A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED TO PERFORM A NOTARIAL ACT.

(L) "NOTARY PUBLIC" MEANS AN INDIVIDUAL APPOINTED AND COMMISSIONED TO PERFORM A NOTARIAL ACT.

(M) "OFFICIAL STAMP" MEANS:

(1) A PHYSICAL IMAGE AFFIXED TO OR EMBOSSED ON A TANGIBLE RECORD; OR

(2) AN ELECTRONIC IMAGE ATTACHED TO OR LOGICALLY ASSOCIATED WITH AN ELECTRONIC RECORD.

(N) "RECORD" MEANS INFORMATION THAT IS:

(1) INSCRIBED ON A TANGIBLE MEDIUM; OR

(2) STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(O) "REMOTE PRESENTATION" MEANS TRANSMISSION TO A NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE OF AN IDENTIFICATION CREDENTIAL THAT IS OF SUFFICIENT QUALITY TO ENABLE THE NOTARY PUBLIC TO REASONABLY IDENTIFY THE INDIVIDUAL AND TO PERFORM CREDENTIAL ANALYSIS.

(P) "REMOTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT.

(Q) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD, TO:

(1) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

(2) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

(R) "SIGNATURE" MEANS A TANGIBLE SYMBOL OR AN ELECTRONIC SIGNATURE THAT EVIDENCES THE SIGNING OF A RECORD.

(S) "STAMPING DEVICE" MEANS:

(1) A PHYSICAL DEVICE CAPABLE OF AFFIXING AN OFFICIAL STAMP TO OR EMBOSSING AN OFFICIAL STAMP ON A TANGIBLE RECORD; OR

(2) AN ELECTRONIC DEVICE OR PROCESS CAPABLE OF ATTACHING AN OFFICIAL STAMP TO OR LOGICALLY ASSOCIATING AN OFFICIAL STAMP WITH AN ELECTRONIC RECORD.

(T) "VERIFICATION ON OATH OR AFFIRMATION" MEANS A DECLARATION MADE BY AN INDIVIDUAL ON OATH OR AFFIRMATION BEFORE A NOTARIAL OFFICER THAT A STATEMENT IN A RECORD IS TRUE OR THAT A REMOTELY LOCATED INDIVIDUAL HAS THE IDENTITY CLAIMED.

18–202.

THIS SUBTITLE APPLIES ONLY TO A NOTARIAL ACT PERFORMED ON OR AFTER OCTOBER 1, ~~2019~~ 2020.

18–203.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A NOTARIAL OFFICER MAY PERFORM A NOTARIAL ACT AUTHORIZED BY THE LAWS OF THE STATE.

(B) (1) A NOTARIAL OFFICER MAY NOT PERFORM A NOTARIAL ACT WITH RESPECT TO A RECORD TO WHICH THE NOTARIAL OFFICER OR THE SPOUSE OF THE NOTARIAL OFFICER IS A PARTY, OR IN WHICH EITHER THE NOTARIAL OFFICER ~~OF~~ OR THE SPOUSE OF THE NOTARIAL OFFICER HAS A DIRECT BENEFICIAL INTEREST.

(2) A NOTARIAL ACT PERFORMED IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION IS VOIDABLE.

(C) A NOTARIAL OFFICER MAY CERTIFY THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD IS AN ACCURATE COPY OF THE ELECTRONIC RECORD.

18–204.

(A) A NOTARIAL OFFICER WHO TAKES AN ACKNOWLEDGMENT OF A RECORD SHALL DETERMINE, FROM PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF THE IDENTITY OF THE INDIVIDUAL IN ACCORDANCE WITH § 18–206 OF THIS SUBTITLE, THAT:

(1) THE INDIVIDUAL APPEARING BEFORE THE NOTARIAL OFFICER AND MAKING THE ACKNOWLEDGMENT HAS THE IDENTITY CLAIMED; AND

(2) THE SIGNATURE ON THE RECORD IS THE SIGNATURE OF THE INDIVIDUAL.

(B) A NOTARIAL OFFICER WHO TAKES A VERIFICATION ON OATH OR AFFIRMATION OF A STATEMENT SHALL DETERMINE, FROM PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF THE IDENTITY OF THE INDIVIDUAL IN ACCORDANCE WITH § 18–206 OF THIS SUBTITLE, THAT:

(1) THE INDIVIDUAL APPEARING BEFORE THE NOTARIAL OFFICER AND MAKING THE VERIFICATION HAS THE IDENTITY CLAIMED; AND

(2) THE SIGNATURE ON THE STATEMENT VERIFIED IS THE SIGNATURE OF THE INDIVIDUAL.

(C) A NOTARIAL OFFICER WHO WITNESSES OR ATTESTS TO A SIGNATURE SHALL DETERMINE, FROM PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF THE IDENTITY OF THE INDIVIDUAL IN ACCORDANCE WITH § 18–206 OF THIS SUBTITLE, THAT THE INDIVIDUAL APPEARING BEFORE THE NOTARIAL OFFICER AND SIGNING THE RECORD HAS THE IDENTITY CLAIMED.

(D) A NOTARIAL OFFICER WHO CERTIFIES OR ATTESTS A COPY OF A RECORD OR AN ITEM THAT WAS COPIED SHALL DETERMINE THAT THE COPY IS A FULL, TRUE, AND ACCURATE TRANSCRIPTION OR REPRODUCTION OF THE RECORD OR ITEM.

(E) (1) A NOTARIAL OFFICER WHO CERTIFIES THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD IS AN ACCURATE COPY OF THE ELECTRONIC RECORD SHALL:

(I) REASONABLY DETERMINE WHETHER THE ELECTRONIC RECORD IS IN A TAMPER–EVIDENT FORMAT; AND

(II) PERSONALLY PRINT OR SUPERVISE THE PRINTING OF THE ELECTRONIC RECORD ONTO PAPER OR OTHER TANGIBLE MEDIUM.

(2) A NOTARIAL OFFICER WHO CERTIFIES THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD IS AN ACCURATE COPY OF THE ELECTRONIC RECORD MAY NOT MAKE THE CERTIFICATION IF THE NOTARIAL OFFICER HAS DETECTED A CHANGE OR AN ERROR IN AN ELECTRONIC SIGNATURE OR OTHER INFORMATION IN THE ELECTRONIC RECORD.

(F) A NOTARIAL OFFICER WHO MAKES OR NOTES A PROTEST OF A NEGOTIABLE INSTRUMENT SHALL MAKE OR NOTE THE PROTEST IN ACCORDANCE WITH § 3–505(B) OF THE COMMERCIAL LAW ARTICLE.

18–205.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF A NOTARIAL ACT RELATES TO A STATEMENT MADE IN OR A SIGNATURE EXECUTED ON A RECORD, THE INDIVIDUAL MAKING THE STATEMENT OR EXECUTING THE SIGNATURE SHALL APPEAR PERSONALLY BEFORE THE NOTARIAL OFFICER.

(B) A REMOTELY LOCATED INDIVIDUAL MAY COMPLY WITH SUBSECTION (A) OF THIS SUBTITLE BY USING COMMUNICATION TECHNOLOGY TO APPEAR BEFORE A NOTARY PUBLIC.

18–206.

(A) A NOTARIAL OFFICER HAS PERSONAL KNOWLEDGE OF THE IDENTITY OF AN INDIVIDUAL PERSONALLY APPEARING BEFORE THE NOTARIAL OFFICER IF THE INDIVIDUAL IS PERSONALLY KNOWN TO THE NOTARIAL OFFICER THROUGH DEALINGS SUFFICIENT TO PROVIDE REASONABLE CERTAINTY THAT THE INDIVIDUAL HAS THE IDENTITY CLAIMED.

(B) A NOTARIAL OFFICER HAS SATISFACTORY EVIDENCE OF THE IDENTITY OF AN INDIVIDUAL PERSONALLY APPEARING BEFORE THE NOTARIAL OFFICER IF THE NOTARIAL OFFICER CAN IDENTIFY THE INDIVIDUAL:

(1) BY MEANS OF:

(I) A PASSPORT, DRIVER'S LICENSE, *CONSULAR IDENTIFICATION*, OR GOVERNMENT–ISSUED NONDRIVER IDENTIFICATION CARD ~~THAT IS CURRENT AND UNEXPIRED AT THE TIME OF PERFORMANCE OF THE NOTARIAL ACT~~; OR

(II) ANOTHER FORM OF GOVERNMENT IDENTIFICATION ISSUED TO THE INDIVIDUAL THAT:

~~1. IS CURRENT AND UNEXPIRED AT THE TIME OF PERFORMANCE OF THE NOTARIAL ACT;~~

~~2.~~ *1.* CONTAINS THE SIGNATURE AND PHOTOGRAPH OF THE INDIVIDUAL; AND

~~3.~~ *2.* IS SATISFACTORY TO THE NOTARIAL OFFICER; OR

(2) BY A VERIFICATION ON OATH OR AFFIRMATION OF A CREDIBLE WITNESS WHO IS:

(I) PERSONALLY APPEARING BEFORE THE NOTARIAL OFFICER; AND

(II) KNOWN TO THE NOTARIAL OFFICER OR WHOM THE NOTARIAL OFFICER CAN IDENTIFY ON THE BASIS OF A PASSPORT, DRIVER'S LICENSE, *CONSULAR IDENTIFICATION*, OR GOVERNMENT–ISSUED NONDRIVER IDENTIFICATION CARD ~~THAT IS CURRENT AND UNEXPIRED AT THE TIME OF PERFORMANCE OF THE NOTARIAL ACT~~.

(C) A NOTARIAL OFFICER MAY REQUIRE AN INDIVIDUAL TO PROVIDE ADDITIONAL INFORMATION OR IDENTIFICATION CREDENTIALS NECESSARY TO ASSURE THE NOTARIAL OFFICER OF THE IDENTITY OF THE INDIVIDUAL.

18–207.

UNLESS OTHERWISE PROHIBITED BY LAW, A NOTARIAL OFFICER MAY REFUSE TO PERFORM A NOTARIAL ACT IF THE OFFICER IS NOT SATISFIED THAT:

(1) THE INDIVIDUAL EXECUTING THE RECORD IS COMPETENT OR HAS THE CAPACITY TO EXECUTE THE RECORD; OR

(2) THE INDIVIDUAL'S SIGNATURE IS KNOWINGLY AND VOLUNTARILY MADE.

18–208.

(A) IF AN INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN A RECORD, THE INDIVIDUAL MAY APPEAR BEFORE THE NOTARIAL OFFICER AND DIRECT ~~AN~~ ANOTHER INDIVIDUAL OTHER THAN THE NOTARIAL OFFICER WHO IS CONCURRENTLY APPEARING WITH THE INDIVIDUAL BEFORE THE NOTARIAL OFFICER TO SIGN THE INDIVIDUAL'S NAME ON THE RECORD.

(B) IF ANOTHER INDIVIDUAL IS DIRECTED TO SIGN AN INDIVIDUAL'S NAME UNDER SUBSECTION (A) OF THIS SECTION, THE NOTARIAL OFFICER SHALL INSERT ON THE RECORD THE FOLLOWING WORDS OR WORDS OF SIMILAR IMPORT: "SIGNATURE AFFIXED BY (NAME OF OTHER INDIVIDUAL) AT THE DIRECTION OF (NAME OF INDIVIDUAL)".

18–209.

(A) A NOTARIAL ACT MAY BE PERFORMED IN THE STATE BY:

(1) A NOTARY PUBLIC OF THE STATE;

(2) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THE STATE; OR

(3) A MAGISTRATE APPOINTED BY A COURT OF THE STATE.

(B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A NOTARIAL ACT IN THE STATE ARE PRIMA FACIE EVIDENCE THAT:

(1) THE SIGNATURE IS GENUINE; AND

(2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(C) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER LISTED IN SUBSECTION (A) OF THIS SECTION CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE NOTARIAL OFFICER TO PERFORM THE NOTARIAL ACT.

(D) A JUDGE OF THE COURT OF THE STATE OR A MAGISTRATE APPOINTED BY A COURT OF THE STATE MAY NOT CHARGE A FEE TO PERFORM A NOTARIAL ACT.

18–210.

(A) A NOTARIAL ACT PERFORMED IN ANOTHER STATE HAS THE SAME EFFECT UNDER THE LAWS OF THIS STATE AS IF PERFORMED BY A NOTARIAL OFFICER OF THIS STATE, IF THE ACT PERFORMED IN THE OTHER STATE IS PERFORMED BY:

(1) A NOTARY PUBLIC OF THAT STATE;

(2) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THAT STATE; OR

(3) ANY OTHER INDIVIDUAL AUTHORIZED BY THE LAWS OF THAT STATE TO PERFORM THE NOTARIAL ACT.

(B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A NOTARIAL ACT IN ANOTHER STATE ARE PRIMA FACIE EVIDENCE THAT:

(1) THE SIGNATURE IS GENUINE; AND

(2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(C) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER LISTED IN SUBSECTION (A)(1) OR (2) OF THIS SECTION CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE NOTARIAL OFFICER TO PERFORM THE NOTARIAL ACT.

18–211.

(A) A NOTARIAL ACT PERFORMED UNDER THE AUTHORITY AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED INDIAN TRIBE HAS THE SAME EFFECT UNDER THE LAWS OF THIS STATE AS IF PERFORMED BY A NOTARIAL OFFICER OF THIS STATE, IF THE ACT PERFORMED IN THE JURISDICTION OF THE TRIBE IS PERFORMED BY:

(1) A NOTARY PUBLIC OF THE TRIBE;

(2) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THE TRIBE; OR

(3) ANY OTHER INDIVIDUAL AUTHORIZED BY THE LAWS OF THE TRIBE TO PERFORM THE NOTARIAL ACT.

(B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A NOTARIAL ACT UNDER THE AUTHORITY AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED INDIAN TRIBE ARE PRIMA FACIE EVIDENCE THAT:

(1) THE SIGNATURE IS GENUINE; AND

(2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(C) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER LISTED IN SUBSECTION (A)(1) OR (2) OF THIS SECTION CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE NOTARIAL OFFICER TO PERFORM THE NOTARIAL ACT.

18–212.

(A) A NOTARIAL ACT PERFORMED UNDER FEDERAL LAW HAS THE SAME EFFECT UNDER THE LAWS OF THIS STATE AS IF PERFORMED BY A NOTARIAL OFFICER OF THIS STATE, IF THE ACT PERFORMED UNDER FEDERAL LAW IS PERFORMED BY:

(1) A NOTARY PUBLIC OF A COURT;

(2) AN INDIVIDUAL IN MILITARY SERVICE OR PERFORMING DUTIES UNDER THE AUTHORITY OF MILITARY SERVICE WHO IS AUTHORIZED TO PERFORM NOTARIAL ACTS UNDER FEDERAL LAW;

(3) AN INDIVIDUAL DESIGNATED A NOTARIZING OFFICER BY THE U.S. DEPARTMENT OF STATE FOR PERFORMING NOTARIAL ACTS OVERSEAS; OR

(4) ANY OTHER INDIVIDUAL AUTHORIZED BY FEDERAL LAW TO PERFORM THE NOTARIAL ACT.

(B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A NOTARIAL ACT UNDER FEDERAL LAW ARE PRIMA FACIE EVIDENCE THAT:

(1) THE SIGNATURE IS GENUINE; AND

(2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(C) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER LISTED IN SUBSECTION (A)(1), (2), OR (3) OF THIS SECTION CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE NOTARIAL OFFICER TO PERFORM THE NOTARIAL ACT.

18–213.

(A) IF A NOTARIAL ACT IS PERFORMED UNDER THE AUTHORITY AND IN THE JURISDICTION OF A FOREIGN STATE OR CONSTITUENT UNIT OF THE FOREIGN STATE OR IS PERFORMED UNDER THE AUTHORITY OF A MULTINATIONAL OR INTERNATIONAL GOVERNMENTAL ORGANIZATION, THE ACT HAS THE SAME EFFECT UNDER THE LAWS OF THIS STATE AS IF PERFORMED BY A NOTARIAL OFFICER OF THIS STATE.

(B) IF THE TITLE OF OFFICE AND INDICATION OF AUTHORITY TO PERFORM NOTARIAL ACTS IN A FOREIGN STATE APPEARS IN A DIGEST OF FOREIGN LAW OR IN A LIST CUSTOMARILY USED AS A SOURCE FOR THAT INFORMATION, THE AUTHORITY OF AN OFFICER WITH THAT TITLE TO PERFORM NOTARIAL ACTS IS CONCLUSIVELY ESTABLISHED.

(C) THE SIGNATURE AND OFFICIAL STAMP OF AN INDIVIDUAL HOLDING AN OFFICE DESCRIBED IN SUBSECTION (B) OF THIS SECTION ARE PRIMA FACIE EVIDENCE THAT:

(1) THE SIGNATURE IS GENUINE; AND

(2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(D) AN APOSTILLE IN THE FORM PRESCRIBED BY THE HAGUE CONVENTION OF OCTOBER 5, 1961, AND ISSUED BY A FOREIGN STATE PARTY TO THE CONVENTION CONCLUSIVELY ESTABLISHES THAT:

(1) THE SIGNATURE OF THE NOTARIAL OFFICER IS GENUINE; AND

(2) THE NOTARIAL OFFICER HOLDS THE INDIVIDUAL OFFICE.

(E) A CONSULAR AUTHENTICATION ISSUED BY AN INDIVIDUAL DESIGNATED BY THE U.S. DEPARTMENT OF STATE AS NOTARIZING OFFICER FOR PERFORMING NOTARIAL ACTS OVERSEAS AND ATTACHED TO THE RECORD WITH RESPECT TO WHICH THE NOTARIAL ACT IS PERFORMED CONCLUSIVELY ESTABLISHES THAT:

(1) THE SIGNATURE OF THE NOTARIAL OFFICER IS GENUINE; AND

(2) THE NOTARIAL OFFICER HOLDS THE INDIVIDUAL OFFICE.

18–214.

(A) ~~A~~ EXCEPT FOR A NOTARIAL ACT BEING PERFORMED WITH RESPECT TO A WILL, AS DEFINED IN § 1–101 OF THE ESTATES AND TRUSTS ARTICLE, OR A TRUST INSTRUMENT, AS DEFINED IN § 14.5–103 OF THE ESTATES AND TRUSTS ARTICLE, A NOTARY PUBLIC LOCATED IN THIS STATE MAY PERFORM A NOTARIAL ACT USING COMMUNICATION TECHNOLOGY FOR A REMOTELY LOCATED INDIVIDUAL IF:

(1) THE NOTARY PUBLIC:

(I) HAS PERSONAL KNOWLEDGE UNDER § 18–206(A) OF THIS SUBTITLE OF THE IDENTITY OF THE REMOTELY LOCATED INDIVIDUAL;

(II) HAS SATISFACTORY EVIDENCE OF THE IDENTITY OF THE REMOTELY LOCATED INDIVIDUAL BY VERIFICATION ON OATH OR AFFIRMATION FROM A CREDIBLE WITNESS APPEARING BEFORE AND IDENTIFIED BY THE NOTARY PUBLIC UNDER § 18–206(B) OF THIS SUBTITLE OR AS A REMOTELY LOCATED INDIVIDUAL UNDER THIS SECTION; OR

(III) HAS OBTAINED SATISFACTORY EVIDENCE OF THE IDENTITY OF THE REMOTELY LOCATED INDIVIDUAL BY:

1. REMOTE PRESENTATION OF AN IDENTIFICATION CREDENTIAL DESCRIBED IN § 18–206(B) OF THIS SUBTITLE;

2. CREDENTIAL ANALYSIS OF THE IDENTIFICATION CREDENTIAL; AND

3. IDENTITY PROOFING OF THE INDIVIDUAL;

(2) THE NOTARY PUBLIC IS REASONABLY ABLE TO CONFIRM THAT A RECORD BEFORE THE NOTARY PUBLIC IS THE SAME RECORD IN WHICH THE REMOTELY LOCATED INDIVIDUAL MADE A STATEMENT OR ON WHICH THE INDIVIDUAL EXECUTED A SIGNATURE;

(3) THE NOTARY PUBLIC, OR PERSON ACTING ON BEHALF AND AT THE DIRECTION OF THE NOTARY PUBLIC, CREATES AN AUDIO–VISUAL RECORDING OF THE PERFORMANCE OF THE NOTARIAL ACT; AND

(4) FOR A REMOTELY LOCATED INDIVIDUAL LOCATED OUTSIDE THE UNITED STATES:

(I) THE RECORD:

1. IS TO BE FILED WITH OR RELATES TO A MATTER BEFORE A PUBLIC OFFICIAL OR COURT, GOVERNMENTAL ENTITY, OR OTHER ENTITY SUBJECT TO THE JURISDICTION OF THE UNITED STATES; OR

2. INVOLVES PROPERTY LOCATED IN THE TERRITORIAL JURISDICTION OF THE UNITED STATES OR INVOLVES A TRANSACTION SUBSTANTIALLY CONNECTED WITH THE UNITED STATES; AND

(II) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE ACT OF MAKING THE STATEMENT OR SIGNING THE RECORD IS PROHIBITED BY THE FOREIGN STATE IN WHICH THE REMOTELY LOCATED INDIVIDUAL IS LOCATED.

(B) IF A NOTARIAL ACT IS PERFORMED UNDER SUBSECTION (A) OF THIS SECTION, THE CERTIFICATE OF NOTARIAL ACT REQUIRED BY § 18–215 OF THIS SUBTITLE MUST INDICATE THAT THE NOTARIAL ACT INVOLVED A REMOTELY LOCATED INDIVIDUAL AND WAS PERFORMED USING COMMUNICATION TECHNOLOGY.

(C) A SHORT–FORM CERTIFICATE PROVIDED IN § 18–216 OF THIS SUBTITLE FOR A NOTARIAL ACT PERFORMED UNDER SUBSECTION (A) OF THIS SECTION IS SUFFICIENT IF IT:

(1) COMPLIES WITH ANY REGULATIONS ADOPTED UNDER § ~~18–223~~ *18–222* OF THIS SUBTITLE; OR

(2) CONTAINS A STATEMENT SUBSTANTIALLY AS FOLLOWS: "THIS NOTARIAL ACT INVOLVED A REMOTELY LOCATED INDIVIDUAL AND THE USE OF COMMUNICATION TECHNOLOGY.".

(D) (1) A NOTARY PUBLIC, A GUARDIAN, A CONSERVATOR, OR AN AGENT OF A NOTARY PUBLIC OR A PERSONAL REPRESENTATIVE OF A DECEASED NOTARY PUBLIC SHALL:

(I) RETAIN THE AUDIO–VISUAL RECORDING CREATED UNDER SUBSECTION (A)(3) OF THIS SECTION; OR

(II) CAUSE THE AUDIO–VISUAL RECORDING TO BE RETAINED BY A REPOSITORY DESIGNATED BY OR ON BEHALF OF THE PERSON REQUIRED TO RETAIN THE RECORDING.

(2) A GUARDIAN, A CONSERVATOR, OR AN AGENT OF A NOTARY PUBLIC OR PERSONAL REPRESENTATIVE OF A DECEASED NOTARY PUBLIC WHO

ASSUMES AUTHORITY OVER AUDIO–VISUAL RECORDINGS CREATED UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL:

(I) NOTIFY THE SECRETARY OF STATE WITHIN 30 DAYS AFTER ASSUMING AUTHORITY; AND

(II) COMPLY WITH ALL REQUIREMENTS IN THIS SUBTITLE REGARDING THE MAINTENANCE AND STORAGE OF THE AUDIO–VISUAL RECORDINGS.

~~(2)~~ **(3) UNLESS A DIFFERENT PERIOD IS REQUIRED BY REGULATIONS ADOPTED UNDER § ~~18–223~~ *18–222* OF THIS SUBTITLE, AN AUDIO–VISUAL RECORDING CREATED UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL BE RETAINED FOR A PERIOD OF AT LEAST 10 YEARS AFTER THE RECORDING IS MADE.**

(E) (1) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S INITIAL NOTARIAL ACT UNDER SUBSECTION (A) OF THIS SECTION, THE NOTARY PUBLIC SHALL NOTIFY THE SECRETARY OF STATE:

(I) THAT THE NOTARY PUBLIC WILL BE PERFORMING NOTARIAL ACTS FACILITATED BY COMMUNICATION TECHNOLOGY; AND

(II) OF THE TECHNOLOGIES THE NOTARY PUBLIC INTENDS TO USE.

(2) IF THE SECRETARY OF STATE ESTABLISHES BY REGULATION THE STANDARDS FOR APPROVAL OF COMMUNICATION TECHNOLOGY, CREDENTIAL ANALYSIS, OR IDENTITY PROOFING UNDER § ~~18–223~~ *18–222* OF THIS SUBTITLE, THE COMMUNICATION TECHNOLOGY, CREDENTIAL ANALYSIS, AND IDENTITY PROOFING USED BY A NOTARY PUBLIC MUST COMPLY WITH THE STANDARDS.

(F) THE VALIDITY OF A NOTARIAL ACT PERFORMED UNDER THIS SECTION SHALL BE DETERMINED UNDER THE LAWS OF THIS STATE REGARDLESS OF THE PHYSICAL LOCATION OF THE REMOTELY LOCATED INDIVIDUAL AT THE TIME OF THE NOTARIAL ACT.

(G) THIS SECTION SHALL BE CONSTRUED AND APPLIED IN A MANNER CONSISTENT WITH TITLE 21 OF THE COMMERCIAL LAW ARTICLE.

(H) (1) NOTHING IN THIS SECTION SHALL REQUIRE ANY PERSON TO ACCEPT, AGREE TO, CONDUCT, OR COMPLETE A TRANSACTION WHERE A NOTARIAL ACT IS PERFORMED USING COMMUNICATION TECHNOLOGY FOR A REMOTELY LOCATED INDIVIDUAL.

(2) A PERSON THAT AGREES TO ACCEPT, AGREE TO, CONDUCT, OR COMPLETE A TRANSACTION WHERE A NOTARIAL ACT IS PERFORMED USING COMMUNICATION TECHNOLOGY FOR A REMOTELY LOCATED INDIVIDUAL MAY REFUSE TO DO SO IN ANY OTHER TRANSACTION.

18–215.

(A) (1) EACH NOTARIAL ACT SHALL BE EVIDENCED BY A CERTIFICATE.

(2) THE CERTIFICATE SHALL:

(I) BE EXECUTED CONTEMPORANEOUSLY WITH THE PERFORMANCE OF THE NOTARIAL ACT;

(II) BE SIGNED AND DATED BY THE NOTARIAL OFFICER AND, IF THE NOTARIAL OFFICER IS A NOTARY PUBLIC, BE SIGNED IN THE SAME MANNER AS ON FILE WITH THE ~~SECRETARY OF STATE~~ CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE NOTARY PUBLIC RESIDES OR WAS QUALIFIED;

(III) IDENTIFY THE JURISDICTION IN WHICH THE NOTARIAL ACT IS PERFORMED;

(IV) CONTAIN THE TITLE OF OFFICE OF THE NOTARIAL OFFICER; AND

(V) IF THE NOTARIAL OFFICER IS A NOTARY PUBLIC, INDICATE THE DATE OF EXPIRATION, IF ANY, OF THE NOTARIAL OFFICER'S COMMISSION.

(B) (1) IF A NOTARIAL ACT REGARDING A TANGIBLE RECORD IS PERFORMED BY A NOTARY PUBLIC, THE NOTARY PUBLIC SHALL AFFIX AN OFFICIAL STAMP TO OR EMBOSS AN OFFICIAL STAMP ON THE CERTIFICATE.

(2) IF A NOTARIAL ACT IS PERFORMED REGARDING A TANGIBLE RECORD BY A NOTARIAL OFFICER OTHER THAN A NOTARY PUBLIC, THE NOTARIAL OFFICER MAY AFFIX AN OFFICIAL STAMP TO OR EMBOSS AN OFFICIAL STAMP ON THE CERTIFICATE.

(3) IF A NOTARIAL ACT REGARDING AN ELECTRONIC RECORD IS PERFORMED BY A NOTARIAL OFFICER, THE NOTARIAL OFFICER MAY ATTACH AN OFFICIAL STAMP TO OR LOGICALLY ASSOCIATE AN OFFICIAL STAMP WITH THE CERTIFICATE.

(C) A CERTIFICATE OF A NOTARIAL ACT IS SUFFICIENT IF IT MEETS THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AND:

(1) IS IN A SHORT FORM PROVIDED IN § 18–216 OF THIS SUBTITLE;

(2) IS IN A FORM OTHERWISE ALLOWED BY THE LAWS OF THIS STATE;

(3) IS IN A FORM ALLOWED BY THE LAWS APPLICABLE IN THE JURISDICTION IN WHICH THE NOTARIAL ACT WAS PERFORMED; OR

(4) SETS FORTH THE ACTIONS OF THE NOTARIAL OFFICER AND THE ACTIONS ARE SUFFICIENT TO MEET THE REQUIREMENTS OF THE LAWS OF THE STATE.

(D) BY EXECUTING A CERTIFICATE OF A NOTARIAL ACT, A NOTARIAL OFFICER CERTIFIES THAT THE NOTARIAL OFFICER HAS COMPLIED WITH §§ 18–203, 18–204, AND 18–205, AND, IF APPLICABLE, § 18–214 OF THIS SUBTITLE.

(E) A NOTARIAL OFFICER MAY NOT AFFIX THE NOTARIAL OFFICER'S SIGNATURE TO, OR LOGICALLY ASSOCIATE IT WITH, A CERTIFICATE UNTIL THE NOTARIAL ACT HAS BEEN PERFORMED.

(F) (1) IF A NOTARIAL ACT IS PERFORMED REGARDING A TANGIBLE RECORD, A CERTIFICATE SHALL BE PART OF, OR SECURELY ATTACHED TO, THE RECORD.

(2) IF A NOTARIAL ACT IS PERFORMED REGARDING AN ELECTRONIC RECORD, THE CERTIFICATE SHALL BE AFFIXED TO, OR LOGICALLY ASSOCIATED WITH, THE ELECTRONIC RECORD.

(3) IF THE SECRETARY OF STATE HAS ADOPTED REGULATIONS UNDER § ~~18–223~~ *18–222* OF THIS SUBTITLE TO ESTABLISH STANDARDS FOR ATTACHING, AFFIXING, OR LOGICALLY ASSOCIATING THE CERTIFICATE, THE NOTARIAL OFFICER SHALL USE A PROCESS FOR ATTACHING, AFFIXING, OR LOGICALLY ASSOCIATING THE CERTIFICATE THAT CONFORMS TO THE STANDARDS.

18–216.

(A) THE SHORT FORM CERTIFICATES OF NOTARIAL ACTS IN SUBSECTIONS (B), (C), (D), (E), (F), AND (G) OF THIS SECTION ARE SUFFICIENT FOR THE PURPOSES INDICATED IF:

(1) THE CERTIFICATE IS COMPLETED WITH THE INFORMATION REQUIRED BY § 18–215(A) OF THIS SUBTITLE; AND

(2) IF REQUIRED UNDER § 18–215(B) OF THIS SUBTITLE, THE OFFICIAL STAMP OF THE NOTARY PUBLIC IS AFFIXED TO OR EMBOSSED ON THE CERTIFICATE.

(B) FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

STATE OF ..... COUNTY OF .....

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON THE ... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(C) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

STATE OF ..... COUNTY OF .....

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON THE ... DAY OF ..., 20... BY ... AS (TYPE OF AUTHORITY, SUCH AS AN OFFICER OR TRUSTEE) OF (NAME OF PARTY ON BEHALF OF WHOM RECORD WAS EXECUTED).

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(D) FOR A VERIFICATION ON OATH OR AFFIRMATION:

STATE OF ..... COUNTY OF .....

SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME ON THE ... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(E) FOR WITNESSING OR ATTESTING A SIGNATURE:

STATE OF ..... COUNTY OF .....

SIGNED (OR ATTESTED) BEFORE ME ON THE ... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(F) FOR CERTIFYING A COPY OF A RECORD:

STATE OF ..... COUNTY OF .....

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF A RECORD IN THE POSSESSION OF ...

DATED THE ... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(G) FOR CERTIFYING A TANGIBLE COPY OF AN ELECTRONIC RECORD:

STATE OF ..... COUNTY OF .....

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ELECTRONIC RECORD ENTITLED ..., DATED THE ... DAY OF ..., 20..., CONTAINING ... PAGES.

DATED THE .... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

18–217.

(A) THE OFFICIAL STAMP OF A NOTARY PUBLIC SHALL:

(1) INCLUDE:

(I) THE NOTARY PUBLIC'S NAME, JURISDICTION, AND OFFICE~~, AND COUNTY OF RESIDENCE; AND~~;

(II) THE COUNTY IN WHICH THE NOTARY PUBLIC RESIDES OR WAS QUALIFIED; AND

~~(II)~~ (III) ANY OTHER INFORMATION REQUIRED BY THE SECRETARY OF STATE; AND

(2) BE CAPABLE OF BEING COPIED TOGETHER WITH THE RECORD TO WHICH IT IS AFFIXED OR ATTACHED OR WITH WHICH IT IS LOGICALLY ASSOCIATED.

(B) A NOTARY PUBLIC COMMISSIONED UNDER THE LAWS OF THIS STATE SHALL INCLUDE IN THE NOTARY PUBLIC'S OFFICIAL STAMP OR WITHIN A CERTIFICATE OF NOTARIAL ACT THE EXPIRATION DATE OF THE NOTARY PUBLIC'S COMMISSION AS A NOTARY PUBLIC.

(C) A NOTARY PUBLIC'S OFFICIAL STAMP IS A PUBLIC SEAL ~~FOR PURPOSES OF § 8–607 OF THE CRIMINAL LAW ARTICLE~~.

18–218.

(A) (1) (I) EACH NOTARY PUBLIC IS RESPONSIBLE FOR THE SECURITY OF THE NOTARY PUBLIC'S STAMPING DEVICE.

(II) A NOTARY PUBLIC MAY NOT ALLOW ANOTHER INDIVIDUAL TO USE THE STAMPING DEVICE TO PERFORM A NOTARIAL ACT.

(2) ON RESIGNATION FROM, OR THE REVOCATION OR EXPIRATION OF, THE NOTARY PUBLIC'S COMMISSION, OR ON THE EXPIRATION OF THE DATE SET FORTH IN THE STAMPING DEVICE, IF ANY, THE NOTARY PUBLIC SHALL DISABLE THE STAMPING DEVICE BY DESTROYING, DEFACING, DAMAGING, ERASING, OR SECURING IT AGAINST USE IN A MANNER THAT RENDERS IT UNUSABLE.

(3) ON THE DEATH OR ADJUDICATION OF INCOMPETENCY OF A NOTARY PUBLIC, THE NOTARY PUBLIC'S PERSONAL REPRESENTATIVE OR GUARDIAN OR ANY OTHER PERSON KNOWINGLY IN POSSESSION OF THE STAMPING DEVICE SHALL DISABLE THE STAMPING DEVICE BY DESTROYING, DEFACING, DAMAGING, ERASING, OR SECURING IT AGAINST USE IN A MANNER THAT RENDERS IT UNUSABLE.

(B) IF A NOTARY PUBLIC'S STAMPING DEVICE IS LOST OR STOLEN, THE NOTARY PUBLIC OR THE NOTARY PUBLIC'S PERSONAL REPRESENTATIVE OR

GUARDIAN PROMPTLY SHALL NOTIFY THE SECRETARY OF STATE ON DISCOVERING THAT THE DEVICE IS LOST OR STOLEN.

(C) A NOTARY PUBLIC'S STAMPING DEVICE IS A PUBLIC SEAL FOR PURPOSES OF § 8–607 OF THE CRIMINAL LAW ARTICLE.

18–219.

(A) (1) SUBJECT TO SUBSECTION (F) OF THIS SECTION, EACH NOTARY PUBLIC SHALL MAINTAIN A JOURNAL IN WHICH THE NOTARY PUBLIC CHRONICLES ALL NOTARIAL ACTS THAT THE NOTARY PUBLIC PERFORMS.

(2) THE NOTARY PUBLIC SHALL RETAIN THE JOURNAL FOR 10 YEARS AFTER THE PERFORMANCE OF THE LAST NOTARIAL ACT CHRONICLED IN THE JOURNAL.

(B) (1) A JOURNAL MAY BE CREATED ON A TANGIBLE MEDIUM OR IN AN ELECTRONIC FORMAT.

(2) A NOTARY PUBLIC SHALL MAINTAIN ONLY ONE JOURNAL AT A TIME TO CHRONICLE ALL NOTARIAL ACTS PERFORMED REGARDING TANGIBLE RECORDS, AND ONE OR MORE JOURNALS TO CHRONICLE ALL NOTARIAL ACTS PERFORMED REGARDING ELECTRONIC RECORDS.

(3) (I) IF THE JOURNAL IS MAINTAINED ON A TANGIBLE MEDIUM, THE JOURNAL MUST BE A PERMANENT, BOUND REGISTER WITH NUMBERED PAGES.

(II) IF THE JOURNAL IS MAINTAINED IN AN ELECTRONIC FORMAT, THE JOURNAL MUST BE IN A PERMANENT, TAMPER–EVIDENT ELECTRONIC FORMAT THAT COMPLIES WITH ANY REGULATIONS ADOPTED BY THE SECRETARY OF STATE UNDER § ~~18–223~~ *18–222* OF THIS SUBTITLE.

(C) EACH ENTRY IN A JOURNAL SHALL:

(1) BE MADE CONTEMPORANEOUSLY WITH PERFORMANCE OF THE NOTARIAL ACT; AND

(2) CONTAIN THE FOLLOWING INFORMATION:

(I) THE DATE AND TIME THE NOTARIAL ACT WAS PERFORMED;

(II) A DESCRIPTION OF THE RECORD, IF ANY, AND TYPE OF NOTARIAL ACT;

(III) THE FULL NAME AND ADDRESS OF EACH INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED;

(IV) IF THE IDENTITY OF THE INDIVIDUAL IS BASED ON PERSONAL KNOWLEDGE, A STATEMENT TO THAT EFFECT;

(V) IF THE IDENTITY OF THE INDIVIDUAL IS BASED ON SATISFACTORY EVIDENCE, A BRIEF DESCRIPTION OF THE METHOD OF IDENTIFICATION AND THE IDENTIFICATION CREDENTIAL PRESENTED, IF ANY, INCLUDING THE DATE OF ISSUANCE AND EXPIRATION OF ANY IDENTIFICATION CREDENTIAL;

(VI) THE FEE, IF ANY, CHARGED BY THE NOTARY PUBLIC; AND

(VII) AN INDICATION OF WHETHER AN INDIVIDUAL MAKING A STATEMENT OR EXECUTING A SIGNATURE WHICH IS THE SUBJECT OF THE NOTARIAL ACT APPEARED IN THE NOTARY PUBLIC'S PHYSICAL PRESENCE OR BY MEANS OF COMMUNICATION TECHNOLOGY.

(D) IF A NOTARY PUBLIC'S JOURNAL IS LOST OR STOLEN, THE NOTARY PUBLIC PROMPTLY SHALL NOTIFY THE SECRETARY OF STATE ON DISCOVERING THAT THE JOURNAL IS LOST OR STOLEN.

(E) SUBJECT TO SUBSECTION (F) OF THIS SECTION, ON RESIGNATION FROM, OR THE REVOCATION OR SUSPENSION OF, A NOTARY PUBLIC'S COMMISSION, THE NOTARY PUBLIC SHALL:

(1) RETAIN THE NOTARY PUBLIC'S JOURNAL IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION; AND

(2) INFORM THE SECRETARY OF STATE WHERE THE JOURNAL IS LOCATED.

(F) INSTEAD OF RETAINING A JOURNAL AS REQUIRED UNDER SUBSECTION (A) OR (E) OF THIS SECTION, A CURRENT OR FORMER NOTARY PUBLIC MAY:

(1) TRANSMIT THE JOURNAL TO ~~THE SECRETARY OF STATE OR~~ A REPOSITORY APPROVED BY THE SECRETARY OF STATE; OR

(2) STORE THE JOURNAL IN ANY OTHER MANNER AS APPROVED BY THE SECRETARY OF STATE IN REGULATIONS.

(G) ON THE DEATH OR ADJUDICATION OF INCOMPETENCY OF A CURRENT OR FORMER NOTARY PUBLIC, THE NOTARY PUBLIC'S PERSONAL REPRESENTATIVE

OR GUARDIAN OR ANY OTHER PERSON KNOWINGLY IN POSSESSION OF THE JOURNAL SHALL:

(1) TRANSMIT IT TO ~~THE SECRETARY OF STATE OR~~ A REPOSITORY APPROVED BY THE SECRETARY OF STATE; OR

(2) STORE THE JOURNAL IN ANY OTHER MANNER AS REQUIRED OR APPROVED BY THE SECRETARY OF STATE IN REGULATIONS.

18–220.

(A) (1) A NOTARY PUBLIC MAY SELECT ONE OR MORE TAMPER–EVIDENT TECHNOLOGIES TO PERFORM NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS.

(2) A PERSON MAY NOT REQUIRE A NOTARY PUBLIC TO PERFORM A NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD WITH A TECHNOLOGY THAT THE NOTARY PUBLIC HAS NOT SELECTED.

(B) (1) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S INITIAL NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD, A NOTARY PUBLIC SHALL:

(I) NOTIFY THE SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE PERFORMING NOTARIAL ACTS WITH RESPECT TO THE ELECTRONIC RECORDS; AND

(II) IDENTIFY THE TECHNOLOGY THE NOTARY PUBLIC INTENDS TO USE.

(2) IF THE SECRETARY OF STATE ADOPTS REGULATIONS UNDER § ~~18–223~~ *18–222* OF THIS SUBTITLE TO ESTABLISH STANDARDS FOR APPROVAL OF TECHNOLOGY USED TO PERFORM A NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD, THE NOTARY PUBLIC SHALL USE TECHNOLOGY THAT CONFORMS TO THE STANDARDS.

(3) IF STANDARDS AND REGULATIONS ADOPTED BY THE SECRETARY OF STATE UNDER THIS SUBTITLE REQUIRE TECHNOLOGY USED TO PERFORM NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS, THE SECRETARY OF STATE SHALL APPROVE THE USE OF THE TECHNOLOGY.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO A PLAT RECORDED UNDER TITLE 3 OF THE REAL PROPERTY ARTICLE.

(2) A CLERK OF THE CIRCUIT COURT SHALL ACCEPT FOR RECORDING UNDER TITLE 3 OF THE REAL PROPERTY ARTICLE A TANGIBLE COPY OF AN ELECTRONIC RECORD CONTAINING A NOTARIAL CERTIFICATE IN A FORM SUFFICIENT UNDER § 18–216(G) OF THIS SUBTITLE AS SATISFYING ANY REQUIREMENT THAT A RECORD ACCEPTED FOR RECORDING BE AN ORIGINAL, IF THE NOTARIAL OFFICER EXECUTING THE CERTIFICATE CERTIFIES THAT THE TANGIBLE COPY IS AN ACCURATE COPY OF THE ELECTRONIC RECORD UNDER § 18–203(C) OF THIS SUBTITLE.

(D) (1) A NOTARIAL CERTIFICATE IS PRIMA FACIE EVIDENCE THAT THE REQUIREMENTS OF § 18–204(E) OF THIS SUBTITLE HAVE BEEN SATISFIED WITH RESPECT TO AN ELECTRONIC RECORD IF THE CERTIFICATE:

(I) IS COMPLETED WITH THE INFORMATION REQUIRED BY § 18–215(A) OF THIS SUBTITLE;

(II) INCLUDES AN AFFIXED OR EMBOSSED OFFICIAL STAMP AS REQUIRED BY § 18–215(B) OF THIS SUBTITLE; AND

(III) IS ATTACHED TO OR MADE A PART OF A TANGIBLE COPY OF AN ELECTRONIC RECORD.

(2) A TANGIBLE COPY OF AN ELECTRONIC RECORD PURPORTING TO CONVEY OR ENCUMBER REAL PROPERTY OR ANY INTEREST IN REAL PROPERTY THAT HAS BEEN RECORDED BY A CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE REAL PROPERTY AFFECTED BY THE RECORD LIES SHALL IMPART THE SAME NOTICE TO THIRD PARTIES AND BE EFFECTIVE FROM THE TIME OF RECORDING AS IF THE TANGIBLE COPY HAD BEEN CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE EVEN IF THE TANGIBLE COPY MAY NOT HAVE BEEN CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

18–221.

~~THE SECRETARY OF STATE SHALL MAINTAIN AN ELECTRONIC DATABASE OF NOTARIES PUBLIC:~~

~~(1) THROUGH WHICH A PERSON MAY VERIFY THE AUTHORITY OF A NOTARY PUBLIC TO PERFORM NOTARIAL ACTS; AND~~

~~(2) THAT INDICATES WHETHER A NOTARY PUBLIC HAS NOTIFIED THE SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE PERFORMING NOTARIAL ACTS ON ELECTRONIC RECORDS OR BY MEANS OF COMMUNICATION TECHNOLOGY.~~

~~18–222.~~

(A) EXCEPT AS PROVIDED IN § 18–203(B) OF THIS SUBTITLE, THE FAILURE OF A NOTARIAL OFFICER TO PERFORM A DUTY OR MEET A REQUIREMENT SPECIFIED IN THIS SUBTITLE DOES NOT INVALIDATE A NOTARIAL ACT PERFORMED BY THE NOTARIAL OFFICER.

(B) THE VALIDITY OF A NOTARIAL ACT UNDER THIS SUBTITLE DOES NOT PREVENT AN AGGRIEVED PERSON FROM SEEKING:

(1) TO INVALIDATE THE RECORD OR TRANSACTION THAT IS THE SUBJECT OF THE NOTARIAL ACT UNDER ANOTHER LAW; OR

(2) OTHER REMEDIES ALLOWED UNDER FEDERAL OR STATE LAW.

(C) THIS SECTION DOES NOT VALIDATE A PURPORTED NOTARIAL ACT PERFORMED BY AN INDIVIDUAL WHO DOES NOT HAVE THE AUTHORITY TO PERFORM NOTARIAL ACTS.

~~**18–223.**~~ *18–222.*

(A) (1) THE SECRETARY OF STATE MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

(2) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION REGARDING THE PERFORMANCE OF NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS MAY NOT REQUIRE OR ACCORD GREATER LEGAL STATUS OR EFFECT TO THE IMPLEMENTATION OR APPLICATION OF A SPECIFIC TECHNOLOGY OR TECHNICAL SPECIFICATION.

(3) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION REGARDING PERFORMANCE OF A NOTARIAL ACT MAY:

(I) PRESCRIBE THE MEANS OF PERFORMING A NOTARIAL ACT INVOLVING A REMOTELY LOCATED INDIVIDUAL USING COMMUNICATION TECHNOLOGY;

(II) ESTABLISH STANDARDS FOR COMMUNICATION TECHNOLOGY, CREDENTIAL ANALYSIS, AND IDENTITY PROOFING;

(III) ESTABLISH REQUIREMENTS OR PROCEDURES TO APPROVE PROVIDERS OF COMMUNICATION TECHNOLOGY AND THE PROCESSES OF CREDENTIAL ANALYSIS AND IDENTITY PROOFING; AND

(IV) ESTABLISH STANDARDS AND A PERIOD OF RETENTION OF AN AUDIO–VISUAL RECORDING CREATED UNDER § 18–214(A)(3) OF THIS SUBTITLE.

(4) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY:

(I) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS REGARDING TANGIBLE AND ELECTRONIC RECORDS;

(II) INCLUDE PROVISIONS TO ENSURE THAT ANY CHANGE TO OR TAMPERING WITH A RECORD BEARING A CERTIFICATE OF A NOTARIAL ACT IS SELF–EVIDENT;

(III) INCLUDE PROVISIONS TO ENSURE INTEGRITY IN THE CREATION, TRANSMITTAL, STORAGE, OR AUTHENTICATION OF ELECTRONIC RECORDS OR SIGNATURES;

(IV) IF THE GOVERNOR HAS DELEGATED AUTHORITY UNDER § 18–104(B) OF THIS TITLE, PRESCRIBE THE PROCESS OF GRANTING, RENEWING, CONDITIONING, DENYING, SUSPENDING, OR REVOKING A NOTARY PUBLIC COMMISSION AND ASSURING THE TRUSTWORTHINESS OF AN INDIVIDUAL HOLDING A COMMISSION AS A NOTARY PUBLIC; AND

(V) INCLUDE PROVISIONS TO PREVENT FRAUD OR MISTAKE IN THE PERFORMANCE OF NOTARIAL ACTS.

(B) IN ADOPTING REGULATIONS UNDER SUBSECTION (A) OF THIS SECTION REGARDING NOTARIAL ACTS PERFORMED WITH RESPECT TO ELECTRONIC RECORDS OR FOR A REMOTELY LOCATED INDIVIDUAL, THE SECRETARY OF STATE SHALL CONSIDER, SO FAR AS IS CONSISTENT WITH THIS SUBTITLE:

(1) THE MOST RECENT STANDARDS REGARDING ELECTRONIC RECORDS PROMULGATED BY NATIONAL BODIES, SUCH AS THE NATIONAL ASSOCIATION OF SECRETARIES OF STATE;

(2) STANDARDS, PRACTICES, AND CUSTOMS OF OTHER JURISDICTIONS THAT SUBSTANTIALLY ENACT THIS SUBTITLE; AND

(3) THE VIEWS OF GOVERNMENT OFFICIALS AND ENTITIES AND OTHER INTERESTED PERSONS.

~~**18–224.**~~ *18–223.*

(A) (1) UNLESS THE SECRETARY OF STATE ADOPTS AN APPLICABLE AND SUPERSEDING REGULATION UNDER § ~~18–223~~ *18–222* OF THIS SUBTITLE IN THE MANNER PROVIDED IN THIS SUBSECTION, A NOTARY PUBLIC SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION WHEN PERFORMING A NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD OR A REMOTELY LOCATED INDIVIDUAL.

(2) A REGULATION ADOPTED BY THE SECRETARY OF STATE MAY SUPERSEDE A REQUIREMENT OF THIS SECTION IF THE REGULATION REFERENCES THIS SECTION AND SPECIFIES THE REQUIREMENT TO BE SUPERSEDED.

(B) IDENTITY PROOFING AND CREDENTIAL ANALYSIS SHALL BE PERFORMED BY A REPUTABLE THIRD PARTY WHO HAS PROVIDED EVIDENCE TO THE NOTARY PUBLIC OF THE ABILITY TO SATISFY THE REQUIREMENTS OF THIS SECTION.

(C) IDENTITY PROOFING SHALL BE PERFORMED THROUGH A DYNAMIC KNOWLEDGE–BASED AUTHENTICATION THAT MEETS THE FOLLOWING REQUIREMENTS:

(1) EACH REMOTELY LOCATED INDIVIDUAL MUST ANSWER A QUIZ CONSISTING OF A MINIMUM OF FIVE QUESTIONS RELATED TO THE INDIVIDUAL'S PERSONAL HISTORY OR IDENTITY, FORMULATED FROM PUBLIC OR PRIVATE DATA SOURCES;

(2) EACH QUESTION MUST HAVE A MINIMUM OF FIVE POSSIBLE ANSWER CHOICES;

(3) AT LEAST 80% OF THE QUESTIONS MUST BE ANSWERED CORRECTLY;

(4) ALL QUESTIONS MUST BE ANSWERED WITHIN 2 MINUTES;

(5) IF THE REMOTELY LOCATED INDIVIDUAL FAILS THE FIRST ATTEMPT, THE INDIVIDUAL MAY RETAKE THE QUIZ ONE TIME WITHIN 24 HOURS;

(6) DURING A RETAKE OF THE QUIZ, A MINIMUM OF 40% OF THE PRIOR QUESTIONS MUST BE REPLACED;

(7) IF THE REMOTELY LOCATED INDIVIDUAL FAILS THE SECOND ATTEMPT, THE INDIVIDUAL IS NOT ALLOWED TO RETRY WITH THE SAME NOTARY PUBLIC WITHIN 24 HOURS OF THE SECOND FAILED ATTEMPT; AND

(8) THE NOTARY PUBLIC MUST NOT BE ABLE TO SEE OR RECORD THE QUESTIONS OR ANSWERS.

(D) CREDENTIAL ANALYSIS MUST USE PUBLIC OR PRIVATE DATA SOURCES TO CONFIRM THE VALIDITY OF AN IDENTIFICATION CREDENTIAL PRESENTED BY A REMOTELY LOCATED INDIVIDUAL AND SHALL, AT A MINIMUM:

(1) USE AUTOMATED SOFTWARE PROCESSES TO AID THE NOTARY PUBLIC IN VERIFYING THE IDENTITY OF EACH REMOTELY LOCATED INDIVIDUAL;

(2) ENSURE THAT THE IDENTIFICATION CREDENTIAL PASSES AN AUTHENTICITY TEST, CONSISTENT WITH SOUND COMMERCIAL PRACTICES THAT:

(I) USE APPROPRIATE TECHNOLOGIES TO CONFIRM THE INTEGRITY OF VISUAL, PHYSICAL, OR CRYPTOGRAPHIC SECURITY FEATURES;

(II) USE APPROPRIATE TECHNOLOGIES TO CONFIRM THAT THE IDENTIFICATION CREDENTIAL IS NOT FRAUDULENT OR INAPPROPRIATELY MODIFIED;

(III) USE INFORMATION HELD OR PUBLISHED BY THE ISSUING SOURCE OR AN AUTHORITATIVE SOURCE, AS AVAILABLE, TO CONFIRM THE VALIDITY OF PERSONAL DETAILS AND IDENTIFICATION CREDENTIAL DETAILS; AND

(IV) PROVIDE OUTPUT OF THE AUTHENTICITY TEST TO THE NOTARY PUBLIC; AND

(3) ENABLE THE NOTARY PUBLIC VISUALLY TO COMPARE FOR CONSISTENCY THE INFORMATION AND PHOTO ON THE IDENTIFICATION CREDENTIAL AND THE REMOTELY LOCATED INDIVIDUAL AS VIEWED BY THE NOTARY PUBLIC IN REAL TIME THROUGH COMMUNICATION TECHNOLOGY.

(E) (1) COMMUNICATION TECHNOLOGY SHALL PROVIDE REASONABLE SECURITY MEASURES TO PREVENT UNAUTHORIZED ACCESS TO:

(I) THE LIVE TRANSMISSION OF THE AUDIO–VISUAL FEEDS;

(II) THE METHODS USED TO PERFORM CREDENTIAL ANALYSIS AND IDENTITY PROOFING; AND

(III) THE ELECTRONIC RECORD THAT IS THE SUBJECT OF THE NOTARIAL ACT.

(2) IF A REMOTELY LOCATED INDIVIDUAL MUST EXIT THE WORKFLOW, THE REMOTELY LOCATED INDIVIDUAL MUST MEET THE CRITERIA OF THIS SECTION AND RESTART CREDENTIAL ANALYSIS AND IDENTITY PROOFING FROM THE BEGINNING.

(F) (1) A NOTARY PUBLIC SHALL ATTACH OR LOGICALLY ASSOCIATE THE NOTARY PUBLIC'S ELECTRONIC SIGNATURE AND OFFICIAL STAMP TO AN ELECTRONIC RECORD BY USE OF A DIGITAL CERTIFICATE COMPLYING WITH THE X.509 STANDARD ADOPTED BY THE INTERNATIONAL TELECOMMUNICATION UNION OR A SIMILAR INDUSTRY–STANDARD TECHNOLOGY.

(2) A NOTARY PUBLIC MAY NOT PERFORM A NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD IF THE DIGITAL CERTIFICATE:

(I) HAS EXPIRED;

(II) HAS BEEN REVOKED OR TERMINATED BY THE ISSUING OR REGISTERING AUTHORITY;

(III) IS INVALID; OR

(IV) IS INCAPABLE OF AUTHENTICATION.

(G) (1) A NOTARY PUBLIC SHALL RETAIN A JOURNAL REQUIRED UNDER § 18–219 OF THIS SUBTITLE AND ANY AUDIO–VISUAL RECORDINGS REQUIRED UNDER § 18–214 OF THIS SUBTITLE IN A COMPUTER OR OTHER ELECTRONIC STORAGE DEVICE THAT PROTECTS THE JOURNAL OR AUDIO–VISUAL RECORDINGS AGAINST UNAUTHORIZED ACCESS BY PASSWORD OR CRYPTOGRAPHIC PROCESS.

(2) (I) A NOTARY PUBLIC MAY, BY WRITTEN CONTRACT, ENGAGE A THIRD PARTY TO ACT AS A REPOSITORY TO PROVIDE THE STORAGE REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION.

(II) THE CONTRACT SHALL:

1. ENABLE THE NOTARY PUBLIC TO COMPLY WITH THE RETENTION REQUIREMENTS OF THIS SUBTITLE EVEN IF THE CONTRACT IS TERMINATED; OR

2. PROVIDE THAT THE INFORMATION WILL BE TRANSFERRED TO THE NOTARY PUBLIC IF THE CONTRACT IS TERMINATED.

(3) A THIRD PARTY UNDER CONTRACT WITH A NOTARY PUBLIC UNDER THIS SUBSECTION SHALL BE DEEMED A REPOSITORY APPROVED BY THE SECRETARY OF STATE UNDER § 18–219 OF THIS SUBTITLE.

~~**18–225.**~~ ***18–224.***

(A) A COMMISSION AS NOTARY PUBLIC DOES NOT AUTHORIZE AN INDIVIDUAL TO:

(1) ASSIST A PERSON IN DRAFTING LEGAL RECORDS, GIVE LEGAL ADVICE, OR OTHERWISE PRACTICE LAW;

(2) ACT AS AN IMMIGRATION CONSULTANT OR AN EXPERT ON IMMIGRATION MATTERS;

(3) REPRESENT A PERSON IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING RELATING TO IMMIGRATION TO THE UNITED STATES, UNITED STATES CITIZENSHIP, OR RELATED MATTERS; OR

(4) RECEIVE COMPENSATION FOR PERFORMING ANY OF THE ACTIVITIES LISTED IN ITEMS (1) THROUGH (3) OF THIS SUBSECTION.

(B) A NOTARY PUBLIC MAY NOT ENGAGE IN FALSE OR DECEPTIVE ADVERTISING.

(C) A NOTARY PUBLIC MAY NOT USE THE TERM "NOTARIO" OR "NOTARIO PUBLICO" UNLESS THE NOTARY PUBLIC IS AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE.

(D) (1) A NOTARY PUBLIC MAY NOT ADVERTISE OR REPRESENT THAT THE NOTARY PUBLIC MAY ASSIST PERSONS IN DRAFTING LEGAL RECORDS, GIVE LEGAL ADVICE, OR OTHERWISE PRACTICE LAW UNLESS THE NOTARY PUBLIC IS AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE.

(2) (I) IF A NOTARY PUBLIC WHO IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE IN ANY MANNER ADVERTISES OR REPRESENTS THAT THE NOTARY PUBLIC OFFERS NOTARIAL SERVICES, WHETHER ORALLY OR IN A RECORD, INCLUDING BROADCAST MEDIA, PRINT MEDIA, AND THE INTERNET, THE NOTARY PUBLIC SHALL INCLUDE THE FOLLOWING STATEMENT, OR AN ALTERNATE STATEMENT AUTHORIZED OR REQUIRED BY THE SECRETARY OF STATE, IN THE ADVERTISEMENT OR REPRESENTATION: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE. I AM NOT ALLOWED TO DRAFT LEGAL RECORDS, GIVE ADVICE ON LEGAL MATTERS, INCLUDING IMMIGRATION, OR CHARGE A FEE FOR THOSE ACTIVITIES.".

(II) THE STATEMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE INCLUDED PROMINENTLY AND IN EACH LANGUAGE USED IN THE ADVERTISEMENT OR REPRESENTATION.

(III) IF THE FORM OF ADVERTISEMENT OR REPRESENTATION IS NOT BROADCAST MEDIA, PRINT MEDIA, OR THE INTERNET AND DOES NOT ALLOW INCLUSION OF THE STATEMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH BECAUSE OF SIZE, THE STATEMENT SHALL BE PROMINENTLY DISPLAYED OR PROVIDED AT THE PLACE OF PERFORMANCE OF THE NOTARIAL ACT BEFORE THE NOTARIAL ACT IS PERFORMED.

(E) EXCEPT AS OTHERWISE ALLOWED BY LAW, A NOTARY PUBLIC MAY NOT WITHHOLD ACCESS TO OR POSSESSION OF AN ORIGINAL RECORD PROVIDED BY A PERSON THAT SEEKS PERFORMANCE OF A NOTARIAL ACT BY THE NOTARY PUBLIC.

~~**18–226.**~~ ***18–225.***

IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

~~**18–227.**~~ ***18–226.***

THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101(C) OF THAT ACT, 15 U.S.C. SECTION 7001(C), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15 U.S.C. 7003(B).

~~**18–228.**~~ ***18–227.***

THIS SUBTITLE MAY BE CITED AS THE MARYLAND REVISED UNIFORM LAW ON NOTARIAL ACTS.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 19–101 through 19–301 and the title "Title 19. Acknowledgments" of Article – State Government of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That a commission as a notary public in effect on the effective date of this Act continues to be in effect until its date of expiration.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act does not affect the validity or effect of a notarial act performed before the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2019~~ 2020.

Approved by the Governor, May 13, 2019.

Chapter 408

(Senate Bill 958)

AN ACT concerning

State Board of Professional Counselors and Therapists – Licensure, Disciplinary Action, Criminal History Records Checks, and Trainee Status – Revisions

FOR the purpose of authorizing the State Board of Professional Counselors and Therapists to take action against a clinical professional counselor only if the Board discusses certain proposed disciplinary action with a certain Board member and a certain Board member votes; authorizing a licensed professional counselor or therapist to engage in certain advanced assessment activities, rather than appraisal activities, if the licensed professional counselor or therapist has completed certain training; repealing the requirement that the credit hours or educational requirements completed by certain applicants to be licensed by the ~~State~~ Board ~~of Professional Counselors and Therapists~~ be accredited by the American Art Therapy Association; requiring certain applicants to pass an examination approved by the Board, rather than the Art Therapy Credentials Board Exam; requiring an applicant for trainee status to submit certain information to the Board, pay a certain fee, and submit to a criminal history records check; repealing authorization for the Board to accept an alternate method of a criminal history records check under certain circumstances; requiring the Central Repository to forward to the Board and to certain individuals certain information under certain circumstances; altering the information that must be included by the Board on each license and certificate; requiring the Board to maintain a certain electronic roster for a certain purpose; authorizing certain individuals to contact the Board to verify a license or certificate; repealing the requirement for a licensee or certificate holder to display the license or certificate in a certain manner; making certain provisions of law governing the denial, probation, suspension, reprimand, or revocation of licenses and certificates applicable to certain trainees; defining a certain term; making conforming changes; repealing certain obsolete language; and generally relating to professional counselors and therapists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 17–205(c), 17–304.1, 17–310, 17–501, 17–503, and 17–509
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing
Article – Health Occupations
Section 17–304.2, 17–501.1(d), and 17–506
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health Occupations
Section 17–501.1(d)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

17–205.

(c) (1) The Board may take action against a marriage and family therapist only if:

(i) Before taking action against the marriage and family therapist, the Board discusses the proposed action with a Board member who is a licensed clinical marriage and family therapist; and

(ii) A Board member who is a licensed clinical marriage and family therapist votes, either in the affirmative or in the negative, on the proposed action.

(2) The Board may take action against an alcohol and drug counselor only if:

(i) Before taking action against the alcohol and drug counselor, the Board discusses the proposed action with a Board member who is a licensed clinical alcohol and drug counselor; and

(ii) A Board member who is a licensed clinical alcohol and drug counselor votes, either in the affirmative or in the negative, on the proposed action.

(3) THE BOARD MAY TAKE ACTION AGAINST A CLINICAL PROFESSIONAL COUNSELOR ONLY IF:

(I) BEFORE TAKING ACTION AGAINST THE CLINICAL PROFESSIONAL COUNSELOR, THE BOARD DISCUSSES THE PROPOSED ACTION WITH A BOARD MEMBER WHO IS A LICENSED CLINICAL PROFESSIONAL COUNSELOR; AND

(II) A BOARD MEMBER WHO IS A LICENSED CLINICAL PROFESSIONAL COUNSELOR VOTES, EITHER IN THE AFFIRMATIVE OR IN THE NEGATIVE, ON THE PROPOSED ACTION.

[(3)**] (4)** The Board shall investigate all complaints filed against licensed counselors and therapists if, at the time of the violation, the licensed counselor or therapist has also registered and qualified for psychology associate status by virtue of holding a master's degree under Title 18 (Maryland Psychologists Act) of this article.

[(4)**] (5)** The Board shall notify the Board of Examiners of Psychologists of the complaint in writing within 60 days of receipt of the complaint if an investigation of the supervising licensed psychologists is warranted.

[(5)**] (6)** The Board shall initiate disciplinary action against any licensed counselor or therapist who also registers as a psychology associate and violates any portion of this statute.

17–304.1.

(a) Except as provided in **[**§§ 17–304.2 and**] §** 17–307.1 of this subtitle, to qualify for a license to practice clinical professional art therapy, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) The applicant shall hold a master's or doctoral degree in art therapy from an accredited educational institution that is approved by the Board.

(2) In the case of an applicant holding a doctoral degree, the applicant shall have completed:

(i) A minimum of 90 graduate credit hours in an art therapy program **[**accredited by the American Art Therapy Association and**]** approved by the Board; and

(ii) Not less than 2 years of supervised experience in art therapy approved by the Board, 1 year of which shall have been completed after the award of the doctoral degree.

(3) In the case of an applicant holding only a master's degree, the applicant shall have completed:

(i) A minimum of 60 graduate credit hours in an art therapy program **[**accredited by the American Art Therapy Association and**]** approved by the Board; and

(ii) Not less than 3 years, with a minimum of 3,000 hours, of supervised experience in art therapy approved by the Board, 2 years of which shall have been completed after the award of the master's degree.

(e) The applicant shall provide documentation to the Board evidencing the completion of any educational requirements established by the Board in regulation, from an accredited college or university program that is **[**accredited by the American Art Therapy Association,**]** approved by the Board.

(f) The applicant shall provide documentation evidencing the completion of 2 years of postgraduate supervised experience as required by the Board.

(g) Except as otherwise provided in this title, the applicant shall pass **[**the Art Therapy Credentials Board Exam**]** **AN EXAMINATION APPROVED BY THE BOARD**.

[17–304.2.

The Board shall waive the requirements for the practice of licensed clinical professional art therapy under § 17–304.1(d) through (g) of this subtitle if, on or before October 1, 2014, the applicant provides the Board with documentation showing:

(1) Current certification by the Art Therapy Credentials Board, Inc.; and

(2) Completion of 3 years of full–time experience providing art therapy.**]**

17–310.

(A) IN THIS SECTION "ADVANCED ASSESSMENT ACTIVITIES" MEANS THE USE OF APPRAISAL INSTRUMENTS THAT REQUIRE SPECIALIZED PSYCHOLOGICAL TRAINING FOR ADMINISTRATION AND INTERPRETATION.

(B) A licensed counselor or therapist may engage in **[**appraisal activities that include instruments that require specialized psychological training for administration and interpretation**]** **ADVANCED ASSESSMENT ACTIVITIES** if the licensed counselor or therapist has completed training that includes:

(1) Possession of a doctoral or master's degree in counseling or a related field that includes a minimum of nine graduate courses of at least 3 semester hours in each of the following courses:

(i) Psychopathology;

(ii) Biological bases of behavior;

(iii) Research methods;

(iv) Advanced statistics;

(v) Tests and measures;

(vi) Intellectual assessment;

(vii) Personality assessment;

(viii) Ethics; and

(ix) Practicum in advanced assessment;

(2) Completion of 500 hours of supervised, direct, client–related, advanced assessment testing that is completed not less than 2 years following the completion of the master's degree, of which a minimum of 100 hours shall include face–to–face supervision by a supervisor who is:

(i) A licensed mental health professional;

(ii) Proficient in the use of advanced assessment tests; and

(iii) Approved by the Board; and

(3) Passage of a national examination that includes items on advanced assessment that evaluate knowledge of advanced assessment procedures.

17–501.

To apply for **TRAINEE STATUS,** a license**,** or **A** certificate, an applicant shall:

(1) Submit an application on the form that the Board requires;

(2) Pay to the Board the application fee set by the Board; and

(3) Submit to a criminal history records check in accordance with § 17–501.1 of this subtitle.

17–501.1.

[(d) If an applicant has made three or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of a criminal history records check as allowed by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.**]**

(D) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY

RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD AND THE INDIVIDUAL A REVISED PRINTED STATEMENT OF THE INDIVIDUAL'S STATE CRIMINAL HISTORY RECORD.

17–503.

(a) **[**The**]** **SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE** Board shall issue a license or certificate to any applicant who meets the requirements of this title.

(b) The Board shall include on each license and certificate that the Board issues:

(1) The **[**kind**]** **TYPE** of license or certificate;

(2) The full name of the licensee or certificate holder;

(3) A serial number; **AND**

(4) **[**The signatures of the chairman and the secretary of the Board; and

(5) The seal of the Board**]** **THE EXPIRATION DATE OF THE LICENSE OR CERTIFICATE**.

(c) The Board may issue a license or certificate to replace a lost, destroyed, or mutilated license or certificate if the licensee or certificate holder pays the replacement fee set by the Board.

(d) (1) On receipt of the criminal history record information of an applicant for licensure or certification forwarded to the Board in accordance with § 17–501.1 of this subtitle, in determining whether to grant a license or certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license or certificate if the criminal history record information required under § 17–501.1 of this subtitle has not been received.

(E) (1) THE BOARD SHALL MAINTAIN AN ELECTRONIC ROSTER OF ALL INDIVIDUALS LICENSED OR CERTIFIED BY THE BOARD.

(2) THE ROSTER SHALL BE AVAILABLE FOR THE PURPOSE OF ELECTRONICALLY VERIFYING LICENSURE OR CERTIFICATION ON THE BOARD'S WEBSITE.

(3) INDIVIDUALS WITHOUT ACCESS TO THE BOARD'S WEBSITE MAY CONTACT THE BOARD TO VERIFY A LICENSE OR CERTIFICATE.

[17–506.

Each licensee or certificate holder shall display the license or certificate conspicuously in the licensee's or certificate holder's office or place of employment.**]**

17–509.

Subject to the hearing provisions of § 17–511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny **TRAINEE STATUS,** a license**,** or **A** certificate to any applicant, place any **TRAINEE,** licensee**,** or certificate holder on probation, reprimand any **TRAINEE,** licensee**,** or certificate holder, or suspend**, RESCIND,** or revoke **THE STATUS OF ANY TRAINEE,** a license of any licensee**,** or a certificate of any certificate holder if the applicant, **TRAINEE,** licensee, or certificate holder:

(1) Fraudulently or deceptively obtains or attempts to obtain **TRAINEE STATUS,** a license**,** or **A** certificate for the applicant, **TRAINEE,** licensee, or certificate holder or for another;

(2) Habitually is intoxicated;

(3) Provides professional services:

(i) While under the influence of alcohol; or

(ii) While using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(4) Aids or abets an unauthorized individual in practicing clinical or nonclinical counseling or therapy or representing to be an alcohol and drug counselor, marriage and family therapist, professional counselor, or professional art therapist;

(5) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(6) Willfully makes or files a false report or record in the practice of counseling or therapy;

(7) Makes a willful misrepresentation while counseling or providing therapy;

(8) Violates the code of ethics adopted by the Board;

(9) Knowingly violates any provision of this title;

(10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(11) Is professionally, physically, or mentally incompetent;

(12) Submits a false statement to collect a fee;

(13) Violates any rule or regulation adopted by the Board;

(14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified or the certificate holder is certified and qualified to render because the individual is HIV positive;

(16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy;

(17) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(18) Fails to cooperate with a lawful investigation conducted by the Board; or

(19) Fails to submit to a criminal history records check in accordance with § 17–501.1 of this subtitle.

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

Approved by the Governor, May 13, 2019.

Chapter 409

(House Bill 1104)

AN ACT concerning

State Board of Professional Counselors and Therapists – Licensure, Disciplinary Action, Criminal History Records Checks, and Trainee Status – Revisions

FOR the purpose of authorizing the State Board of Professional Counselors and Therapists to take action against a clinical professional counselor only if the Board discusses certain proposed disciplinary action with a certain Board member and a certain Board member votes; authorizing a licensed professional counselor or therapist to engage in certain advanced assessment activities, rather than appraisal activities, if the licensed professional counselor or therapist has completed certain training; repealing the requirement that the credit hours or educational requirements completed by certain applicants to be licensed by the ~~State~~ Board ~~of Professional Counselors and Therapists~~ be accredited by the American Art Therapy Association; requiring certain applicants to pass an examination approved by the Board, rather than the Art Therapy Credentials Board Exam; requiring an applicant for trainee status to submit certain information to the Board, pay a certain fee, and submit to a criminal history records check; repealing authorization for the Board to accept an alternate method of a criminal history records check under certain circumstances; requiring the Central Repository to forward to the Board and to certain individuals certain information under certain circumstances; altering the information that must be included by the Board on each license and certificate; requiring the Board to maintain a certain electronic roster for a certain purpose; authorizing certain individuals to contact the Board to verify a license or certificate; repealing the requirement for a licensee or certificate holder to display the license or certificate in a certain manner; making certain provisions of law governing the denial, probation, suspension, reprimand, or revocation of licenses and certificates applicable to certain trainees; defining a certain term; making conforming changes; repealing certain obsolete language; and generally relating to professional counselors and therapists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 17–205(c), 17–304.1, 17–310, 17–501, 17–503, and 17–509
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing
Article – Health Occupations
Section 17–304.2, 17–501.1(d), and 17–506
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health Occupations
Section 17–501.1(d)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

17–205.

(c) (1) The Board may take action against a marriage and family therapist only if:

(i) Before taking action against the marriage and family therapist, the Board discusses the proposed action with a Board member who is a licensed clinical marriage and family therapist; and

(ii) A Board member who is a licensed clinical marriage and family therapist votes, either in the affirmative or in the negative, on the proposed action.

(2) The Board may take action against an alcohol and drug counselor only if:

(i) Before taking action against the alcohol and drug counselor, the Board discusses the proposed action with a Board member who is a licensed clinical alcohol and drug counselor; and

(ii) A Board member who is a licensed clinical alcohol and drug counselor votes, either in the affirmative or in the negative, on the proposed action.

(3) THE BOARD MAY TAKE ACTION AGAINST A CLINICAL PROFESSIONAL COUNSELOR ONLY IF:

(I) BEFORE TAKING ACTION AGAINST THE CLINICAL PROFESSIONAL COUNSELOR, THE BOARD DISCUSSES THE PROPOSED ACTION WITH A BOARD MEMBER WHO IS A LICENSED CLINICAL PROFESSIONAL COUNSELOR; AND

(II) A BOARD MEMBER WHO IS A LICENSED CLINICAL PROFESSIONAL COUNSELOR VOTES, EITHER IN THE AFFIRMATIVE OR IN THE NEGATIVE, ON THE PROPOSED ACTION.

[(3)**] (4)** The Board shall investigate all complaints filed against licensed counselors and therapists if, at the time of the violation, the licensed counselor or therapist has also registered and qualified for psychology associate status by virtue of holding a master's degree under Title 18 (Maryland Psychologists Act) of this article.

[(4)**] (5)** The Board shall notify the Board of Examiners of Psychologists of the complaint in writing within 60 days of receipt of the complaint if an investigation of the supervising licensed psychologists is warranted.

[(5)**] (6)** The Board shall initiate disciplinary action against any licensed counselor or therapist who also registers as a psychology associate and violates any portion of this statute.

17–304.1.

(a) Except as provided in **[**§§ 17–304.2 and**] §** 17–307.1 of this subtitle, to qualify for a license to practice clinical professional art therapy, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) The applicant shall hold a master's or doctoral degree in art therapy from an accredited educational institution that is approved by the Board.

(2) In the case of an applicant holding a doctoral degree, the applicant shall have completed:

(i) A minimum of 90 graduate credit hours in an art therapy program **[**accredited by the American Art Therapy Association and**]** approved by the Board; and

(ii) Not less than 2 years of supervised experience in art therapy approved by the Board, 1 year of which shall have been completed after the award of the doctoral degree.

(3) In the case of an applicant holding only a master's degree, the applicant shall have completed:

(i) A minimum of 60 graduate credit hours in an art therapy program **[**accredited by the American Art Therapy Association and**]** approved by the Board; and

(ii) Not less than 3 years, with a minimum of 3,000 hours, of supervised experience in art therapy approved by the Board, 2 years of which shall have been completed after the award of the master's degree.

(e) The applicant shall provide documentation to the Board evidencing the completion of any educational requirements established by the Board in regulation, from an accredited college or university program that is **[**accredited by the American Art Therapy Association,**]** approved by the Board.

(f) The applicant shall provide documentation evidencing the completion of 2 years of postgraduate supervised experience as required by the Board.

(g) Except as otherwise provided in this title, the applicant shall pass **[**the Art Therapy Credentials Board Exam**]** **AN EXAMINATION APPROVED BY THE BOARD**.

[17–304.2.

The Board shall waive the requirements for the practice of licensed clinical professional art therapy under § 17–304.1(d) through (g) of this subtitle if, on or before October 1, 2014, the applicant provides the Board with documentation showing:

(1) Current certification by the Art Therapy Credentials Board, Inc.; and

(2) Completion of 3 years of full–time experience providing art therapy.**]**

17–310.

(A) IN THIS SECTION "ADVANCED ASSESSMENT ACTIVITIES" MEANS THE USE OF APPRAISAL INSTRUMENTS THAT REQUIRE SPECIALIZED PSYCHOLOGICAL TRAINING FOR ADMINISTRATION AND INTERPRETATION.

(B) A licensed counselor or therapist may engage in **[**appraisal activities that include instruments that require specialized psychological training for administration and interpretation**]** **ADVANCED ASSESSMENT ACTIVITIES** if the licensed counselor or therapist has completed training that includes:

(1) Possession of a doctoral or master's degree in counseling or a related field that includes a minimum of nine graduate courses of at least 3 semester hours in each of the following courses:

(i) Psychopathology;

(ii) Biological bases of behavior;

(iii) Research methods;

(iv) Advanced statistics;

(v) Tests and measures;

(vi) Intellectual assessment;

(vii) Personality assessment;

(viii) Ethics; and

(ix) Practicum in advanced assessment;

(2) Completion of 500 hours of supervised, direct, client–related, advanced assessment testing that is completed not less than 2 years following the completion of the master's degree, of which a minimum of 100 hours shall include face–to–face supervision by a supervisor who is:

(i) A licensed mental health professional;

(ii) Proficient in the use of advanced assessment tests; and

(iii) Approved by the Board; and

(3) Passage of a national examination that includes items on advanced assessment that evaluate knowledge of advanced assessment procedures.

17–501.

To apply for **TRAINEE STATUS,** a license**,** or **A** certificate, an applicant shall:

(1) Submit an application on the form that the Board requires;

(2) Pay to the Board the application fee set by the Board; and

(3) Submit to a criminal history records check in accordance with § 17–501.1 of this subtitle.

17–501.1.

[(d) If an applicant has made three or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of a criminal history records check as allowed by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.**]**

(D) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY

RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD AND THE INDIVIDUAL A REVISED PRINTED STATEMENT OF THE INDIVIDUAL'S STATE CRIMINAL HISTORY RECORD.

17–503.

(a) **[**The**]** **SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE** Board shall issue a license or certificate to any applicant who meets the requirements of this title.

(b) The Board shall include on each license and certificate that the Board issues:

(1) The **[**kind**]** **TYPE** of license or certificate;

(2) The full name of the licensee or certificate holder;

(3) A serial number; **AND**

(4) **[**The signatures of the chairman and the secretary of the Board; and

(5) The seal of the Board**]** **THE EXPIRATION DATE OF THE LICENSE OR CERTIFICATE**.

(c) The Board may issue a license or certificate to replace a lost, destroyed, or mutilated license or certificate if the licensee or certificate holder pays the replacement fee set by the Board.

(d) (1) On receipt of the criminal history record information of an applicant for licensure or certification forwarded to the Board in accordance with § 17–501.1 of this subtitle, in determining whether to grant a license or certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license or certificate if the criminal history record information required under § 17–501.1 of this subtitle has not been received.

(E) (1) THE BOARD SHALL MAINTAIN AN ELECTRONIC ROSTER OF ALL INDIVIDUALS LICENSED OR CERTIFIED BY THE BOARD.

(2) THE ROSTER SHALL BE AVAILABLE FOR THE PURPOSE OF ELECTRONICALLY VERIFYING LICENSURE OR CERTIFICATION ON THE BOARD'S WEBSITE.

(3) INDIVIDUALS WITHOUT ACCESS TO THE BOARD'S WEBSITE MAY CONTACT THE BOARD TO VERIFY A LICENSE OR CERTIFICATE.

[17–506.

Each licensee or certificate holder shall display the license or certificate conspicuously in the licensee's or certificate holder's office or place of employment.**]**

17–509.

Subject to the hearing provisions of § 17–511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny **TRAINEE STATUS,** a license**,** or **A** certificate to any applicant, place any **TRAINEE,** licensee**,** or certificate holder on probation, reprimand any **TRAINEE,** licensee**,** or certificate holder, or suspend**, RESCIND,** or revoke **THE STATUS OF ANY TRAINEE,** a license of any licensee**,** or a certificate of any certificate holder if the applicant, **TRAINEE,** licensee, or certificate holder:

(1) Fraudulently or deceptively obtains or attempts to obtain **TRAINEE STATUS,** a license**,** or **A** certificate for the applicant, **TRAINEE,** licensee, or certificate holder or for another;

(2) Habitually is intoxicated;

(3) Provides professional services:

(i) While under the influence of alcohol; or

(ii) While using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(4) Aids or abets an unauthorized individual in practicing clinical or nonclinical counseling or therapy or representing to be an alcohol and drug counselor, marriage and family therapist, professional counselor, or professional art therapist;

(5) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(6) Willfully makes or files a false report or record in the practice of counseling or therapy;

(7) Makes a willful misrepresentation while counseling or providing therapy;

(8) Violates the code of ethics adopted by the Board;

(9) Knowingly violates any provision of this title;

(10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(11) Is professionally, physically, or mentally incompetent;

(12) Submits a false statement to collect a fee;

(13) Violates any rule or regulation adopted by the Board;

(14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified or the certificate holder is certified and qualified to render because the individual is HIV positive;

(16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy;

(17) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(18) Fails to cooperate with a lawful investigation conducted by the Board; or

(19) Fails to submit to a criminal history records check in accordance with § 17–501.1 of this subtitle.

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

Approved by the Governor, May 13, 2019.

Chapter 410

(House Bill 571)

AN ACT concerning

Virginia I. Jones Alzheimer's Disease and Related Disorders Council – Revisions

FOR the purpose of altering the membership of the Virginia I. Jones Alzheimer's Disease and Related Disorders Council; repealing the requirement that the Secretary of Health and the Secretary of Aging, or their designees, cochair the Council; requiring the members of the Council to select the chair of the Council; repealing certain duties of the Council and requiring the Council to update a certain plan, examine the needs of certain individuals and identify methods to meet certain needs, advise the Governor and the General Assembly on certain matters, and develop and promote certain strategies; requiring the Council to submit a certain report by a certain date each year to the Governor and the General Assembly; making a conforming change; extending the termination date of certain provisions of law that establish and govern the Council; and generally relating to the Virginia I. Jones Alzheimer's Disease and Related Disorders Council.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–3201~~, 13–3204,~~ and 13–3205
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–3203, 13–3204, and 13–3206
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health – General
Section 13–3207
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Chapter 305 of the Acts of the General Assembly of 2013, as amended by Chapters 74 and 75 of the Acts of the General Assembly of 2016
Section 2

BY repealing and reenacting, with amendments,

Chapter 306 of the Acts of the General Assembly of 2013, as amended by Chapters 74 and 75 of the Acts of the General Assembly of 2016
Section 2

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

Article – Health – General

13–3201.

In this subtitle, "Council" means the Virginia I. Jones Alzheimer's Disease and Related Disorders Council.

13–3203.

(a) The Council consists of the following members:

(1) One member of the Senate of Maryland, appointed by the President of the Senate;

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The Secretary of Health, or the Secretary's designee;

(4) The Secretary of Aging, or the Secretary's designee;

(5) **[**The Secretary of Disabilities, or the Secretary's designee;

(6)**]** The Executive Director of the Alzheimer's Association, Greater Maryland Chapter, or the Executive Director's designee;

[(7)**] (6)** The President of the Alzheimer's Association, National Capital Area Chapter, or the President's designee; **AND**

[(8) A representative of the Maryland Medical Assistance Program, appointed by the Secretary; and**]**

[(9)**] (7)** The following members, appointed by the Governor:

[(i) A representative of the U.S. Department of Veterans Affairs with expertise in Alzheimer's disease and related disorders;

(ii) An attorney who works directly with disabled or elderly individuals;

(iii) A physician who conducts research in Alzheimer's disease and related disorders;

(iv) A health professional with expertise in addressing racial and ethnic health disparities;

(v) A social worker with experience working with individuals and families affected by Alzheimer's disease and related disorders;

(vi) A psychologist with expertise in Alzheimer's disease and related disorders;

(vii) A psychiatrist with expertise in Alzheimer's disease and related disorders;

(viii) A physician with experience in end–of–life care and pain management;

(ix) A registered nurse with expertise in Alzheimer's disease and related disorders;

(x) A licensed nurse practitioner with expertise in end–of–life care and pain management;

(xi) A representative of the nursing home industry;

(xii) An individual with early–onset Alzheimer's disease or a related disorder;

(xiii) Two family caregivers, one of whom is a family member of an individual with Alzheimer's disease or a related disorder;

(xiv) A representative of the assisted living industry;

(xv) A representative of the medical adult day care industry;

(xvi) A representative from academia with relevant professional experience;

(xvii) A public health professional with relevant experience; and

(xviii) A representative of the home care industry.**]**

(I) SEVEN HEALTH CARE PROFESSIONALS WITH RELEVANT PROFESSIONAL EXPERIENCE;

(II) THREE HUMAN SERVICE PROFESSIONALS WITH RELEVANT PROFESSIONAL EXPERIENCE;

(III) ONE ELDER LAW ATTORNEY WITH RELEVANT PROFESSIONAL EXPERIENCE;

(IV) TWO RESEARCH PROFESSIONALS WITH RELEVANT PROFESSIONAL EXPERIENCE;

(V) TWO FAMILY CAREGIVERS OF INDIVIDUALS WITH ALZHEIMER'S DISEASE OR A RELATED DISORDER; AND

(VI) AT THE RECOMMENDATION OF THE COUNCIL, ANY OTHER MEMBER NECESSARY TO FULFILL THE DUTIES OF THE COUNCIL.

(b) To the extent practicable, the members appointed to the Council shall reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

13–3204.

(a) The ~~Secretary of Health and the Secretary of Aging, or their designees, shall cochair~~ **MEMBERS OF THE COUNCIL SHALL SELECT THE CHAIR OF** the Council.

(b) A member of the Council:

(1) May not receive compensation as a member of the Council; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

13–3205.

(a) The Department, with assistance from the Department of Aging, shall provide staff support for the Council.

(b) The Department may request staffing assistance from public health entities with an interest in the duties of the Council.

13–3206.

The Council shall:

[(1) Continue the work initiated by the Maryland Alzheimer's Disease and Related Disorders Commission, including the development and monitoring of the 2012 Maryland State Plan on Alzheimer's Disease and Related Disorders;

(2) Include in the State Plan strategies and actions that:

(i) Support prevention and early detection of Alzheimer's disease and related disorders, including early stage identification;

(ii) Address chronic disease factors contributing to disparities in Alzheimer's disease;

(iii) Enhance the quality of care through:

1. Building a workforce trained to care for and treat Alzheimer's disease and related disorders;

2. Educating primary care providers on best practices; and

3. Promoting Alzheimer's disease and related disorders care guidelines and patient–centered approaches in all care settings; and

(iv) Improve access to and coordination of services and knowledge of the resources and information available to individuals with Alzheimer's disease, their family members, and their caregivers;

(3) Review State statutes, policies, and programs to improve and enhance quality of life and support and services for individuals living with Alzheimer's disease and related disorders and their families by promoting and expanding the availability and accessibility of home– and community–based support and service programs;

(4) Develop a public education campaign on:

(i) The risk factors for dementia;

(ii) The importance of screening for dementia;

(iii) The available support services and resources;

(iv) The need for advance planning and decision making; and

(v) The Maryland Access Point; and

(5) Improve data collection capacity on Alzheimer's disease and related disorders in the State to better target support, services, and needs.**]**

(1) UPDATE THE STATE PLAN ON ALZHEIMER'S DISEASE AND RELATED DISORDERS AND ADVOCATE FOR THE STATE PLAN;

(2) (I) EXAMINE THE NEEDS OF INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS AND THEIR CAREGIVERS; AND

(II) IDENTIFY METHODS THROUGH WHICH THE STATE CAN MOST EFFECTIVELY AND EFFICIENTLY ASSIST IN MEETING THOSE NEEDS;

(3) ADVISE THE GOVERNOR AND THE GENERAL ASSEMBLY ON POLICY, FUNDING, REGULATORY, AND OTHER ISSUES RELATED TO INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS AND THEIR CAREGIVERS; AND

(4) DEVELOP AND PROMOTE STRATEGIES TO ENCOURAGE BRAIN HEALTH AND REDUCE COGNITIVE DECLINE.

13–3207.

ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE COUNCIL SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE ACTIVITIES AND RECOMMENDATIONS OF THE COUNCIL.

Chapter 305 of the Acts of 2013, as amended by Chapters 74 and 75 of the Acts of 2016

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of **[**6**]** **11** years and, at the end of September 30, **[**2019**]** **2024**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 306 of the Acts of 2013, as amended by Chapters 74 and 75 of the Acts of 2016

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of **[**6**]** **11** years and, at the end of September 30, **[**2019**]** **2024**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 13, 2019.

Chapter 411

(Senate Bill 522)

AN ACT concerning

Virginia I. Jones Alzheimer's Disease and Related Disorders Council – Revisions

FOR the purpose of altering the membership of the *Virginia I. Jones Alzheimer's Disease and Related Disorders* Council; repealing the requirement that the Secretary of Health and the Secretary of Aging, or their designees, cochair the Council; requiring the members of the Council to select the chair of the Council; repealing certain duties of the Council and requiring the Council to update a certain plan, examine the needs of certain individuals and identify methods to meet certain needs, advise the Governor and the General Assembly on certain matters, and develop and promote certain strategies; requiring the Council to submit a certain report by a certain date each year to the Governor and the General Assembly; making a conforming change; extending the termination date of certain provisions of law that establish and govern the Council; and generally relating to the Virginia I. Jones Alzheimer's Disease and Related Disorders Council.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–3201~~, 13–3204,~~ and 13–3205
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–3203*, 13–3204,* and 13–3206
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health – General
Section 13–3207
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Chapter 305 of the Acts of the General Assembly of 2013, as amended by Chapters 74 and 75 of the Acts of the General Assembly of 2016
Section 2

BY repealing and reenacting, with amendments,
Chapter 306 of the Acts of the General Assembly of 2013, as amended by Chapters 74 and 75 of the Acts of the General Assembly of 2016

Section 2

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

Article – Health – General

13–3201.

In this subtitle, "Council" means the Virginia I. Jones Alzheimer's Disease and Related Disorders Council.

13–3203.

(a) The Council consists of the following members:

(1) One member of the Senate of Maryland, appointed by the President of the Senate;

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The Secretary of Health, or the Secretary's designee;

(4) The Secretary of Aging, or the Secretary's designee;

(5) **[**The Secretary of Disabilities, or the Secretary's designee;

(6)**]** The Executive Director of the Alzheimer's Association, Greater Maryland Chapter, or the Executive Director's designee;

[(7)**] (6)** The President of the Alzheimer's Association, National Capital Area Chapter, or the President's designee; **AND**

[(8) A representative of the Maryland Medical Assistance Program, appointed by the Secretary; and**]**

[(9)**] (7)** The following members, appointed by the Governor:

[(i) A representative of the U.S. Department of Veterans Affairs with expertise in Alzheimer's disease and related disorders;

(ii) An attorney who works directly with disabled or elderly individuals;

(iii) A physician who conducts research in Alzheimer's disease and related disorders;

(iv) A health professional with expertise in addressing racial and ethnic health disparities;

(v) A social worker with experience working with individuals and families affected by Alzheimer's disease and related disorders;

(vi) A psychologist with expertise in Alzheimer's disease and related disorders;

(vii) A psychiatrist with expertise in Alzheimer's disease and related disorders;

(viii) A physician with experience in end–of–life care and pain management;

(ix) A registered nurse with expertise in Alzheimer's disease and related disorders;

(x) A licensed nurse practitioner with expertise in end–of–life care and pain management;

(xi) A representative of the nursing home industry;

(xii) An individual with early–onset Alzheimer's disease or a related disorder;

(xiii) Two family caregivers, one of whom is a family member of an individual with Alzheimer's disease or a related disorder;

(xiv) A representative of the assisted living industry;

(xv) A representative of the medical adult day care industry;

(xvi) A representative from academia with relevant professional experience;

(xvii) A public health professional with relevant experience; and

(xviii) A representative of the home care industry.**]**

(I) SEVEN HEALTH CARE PROFESSIONALS WITH RELEVANT PROFESSIONAL EXPERIENCE;

(II) THREE HUMAN SERVICE PROFESSIONALS WITH RELEVANT PROFESSIONAL EXPERIENCE;

(III) ONE ELDER LAW ATTORNEY WITH RELEVANT PROFESSIONAL EXPERIENCE;

(IV) TWO RESEARCH PROFESSIONALS WITH RELEVANT PROFESSIONAL EXPERIENCE;

(V) TWO FAMILY CAREGIVERS OF INDIVIDUALS WITH ALZHEIMER'S DISEASE OR A RELATED DISORDER; AND

(VI) AT THE RECOMMENDATION OF THE COUNCIL, ANY OTHER MEMBER NECESSARY TO FULFILL THE DUTIES OF THE COUNCIL.

(b) To the extent practicable, the members appointed to the Council shall reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

13–3204.

(a) The ~~Secretary of Health and the Secretary of Aging, or their designees, shall cochair~~ **MEMBERS OF THE COUNCIL SHALL SELECT THE CHAIR OF** the Council.

(b) A member of the Council:

(1) May not receive compensation as a member of the Council; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

13–3205.

(a) The Department, with assistance from the Department of Aging, shall provide staff support for the Council.

(b) The Department may request staffing assistance from public health entities with an interest in the duties of the Council.

13–3206.

The Council shall:

[(1) Continue the work initiated by the Maryland Alzheimer's Disease and Related Disorders Commission, including the development and monitoring of the 2012 Maryland State Plan on Alzheimer's Disease and Related Disorders;

(2) Include in the State Plan strategies and actions that:

(i) Support prevention and early detection of Alzheimer's disease and related disorders, including early stage identification;

(ii) Address chronic disease factors contributing to disparities in Alzheimer's disease;

(iii) Enhance the quality of care through:

1. Building a workforce trained to care for and treat Alzheimer's disease and related disorders;

2. Educating primary care providers on best practices; and

3. Promoting Alzheimer's disease and related disorders care guidelines and patient–centered approaches in all care settings; and

(iv) Improve access to and coordination of services and knowledge of the resources and information available to individuals with Alzheimer's disease, their family members, and their caregivers;

(3) Review State statutes, policies, and programs to improve and enhance quality of life and support and services for individuals living with Alzheimer's disease and related disorders and their families by promoting and expanding the availability and accessibility of home– and community–based support and service programs;

(4) Develop a public education campaign on:

(i) The risk factors for dementia;

(ii) The importance of screening for dementia;

(iii) The available support services and resources;

(iv) The need for advance planning and decision making; and

(v) The Maryland Access Point; and

(5) Improve data collection capacity on Alzheimer's disease and related disorders in the State to better target support, services, and needs.**]**

(1) UPDATE THE STATE PLAN ON ALZHEIMER'S DISEASE AND RELATED DISORDERS AND ADVOCATE FOR THE STATE PLAN;

(2) (I) EXAMINE THE NEEDS OF INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS AND THEIR CAREGIVERS; AND

(II) IDENTIFY METHODS THROUGH WHICH THE STATE CAN MOST EFFECTIVELY AND EFFICIENTLY ASSIST IN MEETING THOSE NEEDS;

(3) ADVISE THE GOVERNOR AND THE GENERAL ASSEMBLY ON POLICY, FUNDING, REGULATORY, AND OTHER ISSUES RELATED TO INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS AND THEIR CAREGIVERS; AND

(4) DEVELOP AND PROMOTE STRATEGIES TO ENCOURAGE BRAIN HEALTH AND REDUCE COGNITIVE DECLINE.

13–3207.

ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE COUNCIL SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE ACTIVITIES AND RECOMMENDATIONS OF THE COUNCIL.

Chapter 305 of the Acts of 2013, as amended by Chapters 74 and 75 of the Acts of 2016

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of **[**6**]** **11** years and, at the end of September 30, **[**2019**]** **2024**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 306 of the Acts of 2013, as amended by Chapters 74 and 75 of the Acts of 2016

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of **[**6**]** **11** years and, at the end of September 30, **[**2019**]** **2024**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 13, 2019.

Chapter 412

(Senate Bill 220)

AN ACT concerning

Maryland Medical Assistance Program – Coverage of Dental Services – Repeal of Contingency

FOR the purpose of repealing the provision of law that made the effectiveness of a certain provision of law authorizing the Maryland Medical Assistance Program to provide dental services to certain adults contingent on the Maryland Dental Action Coalition making a certain determination; making a conforming change; and generally relating to coverage of dental services under the Maryland Medical Assistance Program.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–103(a)(1) and (2)(xiii)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing
Chapter 721 of the Acts of the General Assembly of 2017
Section 3

BY repealing and reenacting, with amendments,
Chapter 721 of the Acts of the General Assembly of 2017
Section 4

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

Article – Health – General

15–103.

(a) (1) The Secretary shall administer the Maryland Medical Assistance Program.

(2) The Program:

(xiii) Beginning on January 1, 2019, may provide, subject to the limitations of the State budget, and as permitted by federal law, dental services for adults whose annual household income is at or below 133 percent of the poverty level.

Chapter 721 of the Acts of 2017

[SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) Section 2 of this Act is contingent on the Maryland Dental Action Coalition determining, as part of the findings of the study authorized under Section 1(a) of this Act, that it is advisable to expand the benefits provided under the Maryland Medical Assistance Program to include dental services for adults whose annual household income is at or below 133 percent of the poverty level.

(b) If the report authorized under Section 1(c)(1) of this Act does not include the finding described in subsection (a) of this section, Section 2 of this Act shall be null and void without the necessity of further action by the General Assembly.**]**

SECTION 4. AND BE IT FURTHER ENACTED, That**[**, subject to Section 3 of this Act,**]** this Act shall take effect June 1, 2017.

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

Approved by the Governor, May 13, 2019.

Chapter 413

(Senate Bill 495)

AN ACT concerning

Medical Laboratories – Laboratory Tests and Procedures – Advertising

FOR the purpose of authorizing a person, subject to certain limitations, to directly or indirectly advertise for or solicit business in the State for a laboratory test or procedure ordered by a physician and performed by a medical laboratory certified under a certain provision of federal law; *requiring a certain person to make a certain disclosure; providing that a certain person is a covered entity or business associate of a covered entity for purposes of certain provisions of federal law;* authorizing the Secretary of Health to take a certain legal action under certain circumstances; providing for the application of this Act; making a conforming change; and generally relating to medical laboratories.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 17–215
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

17–215.

(A) [A**] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,** A person may not directly or indirectly advertise for or solicit business in this State for any medical laboratory, regardless of location, from anyone except a physician, hospital, medical laboratory, clinic, clinical installation, or other medical care facility.

(B) (1) (I) THIS SUBSECTION APPLIES ONLY TO:

1. A DIAGNOSTIC LABORATORY TEST OR PROCEDURE FOR THE PURPOSE OF SCREENING, DIAGNOSING, MANAGING, OR TREATING A PHYSICAL OR MENTAL CONDITION OR DISEASE; AND

2. ANCESTRY TESTING USING Y–CHROMOSOME MITOCHONDRIAL DNA OR AUTOSOMAL DNA TESTING LIMITED TO THE DETECTION AND REPORTING OF GENETIC EVIDENCE ~~OR~~ *OF* PARENTAL LINEAGE AND GENETIC ETHNICITY.

(II) THIS SUBSECTION DOES NOT APPLY TO *GERMLINE* GENETIC OR GENOMIC TESTING DONE IN CONNECTION WITH~~:~~

~~1. THE ANALYSIS OR DIAGNOSIS AND CONTROL OF HUMAN DISEASES OR MEDICAL CONDITIONS; OR~~

~~2.~~ ~~THE PREDICTION OF HUMAN DISEASES OR MEDICAL CONDITIONS~~ *THE ANALYSIS, DIAGNOSIS, OR PREDICTION OF HUMAN DISEASES*.

(2) ~~A~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PERSON MAY DIRECTLY OR INDIRECTLY ADVERTISE FOR OR SOLICIT BUSINESS IN THE STATE FOR A DIAGNOSTIC LABORATORY TEST OR PROCEDURE ORDERED BY A PHYSICIAN AND PERFORMED BY A MEDICAL LABORATORY CERTIFIED UNDER 42 U.S.C. § 263A.

(3) A PERSON THAT DIRECTLY OR INDIRECTLY ADVERTISES FOR OR SOLICITS BUSINESS IN THE STATE FOR A DIAGNOSTIC LABORATORY TEST OR PROCEDURE UNDER THIS SUBSECTION:

(I) ~~MUST BE A COVERED ENTITY UNDER~~ *IS A COVERED ENTITY OR BUSINESS ASSOCIATE OF A COVERED ENTITY FOR PURPOSES OF* THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 AND THE

FEDERAL HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT; ~~AND~~

(II) MAY NOT MAKE A CLAIM ABOUT THE RELIABILITY AND VALIDITY OF THE TEST OR PROCEDURE THAT IS INCONSISTENT WITH THE TEST OR PROCEDURE'S PERFORMANCE AS MEASURED UNDER 42 U.S.C. § 263A*; AND*

(III) SHALL DISCLOSE THAT THE DIAGNOSTIC LABORATORY TEST OR PROCEDURE MAY OR MAY NOT BE COVERED BY HEALTH INSURANCE.

(4) THE SECRETARY MAY TAKE LEGAL ACTION TO RESTRICT THE MARKETING OF A DIAGNOSTIC LABORATORY TEST OR PROCEDURE IF THE SECRETARY DETERMINES THAT:

(I) THERE IS A PUBLIC HEALTH THREAT; OR

(II) THE DIAGNOSTIC LABORATORY TEST OR PROCEDURE IS NOT IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

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

Approved by the Governor, May 13, 2019.

Chapter 414

(Senate Bill 699)

AN ACT concerning

Maryland Medical Assistance Program – Home– and Community–Based Waiver Services – Prohibition on Denial

FOR the purpose of prohibiting the Maryland Department of Health from denying an individual access to a home– and community–based services waiver due to a lack of funding for waiver services if the individual is living at home or in the community at a certain time, received certain services for a certain time period, will be or has been terminated from the Maryland Medical Assistance Program due to becoming entitled to or enrolled in a certain program, meets certain eligibility criteria within a certain time period, and certain services received by the individual would qualify for certain funds; and generally relating to home– and community–based services under the Maryland Medical Assistance Program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–137
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

15–137.

(a) The Department may not deny an individual access to a home– and community–based services waiver due to a lack of funding for waiver services if:

(1) **(I)** The individual is living in a nursing facility at the time of the application for waiver services;

[(2)**]** **(II)** At least 30 consecutive days of the individual's nursing facility stay are eligible to be paid for by the Program;

[(3)**]** **(III)** The individual meets all of the eligibility criteria for participation in the home– and community–based services waiver; and

[(4)**]** **(IV)** The home– and community–based services provided to the individual would qualify for federal matching funds**; OR**

(2) (I) THE INDIVIDUAL IS LIVING AT HOME OR IN THE COMMUNITY AT THE TIME OF THE APPLICATION FOR WAIVER SERVICES;

(II) THE INDIVIDUAL RECEIVED HOME– AND COMMUNITY–BASED SERVICES THROUGH COMMUNITY FIRST CHOICE FOR AT LEAST 30 CONSECUTIVE DAYS;

(III) THE INDIVIDUAL WILL BE OR HAS BEEN TERMINATED FROM PARTICIPATION IN THE PROGRAM ON BECOMING ENTITLED TO OR ENROLLED IN MEDICARE PART A OR ENROLLED IN MEDICARE PART B;

(IV) THE INDIVIDUAL MEETS ALL OF THE ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE HOME– AND COMMUNITY–BASED SERVICES WAIVER WITHIN 6 MONTHS AFTER ~~BEING NOTIFIED OF ELIGIBILITY~~ THE COMPLETION OF THE APPLICATION; AND

(V) THE HOME– AND COMMUNITY–BASED SERVICES PROVIDED TO THE INDIVIDUAL WOULD QUALIFY FOR FEDERAL MATCHING FUNDS.

(b) Nothing in this section is intended to result in a reduction of federal funds available to the Department.

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

Approved by the Governor, May 13, 2019.

Chapter 415

(House Bill 646)

AN ACT concerning

Maryland Health Care Commission – State Health Plan and Certificate of Need for Hospital Capital Expenditures

FOR the purpose of altering the frequency at which the Maryland Health Care Commission is required to adopt a State health plan; requiring the State health plan to be consistent with a certain contract; repealing a requirement that the Commission review the State health plan on a certain basis; requiring, annually or on petition by any person, the Commission to assess each State health plan chapter, make a certain determination, and establish a certain priority order and timeline in a certain manner; altering the circumstances under which a certificate of need is required before certain capital expenditures are made by or on behalf of a hospital; defining a certain term; making conforming and stylistic changes; and generally relating to the State health plan and certificates of need for hospitals.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–118(a) and (b) and 19–120(a) and (k)(1) and (6)(viii)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

19–118.

(a) (1) **[**At least every 5 years, beginning no later than October 1, 1983**]** **ON**

OR BEFORE OCTOBER 1 EACH YEAR, the Commission shall adopt a State health plan.

(2) The plan shall **[**include**]**:

(I) BE CONSISTENT WITH THE MARYLAND ALL PAYER MODEL CONTRACT;

[(i)**] (II) [**The**] INCLUDE** methodologies, standards, and criteria for certificate of need review; and

[(ii)**] (III) [**Priority for**] PRIORITIZE** conversion of acute capacity to alternative uses where appropriate.

(b) Annually or **[**upon**] ON** petition by any person, the Commission shall **[**review**]:**

(I) ASSESS EACH State health plan **[**and publish**] CHAPTER;**

(II) DETERMINE THE CHAPTER OR CHAPTERS OF THE STATE HEALTH PLAN THAT SHOULD BE REVIEWED AND REVISED;

(III) ESTABLISH, AT A PUBLIC MEETING, THE PRIORITY ORDER AND TIMELINE OF THE STATE HEALTH PLAN CHAPTER REVIEW AND REVISION; AND

(IV) PUBLISH any changes in the **STATE HEALTH** plan that the Commission considers necessary, subject to the review and approval granted to the Governor under this subtitle.

19–120.

(a) (1) In this section the following words have the meanings indicated.

(2) "Consolidation" and "merger" include increases and decreases in bed capacity or services among the components of an organization that:

(i) Operates more than one health care facility; or

(ii) Operates one or more health care facilities and holds an outstanding certificate of need to construct a health care facility.

(3) (i) "Health care service" means any clinically related patient service.

(ii) "Health care service" includes a medical service.

(4) "HOSPITAL CAPITAL THRESHOLD" MEANS THE LESSER OF:

(I) 25% OF THE HOSPITAL'S GROSS REGULATED CHARGES FOR THE IMMEDIATELY PRECEDING YEAR; OR

(II) $50,000,000.

[(4)**] (5)** "Limited service hospital" means a health care facility that:

(i) Is licensed as a hospital on or after January 1, 1999;

(ii) Changes the type or scope of health care services offered by eliminating the facility's capability to admit or retain patients for overnight hospitalization;

(iii) Retains an emergency or urgent care center; and

(iv) Complies with the regulations adopted by the Secretary under § 19–307.1 of this title.

[(5)**] (6)** "Medical service" means:

(i) Any of the following categories of health care services:

1. Medicine, surgery, gynecology, addictions;

2. Obstetrics;

3. Pediatrics;

4. Psychiatry;

5. Rehabilitation;

6. Chronic care;

7. Comprehensive care;

8. Extended care;

9. Intermediate care; or

10. Residential treatment; or

(ii) Any subcategory of the rehabilitation, psychiatry, comprehensive care, or intermediate care categories of health care services for which need is projected in the State health plan.

(k) (1) A certificate of need is required before any of the following capital expenditures are made by or on behalf of a hospital:

(i) Any expenditure that, under generally accepted accounting principles, is not properly chargeable as an operating or maintenance expense, if:

1. The expenditure is made as part of an acquisition, improvement, or expansion, and, after adjustment for inflation as provided in the regulations of the Commission, the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD**;

2. The expenditure is made as part of a replacement of any plant and equipment of the hospital and is more than **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD** after adjustment for inflation as provided in the regulations of the Commission;

3. The expenditure results in a substantial change in the bed capacity of the hospital; or

4. The expenditure results in the establishment of a new medical service in a hospital that would require a certificate of need under subsection (i) of this section; or

(ii) Any expenditure that is made to lease or, by comparable arrangement, obtain any plant or equipment for the hospital, if:

1. The expenditure is made as part of an acquisition, improvement, or expansion, and**[**, after adjustment for inflation as provided in the rules and regulations of the Commission,**]** the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD**;

2. The expenditure is made as part of a replacement of any plant and equipment and is more than **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD** after adjustment for inflation as provided in the regulations of the Commission;

3. The expenditure results in a substantial change in the bed capacity of the hospital; or

4. The expenditure results in the establishment of a new medical service in a hospital that would require a certificate of need under subsection (i) of this section.

(6) This subsection does not apply to:

(viii) A capital expenditure by a hospital, as defined in § 19–301 of this title, for a project in excess of **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD AND IS** for construction or renovation that:

1. May be related to patient care;

2. Does not require, over the entire period or schedule of debt service associated with the project, a total cumulative increase in patient charges or hospital rates of more than $1,500,000 for the capital costs associated with the project as determined by the Commission, after consultation with the Health Services Cost Review Commission;

3. At least 45 days before the proposed expenditure is made, the hospital notifies the Commission;

4. A. Within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under item 2 of this item; or

B. The Commission has not made the financial determination required under item 2 of this item within 60 days of the receipt of the relevant financial information; and

5. The relevant financial information to be submitted by the hospital is defined in regulations adopted by the Commission, after consultation with the Health Services Cost Review Commission;

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

Approved by the Governor, May 13, 2019.

Chapter 416

(Senate Bill 597)

AN ACT concerning

Maryland Health Care Commission – State Health Plan and Certificate of Need for Hospital Capital Expenditures

FOR the purpose of altering the frequency at which the Maryland Health Care Commission is required to adopt a State health plan; requiring the State health plan to be consistent with a certain contract; repealing a requirement that the Commission

review the State health plan on a certain basis; requiring, annually or on petition by any person, the Commission to assess each State health plan chapter, make a certain determination, and establish a certain priority order and timeline in a certain manner; altering the circumstances under which a certificate of need is required before certain capital expenditures are made by or on behalf of a hospital; defining a certain term; making conforming and stylistic changes; and generally relating to the State health plan and certificates of need for hospitals.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–118(a) and (b) and 19–120(a) and (k)(1) and (6)(viii)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

19–118.

(a) (1) **[**At least every 5 years, beginning no later than October 1, 1983**]** **ON OR BEFORE OCTOBER 1 EACH YEAR**, the Commission shall adopt a State health plan.

(2) The plan shall **[**include**]**:

(I) BE CONSISTENT WITH THE MARYLAND ALL PAYER MODEL CONTRACT;

[(i)**] (II)** **[**The**] INCLUDE** methodologies, standards, and criteria for certificate of need review; and

[(ii)**] (III)** **[**Priority for**] PRIORITIZE** conversion of acute capacity to alternative uses where appropriate.

(b) Annually or **[**upon**] ON** petition by any person, the Commission shall **[**review**]:**

(I) ASSESS EACH State health plan **[**and publish**] CHAPTER;**

(II) DETERMINE THE CHAPTER OR CHAPTERS OF THE STATE HEALTH PLAN THAT SHOULD BE REVIEWED AND REVISED;

(III) ESTABLISH, AT A PUBLIC MEETING, THE PRIORITY ORDER AND TIMELINE OF THE STATE HEALTH PLAN CHAPTER REVIEW AND REVISION; AND

(IV) PUBLISH any changes in the **STATE HEALTH** plan that the Commission considers necessary, subject to the review and approval granted to the Governor under this subtitle.

19–120.

(a) (1) In this section the following words have the meanings indicated.

(2) "Consolidation" and "merger" include increases and decreases in bed capacity or services among the components of an organization that:

(i) Operates more than one health care facility; or

(ii) Operates one or more health care facilities and holds an outstanding certificate of need to construct a health care facility.

(3) (i) "Health care service" means any clinically related patient service.

(ii) "Health care service" includes a medical service.

(4) "HOSPITAL CAPITAL THRESHOLD" MEANS THE LESSER OF:

(I) 25% OF THE HOSPITAL'S GROSS REGULATED CHARGES FOR THE IMMEDIATELY PRECEDING YEAR; OR

(II) $50,000,000.

[(4)**] (5)** "Limited service hospital" means a health care facility that:

(i) Is licensed as a hospital on or after January 1, 1999;

(ii) Changes the type or scope of health care services offered by eliminating the facility's capability to admit or retain patients for overnight hospitalization;

(iii) Retains an emergency or urgent care center; and

(iv) Complies with the regulations adopted by the Secretary under § 19–307.1 of this title.

[(5)**] (6)** "Medical service" means:

(i) Any of the following categories of health care services:

1. Medicine, surgery, gynecology, addictions;

2. Obstetrics;

3. Pediatrics;

4. Psychiatry;

5. Rehabilitation;

6. Chronic care;

7. Comprehensive care;

8. Extended care;

9. Intermediate care; or

10. Residential treatment; or

(ii) Any subcategory of the rehabilitation, psychiatry, comprehensive care, or intermediate care categories of health care services for which need is projected in the State health plan.

(k) (1) A certificate of need is required before any of the following capital expenditures are made by or on behalf of a hospital:

(i) Any expenditure that, under generally accepted accounting principles, is not properly chargeable as an operating or maintenance expense, if:

1. The expenditure is made as part of an acquisition, improvement, or expansion, and, after adjustment for inflation as provided in the regulations of the Commission, the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD**;

2. The expenditure is made as part of a replacement of any plant and equipment of the hospital and is more than **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD** after adjustment for inflation as provided in the regulations of the Commission;

3. The expenditure results in a substantial change in the bed capacity of the hospital; or

4. The expenditure results in the establishment of a new medical service in a hospital that would require a certificate of need under subsection (i) of this section; or

(ii) Any expenditure that is made to lease or, by comparable

arrangement, obtain any plant or equipment for the hospital, if:

1. The expenditure is made as part of an acquisition, improvement, or expansion, and**[**, after adjustment for inflation as provided in the rules and regulations of the Commission,**]** the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD**;

2. The expenditure is made as part of a replacement of any plant and equipment and is more than **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD** after adjustment for inflation as provided in the regulations of the Commission;

3. The expenditure results in a substantial change in the bed capacity of the hospital; or

4. The expenditure results in the establishment of a new medical service in a hospital that would require a certificate of need under subsection (i) of this section.

(6) This subsection does not apply to:

(viii) A capital expenditure by a hospital, as defined in § 19–301 of this title, for a project in excess of **[**$10,000,000**]** **THE HOSPITAL CAPITAL THRESHOLD AND IS** for construction or renovation that:

1. May be related to patient care;

2. Does not require, over the entire period or schedule of debt service associated with the project, a total cumulative increase in patient charges or hospital rates of more than $1,500,000 for the capital costs associated with the project as determined by the Commission, after consultation with the Health Services Cost Review Commission;

3. At least 45 days before the proposed expenditure is made, the hospital notifies the Commission;

4. A. Within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under item 2 of this item; or

B. The Commission has not made the financial determination required under item 2 of this item within 60 days of the receipt of the relevant financial information; and

5. The relevant financial information to be submitted by the

hospital is defined in regulations adopted by the Commission, after consultation with the Health Services Cost Review Commission;

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

Approved by the Governor, May 13, 2019.

Chapter 417

(Senate Bill 868)

AN ACT concerning

Health Insurance – Consumer Protections and Maryland Health Insurance Coverage Protection Commission

FOR the purpose of making a certain finding and declaration of the General Assembly; ~~repealing certain provisions of law applying certain provisions of the federal Affordable Care Act to certain health insurance coverage issued or delivered in the State by certain insurers, nonprofit health service plans, or health maintenance organizations; prohibiting certain carriers from excluding or limiting certain benefits or denying coverage under certain circumstances; prohibiting certain carriers from establishing certain rules for eligibility based on health status factors; authorizing certain carriers offering an individual plan to determine a premium rate based on certain factors; prohibiting certain premium rates from varying by more than a certain ratio; requiring certain carriers to provide coverage to certain children until the child is a certain age; prohibiting certain carriers from rescinding a certain health benefit plan once the insured individual is covered under the plan; prohibiting certain carriers from establishing lifetime and annual limits on the dollar value of benefits for any insured individual; prohibiting carriers of a group plan from applying a certain waiting period for eligibility for coverage; requiring certain carriers to allow certain individuals to designate a certain provider as a primary care provider under certain circumstances; requiring a carrier to treat the provision and ordering of certain obstetrical and gynecological care by a certain provider as the authorization of a primary care provider; prohibiting certain carriers from requiring certain authorization or referrals of certain care or services; requiring certain health care providers to comply with certain policies and procedures of a carrier; requiring certain carriers to provide certain coverage for emergency services in a certain manner under certain circumstances; requiring the Maryland Insurance Commissioner to adopt regulations to develop certain standards for use by certain carriers to compile and provide to consumers a certain summary of benefits and coverage explanations; requiring certain carriers to provide a certain summary of benefits and coverage explanation to certain applicants and insured individuals at certain times; authorizing certain carriers to provide a certain summary of benefits~~

~~and coverage explanation in certain forms; requiring certain carriers to provide certain notification of certain modifications under certain circumstances; establishing a certain penalty; requiring certain carriers to submit a certain report to the Commissioner in certain years; requiring certain carriers to provide a certain rebate to each insured individual based on certain ratios in certain years; requiring the Commissioner to take certain action regarding premiums; requiring a carrier to disclose certain information to insured individuals in a certain manner; requiring certain carriers that offer certain plans to offer certain plans to individuals under a certain age; authorizing certain carriers to offer a certain catastrophic plan under certain circumstances; requiring the Commissioner to adopt regulations to establish certain limitations on cost–sharing for certain health benefit plans and for prescription drug benefit requirements for certain health benefit plans; making conforming changes;~~ requiring the Maryland Health Insurance Coverage Protection Commission to establish a certain workgroup; requiring that the workgroup include certain members; specifying the duties of the workgroup; requiring the Commission to report to the General Assembly on or before a certain date; altering the date on which the Commission is required to submit a certain report; extending the termination date for the ~~Maryland Health Insurance Coverage Protection~~ Commission; ~~providing for the application and construction of certain provisions of this Act; stating the intent of the General Assembly; defining certain terms;~~ and generally relating to consumer protections for health insurance and the Maryland Health Insurance Coverage Protection Commission.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–137.1
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

~~BY adding to~~
~~Article – Insurance~~
~~Section 15–1A–01 through 15–1A–17 to be under the new subtitle "Subtitle 1A. Consumer Protections"~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 15–1205(a) and (g) and 15–1406~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, without amendments,
Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37 and 38 of the Acts of the General Assembly of 2018
Section 1(b)

BY repealing and reenacting, with amendments,
Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37 and 38 of the Acts of the General Assembly of 2018
Section 1(h)(3), (i), and (j) and 2

BY adding to
Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37 and 38 of the Acts of the General Assembly of 2018
Section 1(i)

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

Article – Insurance

~~[~~15–137.1.

(A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS IN THE PUBLIC INTEREST TO ENSURE THAT THE HEALTH CARE PROTECTIONS ESTABLISHED BY THE FEDERAL AFFORDABLE CARE ACT CONTINUE TO PROTECT MARYLAND RESIDENTS IN LIGHT OF CONTINUED THREATS TO THE FEDERAL AFFORDABLE CARE ACT.

~~(a)~~ **(B)** Notwithstanding any other provisions of law, the following provisions of Title I, Subtitles A, C, and D of the Affordable Care Act apply to individual health insurance coverage and health insurance coverage offered in the small group and large group markets, as those terms are defined in the federal Public Health Service Act, issued or delivered in the State by an authorized insurer, nonprofit health service plan, or health maintenance organization:

(1) coverage of children up to the age of 26 years;

(2) preexisting condition exclusions;

(3) policy rescissions;

(4) bona fide wellness programs;

(5) lifetime limits;

(6) annual limits for essential benefits;

(7) waiting periods;

(8) designation of primary care providers;

(9) access to obstetrical and gynecological services;

(10) emergency services;

(11) summary of benefits and coverage explanation;

(12) minimum loss ratio requirements and premium rebates;

(13) disclosure of information;

(14) annual limitations on cost sharing;

(15) child–only plan offerings in the individual market;

(16) minimum benefit requirements for catastrophic plans;

(17) health insurance premium rates;

(18) coverage for individuals participating in approved clinical trials;

(19) contract requirements for stand–alone dental plans sold on the Maryland Health Benefit Exchange;

(20) guaranteed availability of coverage;

(21) prescription drug benefit requirements; and

(22) preventive and wellness services and chronic disease management.

~~(b)~~ **(C)** The provisions of subsection (a) of this section do not apply to coverage for excepted benefits, as defined in 45 C.F.R. § 146.145.

~~(c)~~ **(D)** The Commissioner may enforce this section under any applicable provisions of this article.~~]~~

~~**SUBTITLE 1A. CONSUMER PROTECTIONS.**~~

~~**15–1A–01.**~~

~~**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(B) "CARRIER" MEANS:**~~

~~**(1) AN INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE AND PROVIDES HEALTH INSURANCE IN THE STATE;**~~

~~(2) A HEALTH MAINTENANCE ORGANIZATION THAT IS LICENSED TO OPERATE IN THE STATE;~~

~~(3) A NONPROFIT HEALTH SERVICE PLAN THAT IS LICENSED TO OPERATE IN THE STATE; OR~~

~~(4) ANY OTHER PERSON OR ORGANIZATION THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO STATE INSURANCE REGULATION.~~

~~(C) "GROUP PLAN" MEANS A SMALL GROUP PLAN OR A LARGE GROUP PLAN.~~

~~(D) "HEALTH BENEFIT PLAN" MEANS AN INDIVIDUAL PLAN, A SMALL GROUP PLAN, OR A LARGE GROUP PLAN.~~

~~(E) "INDIVIDUAL PLAN" MEANS A HEALTH BENEFIT PLAN AS DEFINED IN § 15–1301 OF THIS TITLE.~~

~~(F) "INSURED INDIVIDUAL" MEANS AN INSURED, AN ENROLLEE, A SUBSCRIBER, A POLICY HOLDER, A PARTICIPANT, OR A BENEFICIARY.~~

~~(G) "LARGE GROUP PLAN" MEANS A HEALTH BENEFIT PLAN AS DEFINED IN § 15–1401 OF THIS TITLE.~~

~~(H) "SMALL GROUP PLAN" MEANS A HEALTH BENEFIT PLAN AS DEFINED IN IN § 15–1201 OF THIS TITLE.~~

~~15–1A–02.~~

~~EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THIS SUBTITLE APPLIES ONLY TO CARRIERS THAT OFFER HEALTH BENEFIT PLANS IN THE STATE WITHIN THE SCOPE OF:~~

~~(1) SUBTITLE 12 OF THIS TITLE;~~

~~(2) SUBTITLE 13 OF THIS TITLE; OR~~

~~(3) SUBTITLE 14 OF THIS TITLE.~~

~~15–1A–03.~~

~~(A) A CARRIER MAY NOT:~~

~~(1) EXCLUDE OR LIMIT BENEFITS BECAUSE A CONDITION WAS PRESENT BEFORE THE EFFECTIVE DATE OF COVERAGE; OR~~

~~(2) DENY COVERAGE BECAUSE A CONDITION WAS PRESENT BEFORE OR ON THE DATE OF DENIAL.~~

~~(B) THE PROHIBITION IN SUBSECTION (A) OF THIS SECTION APPLIES WHETHER OR NOT:~~

~~(1) ANY MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT WAS RECOMMENDED OR RECEIVED FOR THE CONDITION; OR~~

~~(2) THE CONDITION WAS IDENTIFIED AS A RESULT OF:~~

~~(I) A PRE–ENROLLMENT QUESTIONNAIRE OR PHYSICAL EXAMINATION GIVEN TO AN INDIVIDUAL; OR~~

~~(II) A REVIEW OF MEDICAL RECORDS RELATING TO THE PRE–ENROLLMENT PERIOD.~~

~~15–1A–04.~~

~~A CARRIER MAY NOT ESTABLISH RULES FOR ELIGIBILITY, INCLUDING CONTINUED ELIGIBILITY, FOR ENROLLMENT OF AN INDIVIDUAL INTO A HEALTH BENEFIT PLAN BASED ON HEALTH STATUS FACTORS, INCLUDING:~~

~~(1) HEALTH CONDITION;~~

~~(2) CLAIMS EXPERIENCE;~~

~~(3) RECEIPT OF HEALTH CARE;~~

~~(4) MEDICAL HISTORY;~~

~~(5) GENETIC INFORMATION;~~

~~(6) EVIDENCE OF INSURABILITY INCLUDING CONDITIONS ARISING OUT OF ACTS OF DOMESTIC VIOLENCE; OR~~

~~(7) DISABILITY.~~

~~15–1A–05.~~

~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CARRIER OFFERING AN INDIVIDUAL PLAN MAY DETERMINE A PREMIUM RATE BASED ON:~~

~~(1) AGE;~~

~~(2) GEOGRAPHY BASED ON THE FOLLOWING CONTIGUOUS AREAS OF THE STATE:~~

~~(I) THE BALTIMORE METROPOLITAN AREA;~~

~~(II) THE DISTRICT OF COLUMBIA METROPOLITAN AREA;~~

~~(III) WESTERN MARYLAND; AND~~

~~(IV) EASTERN AND SOUTHERN MARYLAND;~~

~~(3) WHETHER THE PLAN COVERS AN INDIVIDUAL OR FAMILY; AND~~

~~(4) TOBACCO USE.~~

~~(B) (1) A PREMIUM RATE BASED ON AGE MAY NOT VARY BY A RATIO OF MORE THAN 3 TO 1 FOR ADULTS.~~

~~(2) A PREMIUM RATE BASED ON TOBACCO USE MAY NOT VARY BY A RATIO OF MORE THAN 1.5 TO 1.~~

~~15–1A–06.~~

~~(A) A CARRIER THAT OFFERS A HEALTH BENEFIT PLAN THAT PROVIDES COVERAGE TO A DEPENDENT CHILD SHALL CONTINUE TO MAKE THE COVERAGE AVAILABLE FOR THE CHILD UNTIL THE CHILD IS 26 YEARS OF AGE.~~

~~(B) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A CARRIER TO ISSUE A HEALTH BENEFIT PLAN TO A CHILD OF A CHILD RECEIVING DEPENDENT COVERAGE.~~

~~15–1A–07.~~

~~(A) (1) IN THIS SECTION, "RESCIND" MEANS TO CANCEL OR DISCONTINUE COVERAGE UNDER A HEALTH BENEFIT PLAN WITH RETROACTIVE EFFECT.~~

~~(2) "RESCIND" DOES NOT INCLUDE:~~

~~(I) THE CANCELLATION OR DISCONTINUATION OF A HEALTH BENEFIT PLAN IF THE CANCELLATION OR DISCONTINUATION OF THE HEALTH BENEFIT PLAN:~~

~~1. HAS ONLY A PROSPECTIVE EFFECT; OR~~

~~2. IS EFFECTIVE RETROACTIVELY TO THE EXTENT THE RETROACTIVE EFFECT IS ATTRIBUTABLE TO A FAILURE OF TIMELY PAYMENT OF REQUIRED PREMIUMS OR CONTRIBUTIONS TOWARDS THE COST OF COVERAGE; OR~~

~~(II) THE CANCELLATION OR DISCONTINUATION OF A HEALTH BENEFIT PLAN THAT COVERS ACTIVE EMPLOYEES AND, IF APPLICABLE, DEPENDENTS AND THOSE COVERED UNDER CONTINUATION COVERAGE PROVISIONS, IF:~~

~~1. THE EMPLOYEE DOES NOT PAY A PREMIUM FOR COVERAGE AFTER TERMINATION OF EMPLOYMENT; AND~~

~~2. THE CANCELLATION OR DISCONTINUATION OF THE HEALTH BENEFIT PLAN IS EFFECTIVE RETROACTIVELY BACK TO THE DATE OF TERMINATION OF EMPLOYMENT DUE TO A DELAY IN ADMINISTRATIVE RECORD KEEPING.~~

~~(B) THIS SECTION DOES NOT APPLY TO AN INSURED INDIVIDUAL WHO:~~

~~(1) HAS PERFORMED AN ACT THAT CONSTITUTES FRAUD OR MAKES AN INTENTIONAL MISREPRESENTATION OF MATERIAL FACT AS PROHIBITED BY THE TERMS OF THE HEALTH BENEFIT PLAN; OR~~

~~(2) HAS RECEIVED PRIOR NOTICE OF A DECISION TO RESCIND A HEALTH BENEFIT.~~

~~(C) A CARRIER MAY NOT RESCIND A HEALTH BENEFIT PLAN WITH RESPECT TO AN INSURED INDIVIDUAL ONCE THE INSURED INDIVIDUAL IS COVERED UNDER THE PLAN.~~

~~15–1A–08.~~

~~(A) A CARRIER MAY NOT ESTABLISH LIFETIME LIMITS OR ANNUAL LIMITS ON THE DOLLAR VALUE OF BENEFITS FOR ANY INSURED INDIVIDUAL.~~

~~(B) TO THE EXTENT THAT LIMITS ARE OTHERWISE AUTHORIZED UNDER FEDERAL OR STATE LAW, THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A CARRIER FROM PLACING ANNUAL OR LIFETIME PER BENEFICIARY LIMITS ON SPECIFIC COVERED BENEFITS THAT ARE NOT ESSENTIAL HEALTH BENEFITS IN THE STATE BENCHMARK PLAN SELECTED IN ACCORDANCE WITH § 31–116 OF THIS ARTICLE.~~

~~15–1A–09.~~

~~A CARRIER OFFERING A GROUP PLAN MAY NOT APPLY A WAITING PERIOD OF MORE THAN 90 DAYS THAT MUST PASS BEFORE AN INDIVIDUAL IS ELIGIBLE TO BE COVERED FOR BENEFITS UNDER THE TERMS OF THE GROUP PLAN.~~

~~15–1A–10.~~

~~(A) IF A CARRIER REQUIRES OR PROVIDES FOR THE DESIGNATION OF A PARTICIPATING PRIMARY CARE PROVIDER FOR AN INSURED INDIVIDUAL, THE CARRIER SHALL ALLOW EACH INSURED INDIVIDUAL TO DESIGNATE ANY PARTICIPATING PRIMARY CARE PROVIDER IF THE PROVIDER IS AVAILABLE TO ACCEPT THE INSURED INDIVIDUAL.~~

~~(B) (1) (I) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO HAS A CHILD WHO IS AN INSURED INDIVIDUAL UNDER A HEALTH BENEFIT PLAN.~~

~~(II) THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE ANY EXCLUSIONS OF COVERAGE UNDER THE TERMS AND CONDITIONS OF A HEALTH BENEFIT PLAN WITH RESPECT TO COVERAGE OF PEDIATRIC CARE.~~

~~(2) IF A CARRIER REQUIRES OR PROVIDES FOR THE DESIGNATION OF A PARTICIPATING PRIMARY CARE PROVIDER FOR A CHILD, THE CARRIER SHALL ALLOW THE INDIVIDUAL TO DESIGNATE ANY PARTICIPATING PHYSICIAN WHO SPECIALIZES IN PEDIATRICS AS THE CHILD'S PRIMARY CARE PROVIDER IF THE PROVIDER IS AVAILABLE TO ACCEPT THE CHILD.~~

~~(C) (1) (I) THIS SUBSECTION APPLIES ONLY TO A CARRIER THAT:~~

~~1. PROVIDES COVERAGE FOR OBSTETRIC OR GYNECOLOGIC CARE; AND~~

~~2. REQUIRES THE DESIGNATION BY AN INSURED INDIVIDUAL OF A PARTICIPATING PRIMARY CARE PROVIDER.~~

~~(II) THIS SUBSECTION MAY NOT BE CONSTRUED TO:~~

~~1. WAIVE ANY EXCLUSIONS OF COVERAGE UNDER THE TERMS AND CONDITIONS OF A HEALTH BENEFIT PLAN WITH RESPECT TO COVERAGE OF OBSTETRICAL OR GYNECOLOGICAL CARE; OR~~

~~2. PROHIBIT A CARRIER FROM REQUIRING THAT THE OBSTETRICAL OR GYNECOLOGICAL PROVIDER NOTIFY THE PRIMARY CARE PROVIDER OR CARRIER FOR AN INSURED INDIVIDUAL WHO IS FEMALE OF TREATMENT DECISIONS.~~

~~(2) A CARRIER SHALL TREAT THE PROVISION OF OBSTETRICAL AND GYNECOLOGICAL CARE AND THE ORDERING OF RELATED OBSTETRICAL AND GYNECOLOGICAL ITEMS AND SERVICES BY A PARTICIPATING HEALTH CARE PROVIDER WHO SPECIALIZES IN OBSTETRICS OR GYNECOLOGY AS THE AUTHORIZATION OF THE PRIMARY CARE PROVIDER.~~

~~(3) A CARRIER MAY NOT REQUIRE AUTHORIZATION OR REFERRAL BY ANY PERSON, INCLUDING THE PRIMARY CARE PROVIDER FOR THE INSURED INDIVIDUAL, FOR AN INSURED INDIVIDUAL WHO IS FEMALE AND WHO SEEKS COVERAGE FOR OBSTETRICAL OR GYNECOLOGICAL CARE PROVIDED BY A PARTICIPATING HEALTH CARE PROVIDER WHO SPECIALIZES IN OBSTETRICS OR GYNECOLOGY.~~

~~(4) A HEALTH CARE PROVIDER WHO PROVIDES OBSTETRICAL OR GYNECOLOGICAL CARE IN ACCORDANCE WITH THIS SUBSECTION SHALL COMPLY WITH A CARRIER'S POLICIES AND PROCEDURES.~~

~~15–1A–11.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "EMERGENCY MEDICAL CONDITION" MEANS A MEDICAL CONDITION THAT MANIFESTS ITSELF BY SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN, THAT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION COULD REASONABLY BE EXPECTED BY A PRUDENT LAYPERSON, WHO POSSESSES AN AVERAGE KNOWLEDGE OF HEALTH AND MEDICINE, TO RESULT IN:~~

~~(I) PLACING THE PATIENT'S HEALTH IN SERIOUS JEOPARDY;~~

~~(II) SERIOUS IMPAIRMENT TO BODILY FUNCTIONS; OR~~

~~(III) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART.~~

~~(3) "EMERGENCY SERVICES" MEANS, WITH RESPECT TO AN EMERGENCY MEDICAL CONDITION:~~

~~(I) A MEDICAL SCREENING EXAMINATION THAT IS WITHIN THE CAPABILITY OF THE EMERGENCY DEPARTMENT OF A HOSPITAL, INCLUDING ANCILLARY SERVICES ROUTINELY AVAILABLE TO THE EMERGENCY DEPARTMENT TO EVALUATE AN EMERGENCY MEDICAL CONDITION; OR~~

~~(II) ANY OTHER EXAMINATION OR TREATMENT WITHIN THE CAPABILITIES OF THE STAFF AND FACILITIES AVAILABLE AT THE HOSPITAL THAT IS NECESSARY TO STABILIZE THE PATIENT.~~

~~(B) IF A CARRIER COVERS ANY BENEFITS FOR EMERGENCY SERVICES TO TREAT EMERGENCY MEDICAL CONDITIONS IN AN EMERGENCY DEPARTMENT OF A HOSPITAL, THE CARRIER:~~

~~(1) MAY NOT REQUIRE AN INSURED INDIVIDUAL TO OBTAIN PRIOR AUTHORIZATION FOR THE EMERGENCY SERVICES; AND~~

~~(2) SHALL PROVIDE COVERAGE FOR THE EMERGENCY SERVICES REGARDLESS OF WHETHER THE HEALTH CARE PROVIDER FURNISHING THE EMERGENCY SERVICES HAS A CONTRACTUAL RELATIONSHIP WITH THE CARRIER TO FURNISH EMERGENCY SERVICES.~~

~~(C) IF A HEALTH CARE PROVIDER OF EMERGENCY SERVICES DOES NOT HAVE A CONTRACTUAL RELATIONSHIP WITH THE CARRIER TO FURNISH EMERGENCY SERVICES, THE CARRIER:~~

~~(1) MAY NOT IMPOSE ANY LIMITATION ON COVERAGE THAT WOULD BE MORE RESTRICTIVE THAN LIMITATIONS IMPOSED ON COVERAGE FOR EMERGENCY SERVICES FURNISHED BY A PROVIDER WITH A CONTRACTUAL RELATIONSHIP WITH THE CARRIER; AND~~

~~(2) SHALL REQUIRE THE SAME COST–SHARING AMOUNTS OR RATES AS WOULD APPLY IF THE EMERGENCY SERVICES WERE FURNISHED BY A PROVIDER WITH A CONTRACTUAL RELATIONSHIP WITH THE CARRIER.~~

~~15–1A–12.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "INSURANCE–RELATED TERMS" MEANS:~~

~~(I) PREMIUM;~~

~~(II) DEDUCTIBLE;~~

~~(III) CO–INSURANCE;~~

~~(IV) CO–PAYMENT;~~

~~(V) OUT–OF–POCKET LIMIT;~~

~~(VI) PREFERRED PROVIDER;~~

~~(VII) NONPREFERRED PROVIDER;~~

~~(VIII) OUT–OF–NETWORK CO–PAYMENTS;~~

~~(IX) USUAL, CUSTOMARY, AND REASONABLE FEES;~~

~~(X) EXCLUDED SERVICES;~~

~~(XI) GRIEVANCE AND APPEALS; AND~~

~~(XII) ANY OTHER TERM THE COMMISSIONER DETERMINES IS IMPORTANT TO DEFINE SO THAT A CONSUMER MAY COMPARE HEALTH BENEFIT PLANS AND UNDERSTAND THE TERMS OF THE CONSUMER'S COVERAGE.~~

~~(3) "MEDICAL TERMS" MEANS:~~

~~(I) HOSPITALIZATION;~~

~~(II) HOSPITAL OUTPATIENT CARE;~~

~~(III) EMERGENCY ROOM CARE;~~

~~(IV) PHYSICIAN SERVICES;~~

~~(V) PRESCRIPTION DRUG COVERAGE;~~

~~(VI) DURABLE MEDICAL EQUIPMENT;~~

~~(VII) HOME HEALTH CARE;~~

~~(VIII) SKILLED NURSING CARE;~~

~~(IX) REHABILITATION SERVICES;~~

~~(X) HOSPICE SERVICES;~~

~~(XI) EMERGENCY MEDICAL TRANSPORTATION; AND~~

~~(XII) ANY OTHER TERMS THE COMMISSIONER DETERMINES ARE IMPORTANT TO DEFINE SO THAT A CONSUMER MAY COMPARE THE MEDICAL~~

~~BENEFITS OFFERED BY HEALTH BENEFIT PLANS AND UNDERSTAND THE EXTENT OF AND EXCEPTIONS TO THOSE MEDICAL BENEFITS.~~

~~(B) (1) THE COMMISSIONER SHALL ADOPT REGULATIONS TO DEVELOP STANDARDS FOR USE BY A CARRIER TO COMPILE AND PROVIDE TO CONSUMERS A SUMMARY OF BENEFITS AND COVERAGE EXPLANATION THAT ACCURATELY DESCRIBES THE BENEFITS AND COVERAGE UNDER THE APPLICABLE HEALTH BENEFIT PLAN.~~

~~(2) IN DEVELOPING THE STANDARDS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSULT WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.~~

~~(C) THE STANDARDS DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION SHALL ENSURE THAT THE SUMMARY OF BENEFITS AND COVERAGE:~~

~~(1) IS PRESENTED IN A UNIFORM FORMAT THAT DOES NOT EXCEED FOUR PAGES IN LENGTH AND DOES NOT INCLUDE PRINT SMALLER THAN 12–POINT TYPE; AND~~

~~(2) IS PRESENTED IN A CULTURALLY AND LINGUISTICALLY APPROPRIATE MANNER AND USES TERMINOLOGY UNDERSTANDABLE BY THE AVERAGE INSURED INDIVIDUAL.~~

~~(D) THE STANDARDS DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION SHALL INCLUDE:~~

~~(1) UNIFORM DEFINITIONS OF STANDARD INSURANCE–RELATED TERMS AND MEDICAL TERMS SO THAT CONSUMERS MAY COMPARE HEALTH BENEFIT PLANS AND UNDERSTAND THE TERMS OF AND EXCEPTIONS TO COVERAGE;~~

~~(2) A DESCRIPTION OF THE COVERAGE OF A HEALTH BENEFIT PLAN, INCLUDING COST–SHARING FOR:~~

~~(I) EACH OF THE CATEGORIES OF THE ESSENTIAL HEALTH BENEFITS IN THE STATE BENCHMARK PLAN SELECTED IN ACCORDANCE WITH § 31–116 OF THIS ARTICLE; AND~~

~~(II) OTHER BENEFITS, AS IDENTIFIED BY THE COMMISSIONER;~~

~~(3) THE EXCEPTIONS, REDUCTIONS, AND LIMITATIONS ON COVERAGE;~~

~~(4) THE RENEWABILITY AND CONTINUATION OF COVERAGE PROVISIONS;~~

~~(5) A COVERAGE FACTS LABEL THAT INCLUDES EXAMPLES TO ILLUSTRATE COMMON BENEFITS SCENARIOS BASED ON RECOGNIZED CLINICAL PRACTICE GUIDELINES, INCLUDING PREGNANCY AND SERIOUS OR CHRONIC MEDICAL CONDITIONS AND RELATED COST–SHARING REQUIREMENTS;~~

~~(6) A STATEMENT OF WHETHER THE HEALTH BENEFIT PLAN ENSURES THAT THE PLAN OR COVERAGE SHARE OF THE TOTAL ALLOWED COSTS OF BENEFITS PROVIDED UNDER THE PLAN OR COVERAGE IS NOT LESS THAN 60% OF THE COSTS;~~

~~(7) A STATEMENT THAT:~~

~~(I) THE SUMMARY OF BENEFITS IS AN OUTLINE OF THE HEALTH BENEFIT PLAN; AND~~

~~(II) THE LANGUAGE OF THE HEALTH BENEFIT PLAN ITSELF SHOULD BE CONSULTED TO DETERMINE THE GOVERNING CONTRACTUAL PROVISIONS; AND~~

~~(8) A CONTACT NUMBER FOR THE CONSUMER TO CALL WITH ADDITIONAL QUESTIONS AND A WEBSITE WHERE A COPY OF THE ACTUAL HEALTH BENEFIT PLAN CAN BE REVIEWED AND OBTAINED.~~

~~(E) AS APPROPRIATE, THE COMMISSIONER SHALL PERIODICALLY REVIEW AND UPDATE THE STANDARDS DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION.~~

~~(F) (1) EACH CARRIER SHALL PROVIDE A SUMMARY OF BENEFITS AND COVERAGE EXPLANATION THAT COMPLIES WITH THE STANDARDS DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION BY THE COMMISSIONER TO:~~

~~(I) AN APPLICANT AT THE TIME OF APPLICATION; AND~~

~~(II) AN INSURED INDIVIDUAL BEFORE THE TIME OF ENROLLMENT OR REENROLLMENT, AS APPLICABLE.~~

~~(2) A CARRIER MAY PROVIDE A SUMMARY OF BENEFITS AND COVERAGE EXPLANATION AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN PAPER OR ELECTRONIC FORM.~~

~~(G) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, IF A CARRIER MAKES ANY MATERIAL MODIFICATION IN ANY OF THE TERMS OF THE PLAN OR~~

~~COVERAGE INVOLVED THAT IS NOT REFLECTED IN THE MOST RECENTLY PROVIDED SUMMARY OF BENEFITS AND COVERAGE EXPLANATION, THE CARRIER SHALL PROVIDE NOTICE OF THE MODIFICATION TO INSURED INDIVIDUALS NO LATER THAN 60 DAYS BEFORE THE EFFECTIVE DATE OF THE MODIFICATION.~~

~~(II) (1) A CARRIER THAT WILLFULLY FAILS TO PROVIDE THE INFORMATION REQUIRED UNDER THIS SECTION SHALL BE SUBJECT TO A FINE OF NOT MORE THAN $1,000 FOR EACH FAILURE.~~

~~(2) A FAILURE WITH RESPECT TO EACH INSURED INDIVIDUAL SHALL CONSTITUTE A SEPARATE OFFENSE FOR PURPOSES OF THIS SUBSECTION.~~

~~15–1A–13.~~

~~(A) THIS SECTION APPLIES ONLY TO HEALTH BENEFIT PLAN YEARS IN WHICH THE FEDERAL GOVERNMENT DOES NOT COLLECT A COMPARABLE REPORT OR DETERMINE ANNUAL REBATE AMOUNTS.~~

~~(B) (1) FOR EACH HEALTH BENEFIT PLAN YEAR, A CARRIER SHALL SUBMIT TO THE COMMISSIONER A REPORT CONCERNING THE RATIO OF:~~

~~(I) INCURRED LOSS OR INCURRED CLAIMS PLUS LOSS ADJUSTMENT EXPENSE OR CHANGE IN CONTRACT RESERVES, INCLUDING:~~

~~1. REIMBURSEMENT FOR CLINICAL SERVICES PROVIDED TO INSURED INDIVIDUALS UNDER THE PLAN; AND~~

~~2. ACTIVITIES THAT IMPROVE HEALTH CARE QUALITY; AND~~

~~(II) EARNED PREMIUMS CALCULATED AS THE TOTAL OF PREMIUM REVENUE:~~

~~1. AFTER ACCOUNTING FOR COLLECTIONS OR RECEIPTS FOR RISK ADJUSTMENT AND RISK CORRIDORS AND PAYMENTS OF REINSURANCE; AND~~

~~2. EXCLUDING FEDERAL AND STATE TAXES AND LICENSING OR REGULATORY FEES.~~

~~(2) THE REPORT SHALL:~~

~~(I) SPECIFY THE AMOUNT SPENT ON:~~

~~1. TOTAL REIMBURSEMENT FOR CLINICAL SERVICES PROVIDED TO ENROLLEES;~~

~~2. TOTAL COST OF ACTIVITIES THAT IMPROVE HEALTH CARE QUALITY; AND~~

~~3. ALL OTHER NONCLAIMS COSTS; AND~~

~~(II) INCLUDE AN EXPLANATION OF THE NATURE OF THE COSTS SPECIFIED UNDER ITEM (I)3 OF THIS PARAGRAPH.~~

~~(3) THE COMMISSIONER SHALL MAKE REPORTS RECEIVED UNDER THIS SUBSECTION AVAILABLE TO THE PUBLIC ON THE ADMINISTRATION'S WEBSITE.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR EACH HEALTH BENEFIT PLAN YEAR, A CARRIER SHALL PROVIDE AN ANNUAL REBATE TO EACH INSURED INDIVIDUAL UNDER THE HEALTH BENEFIT PLAN ON A PRO RATA BASIS, IF THE AVERAGE OF THE RATIOS REPORTED IN EACH OF THE IMMEDIATELY PRECEDING 3 YEARS IS LESS THAN:~~

~~(I) WITH RESPECT TO A LARGE GROUP PLAN, 85% OR A HIGHER PERCENTAGE AS DETERMINED BY THE COMMISSIONER IN REGULATIONS; OR~~

~~(II) WITH RESPECT TO A SMALL GROUP PLAN OR AN INDIVIDUAL HEALTH BENEFIT PLAN, 80% OR A HIGHER PERCENTAGE AS DETERMINED BY THE COMMISSIONER IN REGULATIONS.~~

~~(2) IF THE COMMISSIONER DETERMINES THAT THE APPLICATION OF THE RATIOS ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION MAY DESTABILIZE A MARKET FOR HEALTH BENEFIT PLANS, THE COMMISSIONER MAY DETERMINE A LOWER PERCENTAGE.~~

~~(3) THE TOTAL AMOUNT OF AN ANNUAL REBATE REQUIRED UNDER THIS SUBSECTION SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF THE RATIO DETERMINED UNDER SUBSECTION (A) OF THIS SECTION IF THE RATIO EXCEEDS THE PERCENTAGES ESTABLISHED IN ACCORDANCE WITH PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.~~

~~(4) IN DETERMINING THE PERCENTAGES UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, THE COMMISSIONER SHALL SEEK TO ENSURE ADEQUATE PARTICIPATION BY CARRIERS, COMPETITION IN THE HEALTH INSURANCE MARKETS IN THE STATE, AND VALUE FOR CONSUMERS SO THAT PREMIUMS ARE USED FOR CLINICAL SERVICES AND QUALITY IMPROVEMENTS.~~

~~15–1A–14.~~

~~(A) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A CARRIER TO DISCLOSE INFORMATION THAT IS PROPRIETARY AND TRADE SECRET INFORMATION UNDER APPLICABLE LAW.~~

~~(B) A CARRIER SHALL DISCLOSE TO AN INSURED INDIVIDUAL OR EMPLOYER, AS APPLICABLE, OF THE FOLLOWING INFORMATION:~~

~~(1) THE CARRIER'S RIGHT TO CHANGE PREMIUM RATES AND THE FACTORS THAT MAY AFFECT CHANGES IN PREMIUM RATES; AND~~

~~(2) THE BENEFITS AND PREMIUMS AVAILABLE UNDER ALL HEALTH BENEFIT PLANS FOR WHICH THE EMPLOYER OR INSURED INDIVIDUAL IS QUALIFIED.~~

~~(C) THE CARRIER SHALL MAKE THE DISCLOSURE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION:~~

~~(1) AS PART OF ITS SOLICITATION AND SALES MATERIAL; OR~~

~~(2) IF THE INFORMATION IS REQUESTED BY THE INSURED INDIVIDUAL OR EMPLOYER.~~

~~15–1A–15.~~

~~EACH CARRIER THAT OFFERS A HEALTH BENEFIT PLAN SHALL OFFER AN IDENTICAL HEALTH BENEFIT PLAN IN WHICH THE ONLY INSURED INDIVIDUALS ARE INDIVIDUALS UNDER THE AGE OF 21 YEARS, AS OF THE BEGINNING OF A HEALTH BENEFIT PLAN YEAR.~~

~~15–1A–16.~~

~~A CARRIER MAY OFFER A CATASTROPHIC PLAN IN THE INDIVIDUAL MARKET IF:~~

~~(1) THE PLAN IS ONLY OFFERED TO INDIVIDUALS WHO:~~

~~(I) ARE UNDER THE AGE OF 30 YEARS BEFORE THE BEGINNING OF THE PLAN YEAR; OR~~

~~(II) HOLD CERTIFICATION FOR A HARDSHIP EXEMPTION OR AFFORDABILITY EXEMPTION AS DETERMINED IN REGULATION BY THE COMMISSIONER; AND~~

~~(2) THE PLAN COVERS:~~

~~(I) AMBULATORY PATIENT SERVICES;~~

~~(II) EMERGENCY SERVICES;~~

~~(III) HOSPITALIZATION;~~

~~(IV) MATERNITY AND NEWBORN CARE;~~

~~(V) BEHAVIORAL HEALTH SERVICES;~~

~~(VI) PRESCRIPTION DRUGS;~~

~~(VII) REHABILITATIVE AND HABILITATIVE SERVICES AND DEVICES;~~

~~(VIII) LABORATORY SERVICES;~~

~~(IX) PREVENTIVE AND WELLNESS SERVICES AND CHRONIC DISEASE MANAGEMENT;~~

~~(X) PEDIATRIC SERVICES, INCLUDING ORAL AND VISON CARE; AND~~

~~(XI) AT LEAST THREE PRIMARY CARE VISITS PER PLAN YEAR.~~

~~15–1A–17.~~

~~THE COMMISSIONER SHALL ADOPT REGULATIONS:~~

~~(1) TO ESTABLISH ANNUAL LIMITATIONS ON COST SHARING FOR HEALTH BENEFIT PLANS; AND~~

~~(2) FOR PRESCRIPTION DRUG BENEFIT REQUIREMENTS FOR HEALTH BENEFIT PLANS.~~

~~15–1205.~~

~~(a) (1) This subsection applies to a carrier with respect to any health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act.~~

~~(2) In establishing a community rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that~~

~~health benefit plan without regard to any factor not specifically authorized under this subsection or subsection (g) of this section.~~

~~(3) A carrier may adjust the community rate only for:~~

~~(i) age; AND~~

~~(ii) geography based on the following contiguous areas of the State:~~

~~1. the Baltimore metropolitan area;~~

~~2. the District of Columbia metropolitan area;~~

~~3. Western Maryland; and~~

~~4. Eastern and Southern Maryland~~**[**~~; and~~

~~(iii) health status, as provided in subsection (g) of this section~~**]**.

~~(4) Rates for a health benefit plan may vary based on family composition as approved by the Commissioner.~~

~~(5) (i) Subject to subparagraph (ii) of this paragraph, after applying the risk adjustment factors under paragraph (3) of this subsection, a carrier may offer a discount not to exceed 20% to a small employer for participation in a wellness program.~~

~~(ii) A discount offered under subparagraph (i) of this paragraph shall be:~~

~~1. applied to reduce the rate otherwise payable by the small employer;~~

~~2. actuarially justified;~~

~~3. offered uniformly to all small employers; and~~

~~4. approved by the Commissioner.~~

~~(g) (1)~~ **[**~~A carrier may adjust the community rate for a health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act, for health status only if a small employer has not offered a health benefit plan issued under this subtitle to its employees in the 12 months prior to the initial enrollment of the small employer in the health benefit plan.~~

~~(2) (i) Based on the adjustment allowed under paragraph (1) of this subsection, in addition to the adjustments allowed under subsection (d)(1) of this section, a carrier may charge:~~

~~1. in the first year of enrollment, a rate that is 10% above or below the community rate;~~

~~2. in the second year of enrollment, a rate that is 5% above or below the community rate; and~~

~~3. in the third year of enrollment, a rate that is 2% above or below the community rate.~~

~~(ii) A carrier may not make any adjustment for health status in the community rate of a health benefit plan issued under this subtitle after the third year of enrollment of a small employer in the health benefit plan.~~

~~(3) For a health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act, a carrier may use health statements, in a form approved by the Commissioner, and health screenings to establish an adjustment to the community rate for health status as provided in this subsection.~~

~~(4) A~~**] FOR A HEALTH BENEFIT PLAN THAT IS A GRANDFATHERED HEALTH PLAN, AS DEFINED IN § 1251 OF THE AFFORDABLE CARE ACT,** ~~A carrier may not limit coverage offered by the carrier, or refuse to issue a health benefit plan to any small employer that meets the requirements of this subtitle, based on a health status–related factor.~~

[~~(5)~~**] (2)** ~~It is an unfair trade practice for a carrier knowingly to provide coverage to a small employer that discriminates against an employee or applicant for employment, based on the health status of the employee or applicant or a dependent of the employee or applicant, with respect to participation in a health benefit plan sponsored by the small employer.~~

~~15–1406.~~

[~~(a) A carrier may not establish rules for eligibility of an individual to enroll under a group health benefit plan based on any health status–related factor.~~

~~(b) Subsection (a) of this section does not:~~

~~(1) require a carrier to provide particular benefits other than those provided under the terms of the particular health benefit plan; or~~

~~(2) prevent a carrier from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the health benefit plan.~~

~~(c) Rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for enrollment.]~~

~~[(d)] (A) A carrier shall allow an employee or dependent who is eligible, but not enrolled, for coverage under the terms of a group health benefit plan to enroll for coverage under the terms of the plan if:~~

~~(1) the employee or dependent was covered under an employer–sponsored plan or group health benefit plan at the time coverage was previously offered to the employee or dependent;~~

~~(2) the employee states in writing, at the time coverage was previously offered, that coverage under an employer–sponsored plan or group health benefit plan was the reason for declining enrollment, but only if the plan sponsor or issuer requires the statement and provides the employee with notice of the requirement;~~

~~(3) the employee's or dependent's coverage described in item (1) of this subsection:~~

~~(i) was under a COBRA continuation provision, and the coverage under that provision was exhausted; or~~

~~(ii) was not under a COBRA continuation provision, and either the coverage was terminated as a result of loss of eligibility for the coverage, including loss of eligibility as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or employer contributions towards the coverage were terminated; and~~

~~(4) under the terms of the plan, the employee requests enrollment not later than 30 days after:~~

~~(i) the date of exhaustion of coverage described in item (3)(i) of this subsection; or~~

~~(ii) termination of coverage or termination of employer contributions described in item (3)(ii) of this subsection.~~

~~[(e)] (B) A carrier shall allow an employee or dependent who is eligible, but not enrolled, for coverage under the terms of a group health benefit plan to enroll for coverage under the terms of the plan if the employee or dependent requests enrollment within 30 days after the employee or dependent is determined to be eligible for coverage under the MCHP private option plan in accordance with § 15–301.1 of the Health – General Article.~~

Chapter 17 of the Acts of 2017, as amended by Chapters 37 and 38 of the Acts of 2018

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(b) There is a Maryland Health Insurance Coverage Protection Commission.

(h) (3) The Commission shall include its findings and recommendations from the study required under paragraph (1) of this subsection in the annual report submitted by the Commission on or before December 31, **[**2019**]** **2020**, under subsection **[**(j)**]** **(K)** of this section.

(I) (1) THE COMMISSION SHALL ESTABLISH A WORKGROUP TO CARRY OUT THE FINDING AND DECLARATION OF THE GENERAL ASSEMBLY THAT IT IS IN THE PUBLIC INTEREST TO ENSURE THAT THE HEALTH CARE PROTECTIONS ESTABLISHED BY THE FEDERAL AFFORDABLE CARE ACT CONTINUE TO PROTECT MARYLAND RESIDENTS IN LIGHT OF CONTINUED THREATS TO THE FEDERAL AFFORDABLE CARE ACT.

(2) THE WORKGROUP SHALL INCLUDE MEMBERS WHO REPRESENT NONPROFIT AND FOR–PROFIT CARRIERS, CONSUMERS, AND PROVIDERS.

(3) THE WORKGROUP SHALL:

(I) MONITOR THE APPEAL OF THE DECISION OF THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS IN TEXAS V. UNITED STATES REGARDING THE ACA AND THE IMPLICATIONS OF THE DECISION FOR THE STATE;

(II) MONITOR THE ENFORCEMENT OF THE AFFORDABLE CARE ACT BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND

(III) DETERMINE THE MOST EFFECTIVE MANNER OF ENSURING THAT MARYLAND CONSUMERS CAN OBTAIN AND RETAIN QUALITY HEALTH INSURANCE INDEPENDENT OF ANY ACTION OR INACTION ON THE PART OF THE FEDERAL GOVERNMENT OR ANY CHANGES TO FEDERAL LAW OR ITS INTERPRETATION.

(4) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION SHALL INCLUDE THE FINDINGS OF THE WORKGROUP IN THE ANNUAL REPORT SUBMITTED BY THE COMMISSION ON OR BEFORE DECEMBER 31, 2019, UNDER SUBSECTION (K) OF THIS SECTION.

[(i)**]** **(J)** The Commission may:

(1) hold public meetings across the State to carry out the duties of the Commission; and

(2) convene workgroups to solicit input from stakeholders.

[(j)**] (K)** On or before December 31 each year, the Commission shall submit a report on its findings and recommendations, including any legislative proposals, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017. It shall remain effective for a period of **[**3**] 6** years and 1 month and, at the end of June 30, **[**2020**] 2023**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to ensure that the health care protections established by the federal Affordable Care Act continue to protect Maryland residents in light of continued threats to the federal Act.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 418

(House Bill 697)

AN ACT concerning

Health Insurance – Consumer Protections and Maryland Health Insurance Coverage Protection Commission

FOR the purpose of making a certain finding and declaration of the General Assembly; ~~repealing certain provisions of law applying certain provisions of the federal Affordable Care Act to certain health insurance coverage issued or delivered in the State by certain insurers, nonprofit health service plans, or health maintenance organizations; prohibiting certain carriers from excluding or limiting certain benefits or denying coverage under certain circumstances; prohibiting certain carriers from establishing certain rules for eligibility based on health status factors; authorizing certain carriers offering an individual plan to determine a premium rate based on certain factors; prohibiting certain premium rates from varying by more than a certain ratio; requiring certain carriers to provide coverage to certain children until the child is a certain age; prohibiting certain carriers from rescinding a certain health benefit plan once the insured individual is covered under the plan; prohibiting certain carriers from establishing lifetime and annual limits on the dollar value of~~

~~benefits for any insured individual; prohibiting carriers of a group plan from applying a certain waiting period for eligibility for coverage; requiring certain carriers to allow certain individuals to designate a certain provider as a primary care provider under certain circumstances; requiring a carrier to treat the provision and ordering of certain obstetrical and gynecological care by a certain provider as the authorization of a primary care provider; prohibiting certain carriers from requiring certain authorization or referrals of certain care or services; requiring certain health care providers to comply with certain policies and procedures of a carrier; requiring certain carriers to provide certain coverage for emergency services in a certain manner under certain circumstances; requiring the Maryland Insurance Commissioner to adopt regulations to develop certain standards for use by certain carriers to compile and provide to consumers a certain summary of benefits and coverage explanations; requiring certain carriers to provide a certain summary of benefits and coverage explanation to certain applicants and insured individuals at certain times; authorizing certain carriers to provide a certain summary of benefits and coverage explanation in certain forms; requiring certain carriers to provide certain notification of certain modifications under certain circumstances; establishing a certain penalty; requiring certain carriers to submit a certain report to the Commissioner in certain years; requiring certain carriers to provide a certain rebate to each insured individual based on certain ratios in certain years; requiring the Commissioner to take certain action regarding premiums; requiring a carrier to disclose certain information to insured individuals in a certain manner; requiring certain carriers that offer certain plans to offer certain plans to individuals under a certain age; authorizing certain carriers to offer a certain catastrophic plan under certain circumstances; requiring the Commissioner to adopt regulations to establish certain limitations on cost–sharing for certain health benefit plans and for prescription drug benefit requirements for certain health benefit plans; making conforming changes;~~ requiring the Maryland Health Insurance Coverage Protection Commission to establish a certain workgroup; requiring that the workgroup include certain members; specifying the duties of the workgroup; requiring the Commission to report to the General Assembly on or before a certain date; altering the date on which the Commission is required to submit a certain report; extending the termination date for the ~~Maryland Health Insurance Coverage Protection~~ Commission; ~~providing for the application and construction of certain provisions of this Act; stating the intent of the General Assembly; defining certain terms;~~ and generally relating to consumer protections for health insurance and the Maryland Health Insurance Coverage Protection Commission.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–137.1
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

~~BY adding to~~
~~Article – Insurance~~

~~Section 15–1A–01 through 15–1A–17 to be under the new subtitle "Subtitle 1A. Consumer Protections"~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 15–1205(a) and (g) and 15–1406~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, without amendments,
Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37 and 38 of the Acts of the General Assembly of 2018
Section 1(b)

BY repealing and reenacting, with amendments,
Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37 and 38 of the Acts of the General Assembly of 2018
Section 1(h)(3), (i), and (j) and 2

BY adding to
Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37 and 38 of the Acts of the General Assembly of 2018
Section 1(i)

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

Article – Insurance

~~[~~15–137.1.

(A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS IN THE PUBLIC INTEREST TO ENSURE THAT THE HEALTH CARE PROTECTIONS ESTABLISHED BY THE FEDERAL AFFORDABLE CARE ACT CONTINUE TO PROTECT MARYLAND RESIDENTS IN LIGHT OF CONTINUED THREATS TO THE FEDERAL AFFORDABLE CARE ACT.

~~(a)~~ **(B)** Notwithstanding any other provisions of law, the following provisions of Title I, Subtitles A, C, and D of the Affordable Care Act apply to individual health insurance coverage and health insurance coverage offered in the small group and large group markets, as those terms are defined in the federal Public Health Service Act, issued or delivered in the State by an authorized insurer, nonprofit health service plan, or health maintenance organization:

(1) coverage of children up to the age of 26 years;

(2) preexisting condition exclusions;

(3) policy rescissions;

(4) bona fide wellness programs;

(5) lifetime limits;

(6) annual limits for essential benefits;

(7) waiting periods;

(8) designation of primary care providers;

(9) access to obstetrical and gynecological services;

(10) emergency services;

(11) summary of benefits and coverage explanation;

(12) minimum loss ratio requirements and premium rebates;

(13) disclosure of information;

(14) annual limitations on cost sharing;

(15) child–only plan offerings in the individual market;

(16) minimum benefit requirements for catastrophic plans;

(17) health insurance premium rates;

(18) coverage for individuals participating in approved clinical trials;

(19) contract requirements for stand–alone dental plans sold on the Maryland Health Benefit Exchange;

(20) guaranteed availability of coverage;

(21) prescription drug benefit requirements; and

(22) preventive and wellness services and chronic disease management.

~~(b)~~ **(C)** The provisions of subsection (a) of this section do not apply to coverage for excepted benefits, as defined in 45 C.F.R. § 146.145.

~~(c)~~ **(D)** The Commissioner may enforce this section under any applicable provisions of this article.~~]~~

~~SUBTITLE 1A. CONSUMER PROTECTIONS.~~

~~15–1A–01.~~

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

~~(B) "CARRIER" MEANS:~~

~~(1) AN INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE AND PROVIDES HEALTH INSURANCE IN THE STATE;~~

~~(2) A HEALTH MAINTENANCE ORGANIZATION THAT IS LICENSED TO OPERATE IN THE STATE;~~

~~(3) A NONPROFIT HEALTH SERVICE PLAN THAT IS LICENSED TO OPERATE IN THE STATE; OR~~

~~(4) ANY OTHER PERSON OR ORGANIZATION THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO STATE INSURANCE REGULATION.~~

~~(C) "GROUP PLAN" MEANS A SMALL GROUP PLAN OR A LARGE GROUP PLAN.~~

~~(D) "HEALTH BENEFIT PLAN" MEANS AN INDIVIDUAL PLAN, A SMALL GROUP PLAN, OR A LARGE GROUP PLAN.~~

~~(E) "INDIVIDUAL PLAN" MEANS A HEALTH BENEFIT PLAN AS DEFINED IN § 15–1301 OF THIS TITLE.~~

~~(F) "INSURED INDIVIDUAL" MEANS AN INSURED, AN ENROLLEE, A SUBSCRIBER, A POLICY HOLDER, A PARTICIPANT, OR A BENEFICIARY.~~

~~(G) "LARGE GROUP PLAN" MEANS A HEALTH BENEFIT PLAN AS DEFINED IN § 15–1401 OF THIS TITLE.~~

~~(H) "SMALL GROUP PLAN" MEANS A HEALTH BENEFIT PLAN AS DEFINED IN IN § 15–1201 OF THIS TITLE.~~

~~15–1A–02.~~

~~EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THIS SUBTITLE APPLIES ONLY TO CARRIERS THAT OFFER HEALTH BENEFIT PLANS IN THE STATE WITHIN THE SCOPE OF:~~

~~(1) SUBTITLE 12 OF THIS TITLE;~~

~~(2) SUBTITLE 13 OF THIS TITLE; OR~~

~~(3) SUBTITLE 14 OF THIS TITLE.~~

~~15–1A–03.~~

~~(A) A CARRIER MAY NOT:~~

~~(1) EXCLUDE OR LIMIT BENEFITS BECAUSE A CONDITION WAS PRESENT BEFORE THE EFFECTIVE DATE OF COVERAGE; OR~~

~~(2) DENY COVERAGE BECAUSE A CONDITION WAS PRESENT BEFORE OR ON THE DATE OF DENIAL.~~

~~(B) THE PROHIBITION IN SUBSECTION (A) OF THIS SECTION APPLIES WHETHER OR NOT:~~

~~(1) ANY MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT WAS RECOMMENDED OR RECEIVED FOR THE CONDITION; OR~~

~~(2) THE CONDITION WAS IDENTIFIED AS A RESULT OF:~~

~~(I) A PRE–ENROLLMENT QUESTIONNAIRE OR PHYSICAL EXAMINATION GIVEN TO AN INDIVIDUAL; OR~~

~~(II) A REVIEW OF MEDICAL RECORDS RELATING TO THE PRE–ENROLLMENT PERIOD.~~

~~15–1A–04.~~

~~A CARRIER MAY NOT ESTABLISH RULES FOR ELIGIBILITY, INCLUDING CONTINUED ELIGIBILITY, FOR ENROLLMENT OF AN INDIVIDUAL INTO A HEALTH BENEFIT PLAN BASED ON HEALTH STATUS FACTORS, INCLUDING:~~

~~(1) HEALTH CONDITION;~~

~~(2) CLAIMS EXPERIENCE;~~

~~(3) RECEIPT OF HEALTH CARE;~~

~~(4) MEDICAL HISTORY;~~

~~(5) GENETIC INFORMATION;~~

~~(6) EVIDENCE OF INSURABILITY INCLUDING CONDITIONS ARISING OUT OF ACTS OF DOMESTIC VIOLENCE; OR~~

~~(7) DISABILITY.~~

~~15–1A–05.~~

~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CARRIER OFFERING AN INDIVIDUAL PLAN MAY DETERMINE A PREMIUM RATE BASED ON:~~

~~(1) AGE;~~

~~(2) GEOGRAPHY BASED ON THE FOLLOWING CONTIGUOUS AREAS OF THE STATE:~~

~~(I) THE BALTIMORE METROPOLITAN AREA;~~

~~(II) THE DISTRICT OF COLUMBIA METROPOLITAN AREA;~~

~~(III) WESTERN MARYLAND; AND~~

~~(IV) EASTERN AND SOUTHERN MARYLAND;~~

~~(3) WHETHER THE PLAN COVERS AN INDIVIDUAL OR FAMILY; AND~~

~~(4) TOBACCO USE.~~

~~(B) (1) A PREMIUM RATE BASED ON AGE MAY NOT VARY BY A RATIO OF MORE THAN 3 TO 1 FOR ADULTS.~~

~~(2) A PREMIUM RATE BASED ON TOBACCO USE MAY NOT VARY BY A RATIO OF MORE THAN 1.5 TO 1.~~

~~15–1A–06.~~

~~(A) A CARRIER THAT OFFERS A HEALTH BENEFIT PLAN THAT PROVIDES COVERAGE TO A DEPENDENT CHILD SHALL CONTINUE TO MAKE THE COVERAGE AVAILABLE FOR THE CHILD UNTIL THE CHILD IS 26 YEARS OF AGE.~~

~~(B) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A CARRIER TO ISSUE A HEALTH BENEFIT PLAN TO A CHILD OF A CHILD RECEIVING DEPENDENT COVERAGE.~~

~~15–1A–07.~~

~~(A) (1) IN THIS SECTION, "RESCIND" MEANS TO CANCEL OR DISCONTINUE COVERAGE UNDER A HEALTH BENEFIT PLAN WITH RETROACTIVE EFFECT.~~

~~(2) "RESCIND" DOES NOT INCLUDE:~~

~~(I) THE CANCELLATION OR DISCONTINUATION OF A HEALTH BENEFIT PLAN IF THE CANCELLATION OR DISCONTINUATION OF THE HEALTH BENEFIT PLAN:~~

~~1. HAS ONLY A PROSPECTIVE EFFECT; OR~~

~~2. IS EFFECTIVE RETROACTIVELY TO THE EXTENT THE RETROACTIVE EFFECT IS ATTRIBUTABLE TO A FAILURE OF TIMELY PAYMENT OF REQUIRED PREMIUMS OR CONTRIBUTIONS TOWARDS THE COST OF COVERAGE; OR~~

~~(II) THE CANCELLATION OR DISCONTINUATION OF A HEALTH BENEFIT PLAN THAT COVERS ACTIVE EMPLOYEES AND, IF APPLICABLE, DEPENDENTS AND THOSE COVERED UNDER CONTINUATION COVERAGE PROVISIONS, IF:~~

~~1. THE EMPLOYEE DOES NOT PAY A PREMIUM FOR COVERAGE AFTER TERMINATION OF EMPLOYMENT; AND~~

~~2. THE CANCELLATION OR DISCONTINUATION OF THE HEALTH BENEFIT PLAN IS EFFECTIVE RETROACTIVELY BACK TO THE DATE OF TERMINATION OF EMPLOYMENT DUE TO A DELAY IN ADMINISTRATIVE RECORD KEEPING.~~

~~(B) THIS SECTION DOES NOT APPLY TO AN INSURED INDIVIDUAL WHO:~~

~~(1) HAS PERFORMED AN ACT THAT CONSTITUTES FRAUD OR MAKES AN INTENTIONAL MISREPRESENTATION OF MATERIAL FACT AS PROHIBITED BY THE TERMS OF THE HEALTH BENEFIT PLAN; OR~~

~~(2) HAS RECEIVED PRIOR NOTICE OF A DECISION TO RESCIND A HEALTH BENEFIT.~~

~~(C) A CARRIER MAY NOT RESCIND A HEALTH BENEFIT PLAN WITH RESPECT TO AN INSURED INDIVIDUAL ONCE THE INSURED INDIVIDUAL IS COVERED UNDER THE PLAN.~~

~~15–1A–08.~~

~~(A) A CARRIER MAY NOT ESTABLISH LIFETIME LIMITS OR ANNUAL LIMITS ON THE DOLLAR VALUE OF BENEFITS FOR ANY INSURED INDIVIDUAL.~~

~~(B) TO THE EXTENT THAT LIMITS ARE OTHERWISE AUTHORIZED UNDER FEDERAL OR STATE LAW, THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A CARRIER FROM PLACING ANNUAL OR LIFETIME PER BENEFICIARY LIMITS ON SPECIFIC COVERED BENEFITS THAT ARE NOT ESSENTIAL HEALTH BENEFITS IN THE STATE BENCHMARK PLAN SELECTED IN ACCORDANCE WITH § 31–116 OF THIS ARTICLE.~~

~~15–1A–09.~~

~~A CARRIER OFFERING A GROUP PLAN MAY NOT APPLY A WAITING PERIOD OF MORE THAN 90 DAYS THAT MUST PASS BEFORE AN INDIVIDUAL IS ELIGIBLE TO BE COVERED FOR BENEFITS UNDER THE TERMS OF THE GROUP PLAN.~~

~~15–1A–10.~~

~~(A) IF A CARRIER REQUIRES OR PROVIDES FOR THE DESIGNATION OF A PARTICIPATING PRIMARY CARE PROVIDER FOR AN INSURED INDIVIDUAL, THE CARRIER SHALL ALLOW EACH INSURED INDIVIDUAL TO DESIGNATE ANY PARTICIPATING PRIMARY CARE PROVIDER IF THE PROVIDER IS AVAILABLE TO ACCEPT THE INSURED INDIVIDUAL.~~

~~(B) (1) (I) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO HAS A CHILD WHO IS AN INSURED INDIVIDUAL UNDER A HEALTH BENEFIT PLAN.~~

~~(II) THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE ANY EXCLUSIONS OF COVERAGE UNDER THE TERMS AND CONDITIONS OF A HEALTH BENEFIT PLAN WITH RESPECT TO COVERAGE OF PEDIATRIC CARE.~~

~~(2) IF A CARRIER REQUIRES OR PROVIDES FOR THE DESIGNATION OF A PARTICIPATING PRIMARY CARE PROVIDER FOR A CHILD, THE CARRIER SHALL ALLOW THE INDIVIDUAL TO DESIGNATE ANY PARTICIPATING PHYSICIAN WHO SPECIALIZES IN PEDIATRICS AS THE CHILD'S PRIMARY CARE PROVIDER IF THE PROVIDER IS AVAILABLE TO ACCEPT THE CHILD.~~

~~(C) (1) (I) THIS SUBSECTION APPLIES ONLY TO A CARRIER THAT:~~

~~1. PROVIDES COVERAGE FOR OBSTETRIC OR GYNECOLOGIC CARE; AND~~

~~2. REQUIRES THE DESIGNATION BY AN INSURED INDIVIDUAL OF A PARTICIPATING PRIMARY CARE PROVIDER.~~

~~(II) THIS SUBSECTION MAY NOT BE CONSTRUED TO:~~

~~1. WAIVE ANY EXCLUSIONS OF COVERAGE UNDER THE TERMS AND CONDITIONS OF A HEALTH BENEFIT PLAN WITH RESPECT TO COVERAGE OF OBSTETRICAL OR GYNECOLOGICAL CARE; OR~~

~~2. PROHIBIT A CARRIER FROM REQUIRING THAT THE OBSTETRICAL OR GYNECOLOGICAL PROVIDER NOTIFY THE PRIMARY CARE PROVIDER OR CARRIER FOR AN INSURED INDIVIDUAL WHO IS FEMALE OF TREATMENT DECISIONS.~~

~~(2) A CARRIER SHALL TREAT THE PROVISION OF OBSTETRICAL AND GYNECOLOGICAL CARE AND THE ORDERING OF RELATED OBSTETRICAL AND GYNECOLOGICAL ITEMS AND SERVICES BY A PARTICIPATING HEALTH CARE PROVIDER WHO SPECIALIZES IN OBSTETRICS OR GYNECOLOGY AS THE AUTHORIZATION OF THE PRIMARY CARE PROVIDER.~~

~~(3) A CARRIER MAY NOT REQUIRE AUTHORIZATION OR REFERRAL BY ANY PERSON, INCLUDING THE PRIMARY CARE PROVIDER FOR THE INSURED INDIVIDUAL, FOR AN INSURED INDIVIDUAL WHO IS FEMALE AND WHO SEEKS COVERAGE FOR OBSTETRICAL OR GYNECOLOGICAL CARE PROVIDED BY A PARTICIPATING HEALTH CARE PROVIDER WHO SPECIALIZES IN OBSTETRICS OR GYNECOLOGY.~~

~~(4) A HEALTH CARE PROVIDER WHO PROVIDES OBSTETRICAL OR GYNECOLOGICAL CARE IN ACCORDANCE WITH THIS SUBSECTION SHALL COMPLY WITH A CARRIER'S POLICIES AND PROCEDURES.~~

~~15–1A–11.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "EMERGENCY MEDICAL CONDITION" MEANS A MEDICAL CONDITION THAT MANIFESTS ITSELF BY SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN, THAT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION~~

~~COULD REASONABLY BE EXPECTED BY A PRUDENT LAYPERSON, WHO POSSESSES AN AVERAGE KNOWLEDGE OF HEALTH AND MEDICINE, TO RESULT IN:~~

~~(I) PLACING THE PATIENT'S HEALTH IN SERIOUS JEOPARDY;~~

~~(II) SERIOUS IMPAIRMENT TO BODILY FUNCTIONS; OR~~

~~(III) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART.~~

~~(3) "EMERGENCY SERVICES" MEANS, WITH RESPECT TO AN EMERGENCY MEDICAL CONDITION:~~

~~(I) A MEDICAL SCREENING EXAMINATION THAT IS WITHIN THE CAPABILITY OF THE EMERGENCY DEPARTMENT OF A HOSPITAL, INCLUDING ANCILLARY SERVICES ROUTINELY AVAILABLE TO THE EMERGENCY DEPARTMENT TO EVALUATE AN EMERGENCY MEDICAL CONDITION; OR~~

~~(II) ANY OTHER EXAMINATION OR TREATMENT WITHIN THE CAPABILITIES OF THE STAFF AND FACILITIES AVAILABLE AT THE HOSPITAL THAT IS NECESSARY TO STABILIZE THE PATIENT.~~

~~(B) IF A CARRIER COVERS ANY BENEFITS FOR EMERGENCY SERVICES TO TREAT EMERGENCY MEDICAL CONDITIONS IN AN EMERGENCY DEPARTMENT OF A HOSPITAL, THE CARRIER:~~

~~(1) MAY NOT REQUIRE AN INSURED INDIVIDUAL TO OBTAIN PRIOR AUTHORIZATION FOR THE EMERGENCY SERVICES; AND~~

~~(2) SHALL PROVIDE COVERAGE FOR THE EMERGENCY SERVICES REGARDLESS OF WHETHER THE HEALTH CARE PROVIDER FURNISHING THE EMERGENCY SERVICES HAS A CONTRACTUAL RELATIONSHIP WITH THE CARRIER TO FURNISH EMERGENCY SERVICES.~~

~~(C) IF A HEALTH CARE PROVIDER OF EMERGENCY SERVICES DOES NOT HAVE A CONTRACTUAL RELATIONSHIP WITH THE CARRIER TO FURNISH EMERGENCY SERVICES, THE CARRIER:~~

~~(1) MAY NOT IMPOSE ANY LIMITATION ON COVERAGE THAT WOULD BE MORE RESTRICTIVE THAN LIMITATIONS IMPOSED ON COVERAGE FOR EMERGENCY SERVICES FURNISHED BY A PROVIDER WITH A CONTRACTUAL RELATIONSHIP WITH THE CARRIER; AND~~

~~(2) SHALL REQUIRE THE SAME COST–SHARING AMOUNTS OR RATES AS WOULD APPLY IF THE EMERGENCY SERVICES WERE FURNISHED BY A PROVIDER WITH A CONTRACTUAL RELATIONSHIP WITH THE CARRIER.~~

~~15–1A–12.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "INSURANCE–RELATED TERMS" MEANS:~~

~~(I) PREMIUM;~~

~~(II) DEDUCTIBLE;~~

~~(III) CO–INSURANCE;~~

~~(IV) CO–PAYMENT;~~

~~(V) OUT–OF–POCKET LIMIT;~~

~~(VI) PREFERRED PROVIDER;~~

~~(VII) NONPREFERRED PROVIDER;~~

~~(VIII) OUT–OF–NETWORK CO–PAYMENTS;~~

~~(IX) USUAL, CUSTOMARY, AND REASONABLE FEES;~~

~~(X) EXCLUDED SERVICES;~~

~~(XI) GRIEVANCE AND APPEALS; AND~~

~~(XII) ANY OTHER TERM THE COMMISSIONER DETERMINES IS IMPORTANT TO DEFINE SO THAT A CONSUMER MAY COMPARE HEALTH BENEFIT PLANS AND UNDERSTAND THE TERMS OF THE CONSUMER'S COVERAGE.~~

~~(3) "MEDICAL TERMS" MEANS:~~

~~(I) HOSPITALIZATION;~~

~~(II) HOSPITAL OUTPATIENT CARE;~~

~~(III) EMERGENCY ROOM CARE;~~

~~(IV) PHYSICIAN SERVICES;~~

~~(V) PRESCRIPTION DRUG COVERAGE;~~

~~(VI) DURABLE MEDICAL EQUIPMENT;~~

~~(VII) HOME HEALTH CARE;~~

~~(VIII) SKILLED NURSING CARE;~~

~~(IX) REHABILITATION SERVICES;~~

~~(X) HOSPICE SERVICES;~~

~~(XI) EMERGENCY MEDICAL TRANSPORTATION; AND~~

~~(XII) ANY OTHER TERMS THE COMMISSIONER DETERMINES ARE IMPORTANT TO DEFINE SO THAT A CONSUMER MAY COMPARE THE MEDICAL BENEFITS OFFERED BY HEALTH BENEFIT PLANS AND UNDERSTAND THE EXTENT OF AND EXCEPTIONS TO THOSE MEDICAL BENEFITS.~~

~~(B) (1) THE COMMISSIONER SHALL ADOPT REGULATIONS TO DEVELOP STANDARDS FOR USE BY A CARRIER TO COMPILE AND PROVIDE TO CONSUMERS A SUMMARY OF BENEFITS AND COVERAGE EXPLANATION THAT ACCURATELY DESCRIBES THE BENEFITS AND COVERAGE UNDER THE APPLICABLE HEALTH BENEFIT PLAN.~~

~~(2) IN DEVELOPING THE STANDARDS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSULT WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.~~

~~(C) THE STANDARDS DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION SHALL ENSURE THAT THE SUMMARY OF BENEFITS AND COVERAGE:~~

~~(1) IS PRESENTED IN A UNIFORM FORMAT THAT DOES NOT EXCEED FOUR PAGES IN LENGTH AND DOES NOT INCLUDE PRINT SMALLER THAN 12–POINT TYPE; AND~~

~~(2) IS PRESENTED IN A CULTURALLY AND LINGUISTICALLY APPROPRIATE MANNER AND USES TERMINOLOGY UNDERSTANDABLE BY THE AVERAGE INSURED INDIVIDUAL.~~

~~(D) THE STANDARDS DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION SHALL INCLUDE:~~

~~(1) UNIFORM DEFINITIONS OF STANDARD INSURANCE–RELATED TERMS AND MEDICAL TERMS SO THAT CONSUMERS MAY COMPARE HEALTH BENEFIT PLANS AND UNDERSTAND THE TERMS OF AND EXCEPTIONS TO COVERAGE;~~

~~(2) A DESCRIPTION OF THE COVERAGE OF A HEALTH BENEFIT PLAN, INCLUDING COST–SHARING FOR:~~

~~(I) EACH OF THE CATEGORIES OF THE ESSENTIAL HEALTH BENEFITS IN THE STATE BENCHMARK PLAN SELECTED IN ACCORDANCE WITH § 31–116 OF THIS ARTICLE; AND~~

~~(II) OTHER BENEFITS, AS IDENTIFIED BY THE COMMISSIONER;~~

~~(3) THE EXCEPTIONS, REDUCTIONS, AND LIMITATIONS ON COVERAGE;~~

~~(4) THE RENEWABILITY AND CONTINUATION OF COVERAGE PROVISIONS;~~

~~(5) A COVERAGE FACTS LABEL THAT INCLUDES EXAMPLES TO ILLUSTRATE COMMON BENEFITS SCENARIOS BASED ON RECOGNIZED CLINICAL PRACTICE GUIDELINES, INCLUDING PREGNANCY AND SERIOUS OR CHRONIC MEDICAL CONDITIONS AND RELATED COST–SHARING REQUIREMENTS;~~

~~(6) A STATEMENT OF WHETHER THE HEALTH BENEFIT PLAN ENSURES THAT THE PLAN OR COVERAGE SHARE OF THE TOTAL ALLOWED COSTS OF BENEFITS PROVIDED UNDER THE PLAN OR COVERAGE IS NOT LESS THAN 60% OF THE COSTS;~~

~~(7) A STATEMENT THAT:~~

~~(I) THE SUMMARY OF BENEFITS IS AN OUTLINE OF THE HEALTH BENEFIT PLAN; AND~~

~~(II) THE LANGUAGE OF THE HEALTH BENEFIT PLAN ITSELF SHOULD BE CONSULTED TO DETERMINE THE GOVERNING CONTRACTUAL PROVISIONS; AND~~

~~(8) A CONTACT NUMBER FOR THE CONSUMER TO CALL WITH ADDITIONAL QUESTIONS AND A WEBSITE WHERE A COPY OF THE ACTUAL HEALTH BENEFIT PLAN CAN BE REVIEWED AND OBTAINED.~~

~~(E) AS APPROPRIATE, THE COMMISSIONER SHALL PERIODICALLY REVIEW AND UPDATE THE STANDARDS DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION.~~

~~(F) (1) EACH CARRIER SHALL PROVIDE A SUMMARY OF BENEFITS AND COVERAGE EXPLANATION THAT COMPLIES WITH THE STANDARDS DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION BY THE COMMISSIONER TO:~~

~~(I) AN APPLICANT AT THE TIME OF APPLICATION; AND~~

~~(II) AN INSURED INDIVIDUAL BEFORE THE TIME OF ENROLLMENT OR REENROLLMENT, AS APPLICABLE.~~

~~(2) A CARRIER MAY PROVIDE A SUMMARY OF BENEFITS AND COVERAGE EXPLANATION AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN PAPER OR ELECTRONIC FORM.~~

~~(G) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, IF A CARRIER MAKES ANY MATERIAL MODIFICATION IN ANY OF THE TERMS OF THE PLAN OR COVERAGE INVOLVED THAT IS NOT REFLECTED IN THE MOST RECENTLY PROVIDED SUMMARY OF BENEFITS AND COVERAGE EXPLANATION, THE CARRIER SHALL PROVIDE NOTICE OF THE MODIFICATION TO INSURED INDIVIDUALS NO LATER THAN 60 DAYS BEFORE THE EFFECTIVE DATE OF THE MODIFICATION.~~

~~(H) (1) A CARRIER THAT WILLFULLY FAILS TO PROVIDE THE INFORMATION REQUIRED UNDER THIS SECTION SHALL BE SUBJECT TO A FINE OF NOT MORE THAN $1,000 FOR EACH FAILURE.~~

~~(2) A FAILURE WITH RESPECT TO EACH INSURED INDIVIDUAL SHALL CONSTITUTE A SEPARATE OFFENSE FOR PURPOSES OF THIS SUBSECTION.~~

~~15–1A–13.~~

~~(A) THIS SECTION APPLIES ONLY TO HEALTH BENEFIT PLAN YEARS IN WHICH THE FEDERAL GOVERNMENT DOES NOT COLLECT A COMPARABLE REPORT OR DETERMINE ANNUAL REBATE AMOUNTS.~~

~~(B) (1) FOR EACH HEALTH BENEFIT PLAN YEAR, A CARRIER SHALL SUBMIT TO THE COMMISSIONER A REPORT CONCERNING THE RATIO OF:~~

~~(I) INCURRED LOSS OR INCURRED CLAIMS PLUS LOSS ADJUSTMENT EXPENSE OR CHANGE IN CONTRACT RESERVES, INCLUDING:~~

~~1. REIMBURSEMENT FOR CLINICAL SERVICES PROVIDED TO INSURED INDIVIDUALS UNDER THE PLAN; AND~~

~~2. ACTIVITIES THAT IMPROVE HEALTH CARE QUALITY; AND~~

~~(II) EARNED PREMIUMS CALCULATED AS THE TOTAL OF PREMIUM REVENUE:~~

~~1. AFTER ACCOUNTING FOR COLLECTIONS OR RECEIPTS FOR RISK ADJUSTMENT AND RISK CORRIDORS AND PAYMENTS OF REINSURANCE; AND~~

~~2. EXCLUDING FEDERAL AND STATE TAXES AND LICENSING OR REGULATORY FEES.~~

~~(2) THE REPORT SHALL:~~

~~(I) SPECIFY THE AMOUNT SPENT ON:~~

~~1. TOTAL REIMBURSEMENT FOR CLINICAL SERVICES PROVIDED TO ENROLLEES;~~

~~2. TOTAL COST OF ACTIVITIES THAT IMPROVE HEALTH CARE QUALITY; AND~~

~~3. ALL OTHER NONCLAIMS COSTS; AND~~

~~(II) INCLUDE AN EXPLANATION OF THE NATURE OF THE COSTS SPECIFIED UNDER ITEM (I)3 OF THIS PARAGRAPH.~~

~~(3) THE COMMISSIONER SHALL MAKE REPORTS RECEIVED UNDER THIS SUBSECTION AVAILABLE TO THE PUBLIC ON THE ADMINISTRATION'S WEBSITE.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR EACH HEALTH BENEFIT PLAN YEAR, A CARRIER SHALL PROVIDE AN ANNUAL REBATE TO EACH INSURED INDIVIDUAL UNDER THE HEALTH BENEFIT PLAN ON A PRO RATA BASIS, IF THE AVERAGE OF THE RATIOS REPORTED IN EACH OF THE IMMEDIATELY PRECEDING 3 YEARS IS LESS THAN:~~

~~(I) WITH RESPECT TO A LARGE GROUP PLAN, 85% OR A HIGHER PERCENTAGE AS DETERMINED BY THE COMMISSIONER IN REGULATIONS; OR~~

~~(II) WITH RESPECT TO A SMALL GROUP PLAN OR AN INDIVIDUAL HEALTH BENEFIT PLAN, 80% OR A HIGHER PERCENTAGE AS DETERMINED BY THE COMMISSIONER IN REGULATIONS.~~

~~(2) IF THE COMMISSIONER DETERMINES THAT THE APPLICATION OF THE RATIOS ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION MAY DESTABILIZE A MARKET FOR HEALTH BENEFIT PLANS, THE COMMISSIONER MAY DETERMINE A LOWER PERCENTAGE.~~

~~(3) THE TOTAL AMOUNT OF AN ANNUAL REBATE REQUIRED UNDER THIS SUBSECTION SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF THE RATIO DETERMINED UNDER SUBSECTION (A) OF THIS SECTION IF THE RATIO EXCEEDS THE PERCENTAGES ESTABLISHED IN ACCORDANCE WITH PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.~~

~~(4) IN DETERMINING THE PERCENTAGES UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, THE COMMISSIONER SHALL SEEK TO ENSURE ADEQUATE PARTICIPATION BY CARRIERS, COMPETITION IN THE HEALTH INSURANCE MARKETS IN THE STATE, AND VALUE FOR CONSUMERS SO THAT PREMIUMS ARE USED FOR CLINICAL SERVICES AND QUALITY IMPROVEMENTS.~~

~~15–1A–14.~~

~~(A) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A CARRIER TO DISCLOSE INFORMATION THAT IS PROPRIETARY AND TRADE SECRET INFORMATION UNDER APPLICABLE LAW.~~

~~(B) A CARRIER SHALL DISCLOSE TO AN INSURED INDIVIDUAL OR EMPLOYER, AS APPLICABLE, OF THE FOLLOWING INFORMATION:~~

~~(1) THE CARRIER'S RIGHT TO CHANGE PREMIUM RATES AND THE FACTORS THAT MAY AFFECT CHANGES IN PREMIUM RATES; AND~~

~~(2) THE BENEFITS AND PREMIUMS AVAILABLE UNDER ALL HEALTH BENEFIT PLANS FOR WHICH THE EMPLOYER OR INSURED INDIVIDUAL IS QUALIFIED.~~

~~(C) THE CARRIER SHALL MAKE THE DISCLOSURE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION:~~

~~(1) AS PART OF ITS SOLICITATION AND SALES MATERIAL; OR~~

~~(2) IF THE INFORMATION IS REQUESTED BY THE INSURED INDIVIDUAL OR EMPLOYER.~~

~~15–1A–15.~~

~~EACH CARRIER THAT OFFERS A HEALTH BENEFIT PLAN SHALL OFFER AN IDENTICAL HEALTH BENEFIT PLAN IN WHICH THE ONLY INSURED INDIVIDUALS ARE INDIVIDUALS UNDER THE AGE OF 21 YEARS, AS OF THE BEGINNING OF A HEALTH BENEFIT PLAN YEAR.~~

~~15–1A–16.~~

~~A CARRIER MAY OFFER A CATASTROPHIC PLAN IN THE INDIVIDUAL MARKET IF:~~

~~(1) THE PLAN IS ONLY OFFERED TO INDIVIDUALS WHO:~~

~~(I) ARE UNDER THE AGE OF 30 YEARS BEFORE THE BEGINNING OF THE PLAN YEAR; OR~~

~~(II) HOLD CERTIFICATION FOR A HARDSHIP EXEMPTION OR AFFORDABILITY EXEMPTION AS DETERMINED IN REGULATION BY THE COMMISSIONER; AND~~

~~(2) THE PLAN COVERS:~~

~~(I) AMBULATORY PATIENT SERVICES;~~

~~(II) EMERGENCY SERVICES;~~

~~(III) HOSPITALIZATION;~~

~~(IV) MATERNITY AND NEWBORN CARE;~~

~~(V) BEHAVIORAL HEALTH SERVICES;~~

~~(VI) PRESCRIPTION DRUGS;~~

~~(VII) REHABILITATIVE AND HABILITATIVE SERVICES AND DEVICES;~~

~~(VIII) LABORATORY SERVICES;~~

~~(IX) PREVENTIVE AND WELLNESS SERVICES AND CHRONIC DISEASE MANAGEMENT;~~

~~(X) PEDIATRIC SERVICES, INCLUDING ORAL AND VISON CARE; AND~~

~~(XI) AT LEAST THREE PRIMARY CARE VISITS PER PLAN YEAR.~~

~~15–1A–17.~~

~~THE COMMISSIONER SHALL ADOPT REGULATIONS:~~

~~(1) TO ESTABLISH ANNUAL LIMITATIONS ON COST–SHARING FOR HEALTH BENEFIT PLANS; AND~~

~~(2) FOR PRESCRIPTION DRUG BENEFIT REQUIREMENTS FOR HEALTH BENEFIT PLANS.~~

~~15–1205.~~

~~(a) (1) This subsection applies to a carrier with respect to any health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act.~~

~~(2) In establishing a community rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that health benefit plan without regard to any factor not specifically authorized under this subsection or subsection (g) of this section.~~

~~(3) A carrier may adjust the community rate only for:~~

~~(i) age; AND~~

~~(ii) geography based on the following contiguous areas of the State:~~

~~1. the Baltimore metropolitan area;~~

~~2. the District of Columbia metropolitan area;~~

~~3. Western Maryland; and~~

~~4. Eastern and Southern Maryland[; and~~

~~(iii) health status, as provided in subsection (g) of this section].~~

~~(4) Rates for a health benefit plan may vary based on family composition as approved by the Commissioner.~~

~~(5) (i) Subject to subparagraph (ii) of this paragraph, after applying the risk adjustment factors under paragraph (3) of this subsection, a carrier may offer a discount not to exceed 20% to a small employer for participation in a wellness program.~~

~~(ii) A discount offered under subparagraph (i) of this paragraph shall be:~~

~~1. applied to reduce the rate otherwise payable by the small employer;~~

~~2. actuarially justified;~~

~~3. offered uniformly to all small employers; and~~

~~4. approved by the Commissioner.~~

~~(g) (1)~~ **[**~~A carrier may adjust the community rate for a health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act, for health status only if a small employer has not offered a health benefit plan issued under this subtitle to its employees in the 12 months prior to the initial enrollment of the small employer in the health benefit plan.~~

~~(2) (i) Based on the adjustment allowed under paragraph (1) of this subsection, in addition to the adjustments allowed under subsection (d)(1) of this section, a carrier may charge:~~

~~1. in the first year of enrollment, a rate that is 10% above or below the community rate;~~

~~2. in the second year of enrollment, a rate that is 5% above or below the community rate; and~~

~~3. in the third year of enrollment, a rate that is 2% above or below the community rate.~~

~~(ii) A carrier may not make any adjustment for health status in the community rate of a health benefit plan issued under this subtitle after the third year of enrollment of a small employer in the health benefit plan.~~

~~(3) For a health benefit plan that is a grandfathered health plan, as defined in § 1251 of the Affordable Care Act, a carrier may use health statements, in a form approved by the Commissioner, and health screenings to establish an adjustment to the community rate for health status as provided in this subsection.~~

~~(4) A~~**] FOR A HEALTH BENEFIT PLAN THAT IS A GRANDFATHERED HEALTH PLAN, AS DEFINED IN § 1251 OF THE AFFORDABLE CARE ACT,** ~~A carrier may not limit coverage offered by the carrier, or refuse to issue a health benefit plan to any small employer that meets the requirements of this subtitle, based on a health status–related factor.~~

~~**[**(5)**] (2)** It is an unfair trade practice for a carrier knowingly to provide coverage to a small employer that discriminates against an employee or applicant for employment, based on the health status of the employee or applicant or a dependent of the employee or applicant, with respect to participation in a health benefit plan sponsored by the small employer.~~

~~15–1406.~~

~~**[**(a) A carrier may not establish rules for eligibility of an individual to enroll under a group health benefit plan based on any health status–related factor.~~

~~(b) Subsection (a) of this section does not:~~

~~(1) require a carrier to provide particular benefits other than those provided under the terms of the particular health benefit plan; or~~

~~(2) prevent a carrier from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the health benefit plan.~~

~~(c) Rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for enrollment.**]**~~

~~**[**(d)**] (A)** A carrier shall allow an employee or dependent who is eligible, but not enrolled, for coverage under the terms of a group health benefit plan to enroll for coverage under the terms of the plan if:~~

~~(1) the employee or dependent was covered under an employer–sponsored plan or group health benefit plan at the time coverage was previously offered to the employee or dependent;~~

~~(2) the employee states in writing, at the time coverage was previously offered, that coverage under an employer–sponsored plan or group health benefit plan was the reason for declining enrollment, but only if the plan sponsor or issuer requires the statement and provides the employee with notice of the requirement;~~

~~(3) the employee's or dependent's coverage described in item (1) of this subsection:~~

~~(i) was under a COBRA continuation provision, and the coverage under that provision was exhausted; or~~

~~(ii) was not under a COBRA continuation provision, and either the coverage was terminated as a result of loss of eligibility for the coverage, including loss of eligibility as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or employer contributions towards the coverage were terminated; and~~

~~(4) under the terms of the plan, the employee requests enrollment not later than 30 days after:~~

~~(i) the date of exhaustion of coverage described in item (3)(i) of this subsection; or~~

~~(ii) termination of coverage or termination of employer contributions described in item (3)(ii) of this subsection.~~

~~**[**(c)**] (B)** A carrier shall allow an employee or dependent who is eligible, but not enrolled, for coverage under the terms of a group health benefit plan to enroll for coverage under the terms of the plan if the employee or dependent requests enrollment within 30 days after the employee or dependent is determined to be eligible for coverage under the MCHP private option plan in accordance with § 15–301.1 of the Health – General Article.~~

Chapter 17 of the Acts of 2017, as amended by Chapters 37 and 38 of the Acts of 2018

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(b) There is a Maryland Health Insurance Coverage Protection Commission.

(h) (3) The Commission shall include its findings and recommendations from the study required under paragraph (1) of this subsection in the annual report submitted by the Commission on or before December 31, **[**2019**] 2020**, under subsection **[**(j)**](K)** of this section.

(I) (1) THE COMMISSION SHALL ESTABLISH A WORKGROUP TO CARRY OUT THE FINDING AND DECLARATION OF THE GENERAL ASSEMBLY THAT IT IS IN THE PUBLIC INTEREST TO ENSURE THAT THE HEALTH CARE PROTECTIONS ESTABLISHED BY THE FEDERAL AFFORDABLE CARE ACT CONTINUE TO PROTECT MARYLAND RESIDENTS IN LIGHT OF CONTINUED THREATS TO THE FEDERAL AFFORDABLE CARE ACT.

(2) THE WORKGROUP SHALL INCLUDE MEMBERS WHO REPRESENT NONPROFIT AND FOR–PROFIT CARRIERS, CONSUMERS, AND PROVIDERS.

(3) THE WORKGROUP SHALL:

(I) MONITOR THE APPEAL OF THE DECISION OF THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS IN TEXAS V. UNITED STATES REGARDING THE ACA AND THE IMPLICATIONS OF THE DECISION FOR THE STATE;

(II) MONITOR THE ENFORCEMENT OF THE AFFORDABLE CARE ACT BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND

(III) DETERMINE THE MOST EFFECTIVE MANNER OF ENSURING THAT MARYLAND CONSUMERS CAN OBTAIN AND RETAIN QUALITY HEALTH INSURANCE INDEPENDENT OF ANY ACTION OR INACTION ON THE PART OF THE FEDERAL GOVERNMENT OR ANY CHANGES TO FEDERAL LAW OR ITS INTERPRETATION.

(4) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION SHALL INCLUDE THE FINDINGS OF THE WORKGROUP IN THE ANNUAL REPORT SUBMITTED BY THE COMMISSION ON OR BEFORE DECEMBER 31, 2019, UNDER SUBSECTION (K) OF THIS SECTION.

[(i)**] (J)** The Commission may:

(1) hold public meetings across the State to carry out the duties of the Commission; and

(2) convene workgroups to solicit input from stakeholders.

[(j)**] (K)** On or before December 31 each year, the Commission shall submit a report on its findings and recommendations, including any legislative proposals, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017. It shall remain effective for a period of **[**3**] 6** years and 1 month and, at the end of June 30, **[**2020**] 2023**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to ensure that the health care protections established by the federal Affordable Care Act continue to protect Maryland residents in light of continued threats to the federal Act.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 419

(House Bill 638)

AN ACT concerning

State Board of Physicians – Sunset Evaluation ~~and Performance Audit~~ *and Termination*

FOR the purpose of *altering the date of the termination provisions relating to statutory and regulatory authority of the State Board of Physicians and certain allied health advisory committees;* altering the date of a certain evaluation provision relating to the State Board of Physicians under the Maryland Program Evaluation Act (Sunset Law); requiring the Office of Legislative Audits to conduct a certain performance audit of the State Board of Physicians; ~~requiring the Office of Legislative Audits to report to the General Assembly on or before a certain date;~~ making a conforming change; and generally relating to the State Board of Physicians.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–201, 14–5A–05, 14–5B–05(a), 14–5C–05, 14–5D–04, 14–5E–05, and 14–5F–06
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–5A–25, 14–5B–21, 14–5C–25, 14–5D–20, 14–5E–25, 14–5F–32, and 14–702
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–405(b)(5)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

14–201.

There is a State Board of Physicians in the Department.

14–5A–05.

There is a Respiratory Care Professional Standards Committee within the Board.

14–5A–25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14–702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after ***[****July 1, 2023****]*** ***JUNE 1, 2020****.*

14–5B–05.

(a) There is a Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee within the Board.

14–5B–21.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, and subject to the termination of this title under § 14–702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after ***[****July 1, 2023****]*** ***JUNE 1, 2020****.*

14–5C–05.

There is a Polysomnography Professional Standards Committee within the Board.

14–5C–25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14–702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after ***[****July 1, 2023****]*** ***JUNE 1, 2020****.*

14–5D–04.

There is an Athletic Trainer Advisory Committee within the Board.

14–5D–20.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14–702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after ***[****July 1, 2023****]*** ***JUNE 1, 2020****.*

14–5E–05.

There is a Perfusion Advisory Committee within the Board.

14–5E–25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14–702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after ***[****July 1, 2023****] JUNE 1, 2020****.*

14–5F–06.

There is a Naturopathic Medicine Advisory Committee within the Board.

14–5F–32.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after ***[****July 1, 2023****] JUNE 1, 2020****.*

14–702.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after ***[****July 1, 2023****] JUNE 1, 2020****.*

Article – State Government

8–405.

(b) Each of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units are subject to full evaluation, in the evaluation year specified, without the need for a preliminary evaluation:

(5) Physicians, State Board of (§ 14–201 of the Health Occupations Article: **[**2021**] 2019**), **[**including**] AND**:

(i) Athletic Training Advisory Committee (§ 14–5D–04 of the Health Occupations Article: 2021);

(ii) Naturopathic Medicine Advisory Committee (§ 14–5F–04 of the Health Occupations Article: 2021);

(iii) Perfusion Advisory Committee (§ 14–5E–05 of the Health Occupations Article: 2021);

(iv) Physician Assistant Advisory Committee (§ 15–201 of the Health Occupations Article: 2021);

(v) Polysomnography Professional Standards Committee (§ 14–5C–05 of the Health Occupations Article: 2021);

(vi) Radiation Therapy, Radiography, Nuclear Medicine Technology Advisory, and Radiology Assistance Committee (§ 14–5B–05 of the Health Occupations Article: 2021); and

(vii) Respiratory Care Professional Standards Committee (§ 14–5A–05 of the Health Occupations Article: 2021).

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

~~(a) The Office of Legislative Audits shall conduct a performance audit of the State Board of Physicians to evaluate whether the Board is operating in an economic, efficient, and effective manner.~~

~~(b) On or before January 1, 2020, the Office of Legislative Audits shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the audit of the State Board of Physicians.~~

SECTION ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 420

(Senate Bill 319)

AN ACT concerning

Maryland Transit Administration – State Employees ~~Subject to Collective Bargaining~~ – Free Ridership
(Transit Benefit for State Employees)

FOR the purpose of requiring the Maryland Transit Administration to provide certain ridership services to certain ~~State~~ permanent employees of the Executive Branch of State government on certain transit vehicles; prohibiting the Administration from seeking certain fees or reimbursement; authorizing the Administration to adopt certain regulations; requiring the Maryland Department of Transportation and the Department of Budget and Management to report to certain committees of the General Assembly on or before a certain date; ~~defining a certain term;~~ and generally relating to the Maryland Transit Administration and ridership for State employees.

BY adding to
Article – Transportation
Section 7–711

Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Transportation

7–711.

(A) ~~IN THIS SECTION, "ELIGIBLE STATE EMPLOYEE" MEANS A STATE EMPLOYEE SUBJECT TO COLLECTIVE BARGAINING UNDER TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE OR § 7–601 OF THIS TITLE.~~

~~(B)~~ (1) THE ADMINISTRATION SHALL PROVIDE RIDERSHIP ON TRANSIT VEHICLES TO ANY ~~ELIGIBLE STATE~~ PERMANENT EMPLOYEE IN ANY UNIT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, INCLUDING A UNIT WITH AN INDEPENDENT PERSONNEL SYSTEM.

(2) THE SERVICES PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION APPLY TO TRANSIT VEHICLES THAT ARE PART OF THE ADMINISTRATION'S:

(I) LIGHT RAIL TRANSIT SYSTEM;

(II) METRO SUBWAY;

(III) LOCAL BUS SERVICE;

(IV) COMMUTER BUS SERVICE IN THE BALTIMORE REGION; AND

(V) ANY OTHER SYSTEMS AND SERVICES SPECIFIED BY THE ADMINISTRATION.

~~(C)~~ (B) THE ADMINISTRATION MAY NOT COLLECT FEES OR REIMBURSEMENT FROM AN ~~ELIGIBLE STATE~~ EMPLOYEE FOR SERVICES PROVIDED UNDER THIS SECTION.

~~(D)~~ (C) THE ADMINISTRATION MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2020, the Maryland Department of Transportation and the Department of Budget and Management shall report to the Senate Budget and Taxation Committee, the Senate Finance Committee, and the House Appropriations Committee, in accordance with §

2–1246 of the State Government Article, on the cost and feasibility of expanding the State employee transit ridership program to~~:~~

~~(1)~~ include ridership on the Maryland Area Regional Commuter (MARC) Train Service and the Washington Metropolitan Area Transit Authority (WMATA)~~; and~~

~~(2) employees of the Legislative and Judicial Branches of State government~~.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 421

(Senate Bill 144)

AN ACT concerning

Victims and Witnesses – U Nonimmigrant Status – Certification of Victim Helpfulness

FOR the purpose of authorizing, for purposes of filing a certain petition for certain immigration status, a certain victim or victim's ~~family member~~ parent, guardian, or next friend to request a certain certifying official to certify victim helpfulness on a Form I–918, Supplement B certification under certain circumstances; providing that, for the purposes of this Act, a victim or the victim's parent, guardian, or next friend shall be considered to be helpful, to have been helpful, or likely to be helpful under certain circumstances; requiring the certifying official to sign and complete the certification in a certain manner and within a certain period of time under certain circumstances; providing that certain conditions are not required to request or obtain the certification; authorizing the certifying official to withdraw the certification only under certain circumstances; authorizing a certifying entity to disclose ~~the immigration status of a victim or person requesting the certification~~ information relating to a victim who is seeking or has obtained U Nonimmigrant Status only under certain circumstances; providing that a certifying entity or certifying official is immune from civil or criminal liability for a certain action or failure to act, except under certain circumstances; prohibiting a certain award of attorney's fees or costs in a certain action seeking enforcement of this Act, except under certain circumstances; defining certain terms; and generally relating to certain certifications of victim helpfulness for U Nonimmigrant Status certification.

BY adding to
Article – Courts and Judicial Proceedings

Section 5–643
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY adding to
Article – Criminal Procedure
Section 11–930 and 11–931 to be under the new part "Part IV. Petition for U Nonimmigrant Status"
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Courts and Judicial Proceedings

5–643.

EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A CERTIFYING ENTITY OR CERTIFYING OFFICIAL WHO ACTS OR FAILS TO ACT IN GOOD FAITH IN COMPLIANCE WITH § 11–931 OF THE CRIMINAL PROCEDURE ARTICLE SHALL BE IMMUNE FROM CIVIL OR CRIMINAL LIABILITY THAT MIGHT OTHERWISE OCCUR AS A RESULT OF THE ACT OR FAILURE TO ACT.

Article – Criminal Procedure

11–928. RESERVED.

11–929. RESERVED.

PART IV. PETITION FOR U NONIMMIGRANT STATUS.

11–930.

(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CERTIFYING ENTITY" MEANS:

(1) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;

(2) A STATE'S ATTORNEY OR DEPUTY OR ASSISTANT STATE'S ATTORNEY;

(3) ANY OTHER AUTHORITY THAT HAS RESPONSIBILITY FOR THE DETECTION, INVESTIGATION, OR PROSECUTION OF A QUALIFYING CRIME OR CRIMINAL ACTIVITY; OR

(4) AN AGENCY THAT HAS CRIMINAL DETECTION OR INVESTIGATIVE JURISDICTION IN THE AGENCY'S RESPECTIVE AREAS OF EXPERTISE, INCLUDING CHILD PROTECTIVE SERVICES, THE COMMISSION ON CIVIL RIGHTS, AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(C) "CERTIFYING OFFICIAL" MEANS:

(1) THE HEAD OF A CERTIFYING ENTITY;

(2) AN INDIVIDUAL IN A SUPERVISORY ROLE WHO HAS BEEN SPECIFICALLY DESIGNATED BY THE HEAD OF A CERTIFYING ENTITY TO ~~ISSUE FORM I–918, SUPPLEMENT B CERTIFICATIONS~~ PROVIDE U NONIMMIGRANT STATUS CERTIFICATIONS ON BEHALF OF THAT ENTITY; OR

(3) ANY OTHER CERTIFYING OFFICIAL DEFINED UNDER TITLE 8, § ~~214.14(A)(2)~~ 214.14(A)(3)(I) OF THE CODE OF FEDERAL REGULATIONS.

(D) "QUALIFYING CRIME" INCLUDES A CRIMINAL OFFENSE FOR WHICH THE NATURE AND ELEMENTS OF THE OFFENSE ARE SUBSTANTIALLY SIMILAR TO THE CRIMINAL ACTIVITY DESCRIBED IN SUBSECTION (E) OF THIS SECTION AND THE ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT THE OFFENSE.

(E) "QUALIFYING CRIMINAL ACTIVITY" MEANS ~~QUALIFYING~~ CRIMINAL ACTIVITY UNDER ~~§ 101(A)(15)(U)(III)~~ § 1101(A)(15)(U)(III) OF THE ~~FEDERAL IMMIGRATION AND NATIONALITY ACT~~ UNITED STATES CODE.

11–931.

(A) FOR PURPOSES OF FILING A PETITION WITH THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES FOR U NONIMMIGRANT STATUS, A VICTIM OR THE VICTIM'S ~~FAMILY MEMBER~~ PARENT, GUARDIAN, OR NEXT FRIEND MAY REQUEST A CERTIFYING OFFICIAL OF A CERTIFYING ENTITY TO CERTIFY VICTIM HELPFULNESS ON A FORM I–918, SUPPLEMENT B CERTIFICATION IF THE VICTIM:

(1) WAS A VICTIM OF A QUALIFYING CRIMINAL ACTIVITY AND HAS BEEN HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY; ~~AND~~

~~(2) HAS BEEN HELPFUL, IS BEING HELPFUL, OR IS LIKELY TO BE HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY.~~

(2) WAS UNDER THE AGE OF 16 YEARS ON THE DATE THAT AN ACT THAT CONSTITUTES AN ELEMENT OF QUALIFYING CRIMINAL ACTIVITY FIRST OCCURRED AND THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND HAS BEEN HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY; OR

(3) IS INCAPACITATED OR INCOMPETENT AND THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND HAS BEEN HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY.

(B) FOR PURPOSES OF DETERMINING HELPFULNESS UNDER SUBSECTION (A) OF THIS SECTION, IF THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND IS ASSISTING, HAS ASSISTED, OR IS LIKELY TO ASSIST LAW ENFORCEMENT AUTHORITIES IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF QUALIFYING CRIMINAL ACTIVITY, THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND SHALL BE CONSIDERED TO BE HELPFUL, TO HAVE BEEN HELPFUL, OR LIKELY TO BE HELPFUL.

(C) IF THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND SATISFIES THE CRITERIA SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION, THE CERTIFYING OFFICIAL SHALL FULLY COMPLETE AND SIGN THE FORM I–918, SUPPLEMENT B CERTIFICATION AND, WITH RESPECT TO VICTIM HELPFULNESS, INCLUDE:

(1) SPECIFIC DETAILS ABOUT THE NATURE OF THE CRIME INVESTIGATED OR PROSECUTED;

(2) A DETAILED DESCRIPTION OF THE VICTIM'S HELPFULNESS OR LIKELY HELPFULNESS TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF THE CRIMINAL ACTIVITY; AND

(3) COPIES OF ANY DOCUMENTS IN THE POSSESSION OF THE CERTIFYING OFFICIAL THAT EVINCE THE HARM ENDURED BY THE VICTIM DUE TO THE CRIMINAL ACTIVITY.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE CERTIFYING ENTITY SHALL CERTIFY OR DECLINE CERTIFICATION OF THE FORM I–918, SUPPLEMENT B CERTIFICATION WITHIN 90 DAYS AFTER RECEIVING A REQUEST UNDER SUBSECTION (A) OF THIS SECTION.

(2) IF A NONCITIZEN VICTIM IS THE SUBJECT OF REMOVAL, EXCLUSION, OR DEPORTATION PROCEEDINGS OR SUBJECT TO A FINAL ORDER OF REMOVAL, EXCLUSION, OR DEPORTATION, THE CERTIFYING ENTITY SHALL CERTIFY OR DECLINE CERTIFICATION OF THE FORM I–918, SUPPLEMENT B CERTIFICATION WITHIN 14 DAYS AFTER RECEIVING A REQUEST UNDER SUBSECTION (A) OF THIS SECTION.

(E) A CURRENT INVESTIGATION, THE FILING OF CHARGES, A PROSECUTION, OR A CONVICTION IS NOT REQUIRED FOR A VICTIM OR THE VICTIM'S ~~FAMILY MEMBER~~ PARENT, GUARDIAN, OR NEXT FRIEND TO REQUEST AND OBTAIN THE FORM I–918, SUPPLEMENT B CERTIFICATION UNDER THIS SECTION.

(F) A CERTIFYING OFFICIAL MAY WITHDRAW THE CERTIFICATION PROVIDED UNDER THIS SECTION ONLY ~~IF THE VICTIM REFUSES TO PROVIDE INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED~~ ON REFUSAL TO PROVIDE INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED OF:

(1) THE VICTIM; OR

(2) THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND IF THE VICTIM WAS UNDER THE AGE OF 16 YEARS ON THE DATE THAT AN ACT THAT CONSTITUTES AN ELEMENT OF QUALIFYING CRIMINAL ACTIVITY FIRST OCCURRED OR IF THE VICTIM IS INCAPACITATED OR INCOMPETENT.

(G) A CERTIFYING ENTITY MAY DISCLOSE ~~THE IMMIGRATION STATUS OF THE VICTIM OR PERSON REQUESTING THE FORM I–918, SUPPLEMENT B CERTIFICATION ONLY~~ INFORMATION RELATING TO A VICTIM WHO IS SEEKING OR HAS OBTAINED U NONIMMIGRANT STATUS ONLY:

(1) IN ORDER TO COMPLY WITH FEDERAL LAW ~~OR LEGAL PROCESS~~, COURT ORDER, OR A DISCOVERY OBLIGATION IN THE PROSECUTION OF A CRIMINAL OFFENSE; OR

~~(2) IF AUTHORIZED BY THE VICTIM OR PERSON REQUESTING THE CERTIFICATION.~~

(2) AFTER ADULT PETITIONERS FOR U NONIMMIGRANT STATUS OR ADULT U NONIMMIGRANT STATUS HOLDERS HAVE PROVIDED WRITTEN CONSENT FOR THE DISCLOSURE OF SUCH INFORMATION.

(H) (1) EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A CERTIFYING ENTITY OR CERTIFYING OFFICIAL WHO ACTS OR FAILS TO ACT IN GOOD

FAITH IN COMPLIANCE WITH THIS SECTION HAS THE IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5–643 OF THE COURTS ARTICLE.

(2) A PERSON WHO BRINGS AN ACTION TO SEEK ENFORCEMENT OF THIS SECTION MAY NOT BE AWARDED ATTORNEY'S FEES OR COSTS UNLESS THE ACTION DEMONSTRATES WILLFUL OR WANTON MISCONDUCT BY A CERTIFYING ENTITY OR CERTIFYING OFFICIAL.

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

Approved by the Governor, May 13, 2019.

Chapter 422

(House Bill 214)

AN ACT concerning

Victims and Witnesses – U Nonimmigrant Status – Certification of Victim Helpfulness

FOR the purpose of authorizing, for purposes of filing a certain petition for certain immigration status, a certain victim or victim's ~~family member~~ parent, guardian, or next friend to request a certain certifying official to certify victim helpfulness on a Form I–918, Supplement B certification under certain circumstances; providing that, for the purposes of this Act, a victim or the victim's parent, guardian, or next friend shall be considered to be helpful, to have been helpful, or likely to be helpful under certain circumstances; requiring the certifying official to sign and complete the certification in a certain manner and within a certain period of time under certain circumstances; providing that certain conditions are not required to request or obtain the certification; authorizing the certifying official to withdraw the certification only under certain circumstances; authorizing a certifying entity to disclose ~~the immigration status of a victim or person requesting the certification~~ information relating to a victim who is seeking or has obtained U Nonimmigrant Status only under certain circumstances; providing that a certifying entity or certifying official is immune from ~~certain criminal or civil~~ *civil or criminal* liability for a certain action or failure to act, except under certain circumstances; ~~clarifying that a certain provision of law does not limit a court's authority to grant injunctive relief;~~ prohibiting a certain award of attorney's fees or costs in a certain action seeking enforcement of this Act, except under certain circumstances; defining certain terms; and generally relating to certain certifications of victim helpfulness for U Nonimmigrant Status certification.

BY adding to
Article – Courts and Judicial Proceedings
Section 5–643
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY adding to
Article – Criminal Procedure
Section 11–930 and 11–931 to be under the new part "Part IV. Petition for U Nonimmigrant Status"
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Courts and Judicial Proceedings

5–643.

~~(A)~~ EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A CERTIFYING ENTITY OR CERTIFYING OFFICIAL WHO~~, IN GOOD FAITH,~~ ACTS OR FAILS TO ACT IN *GOOD FAITH IN* COMPLIANCE WITH § 11–931 OF THE CRIMINAL PROCEDURE ARTICLE SHALL BE IMMUNE FROM ~~CRIMINAL LIABILITY OR~~ CIVIL *OR CRIMINAL* LIABILITY ~~FOR MONETARY DAMAGES~~ THAT MIGHT OTHERWISE OCCUR AS A RESULT OF THE ACT OR FAILURE TO ACT.

~~(B) SUBSECTION (A) OF THIS SECTION DOES NOT LIMIT A COURT'S AUTHORITY TO GRANT INJUNCTIVE RELIEF.~~

Article – Criminal Procedure

11–928. RESERVED.

11–929. RESERVED.

PART IV. PETITION FOR U NONIMMIGRANT STATUS.

11–930.

(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CERTIFYING ENTITY" MEANS:

(1) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;

(2) A STATE'S ATTORNEY OR DEPUTY OR ASSISTANT STATE'S ATTORNEY;

(3) ANY OTHER AUTHORITY THAT HAS RESPONSIBILITY FOR THE DETECTION, INVESTIGATION, OR PROSECUTION OF A QUALIFYING CRIME OR CRIMINAL ACTIVITY; OR

(4) AN AGENCY THAT HAS CRIMINAL DETECTION OR INVESTIGATIVE JURISDICTION IN THE AGENCY'S RESPECTIVE AREAS OF EXPERTISE, INCLUDING CHILD PROTECTIVE SERVICES, THE COMMISSION ON CIVIL RIGHTS, AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(C) "CERTIFYING OFFICIAL" MEANS:

(1) THE HEAD OF A CERTIFYING ENTITY;

(2) AN INDIVIDUAL IN A SUPERVISORY ROLE WHO HAS BEEN SPECIFICALLY DESIGNATED BY THE HEAD OF A CERTIFYING ENTITY TO ~~ISSUE FORM I–918, SUPPLEMENT B CERTIFICATIONS~~ PROVIDE U NONIMMIGRANT STATUS CERTIFICATIONS ON BEHALF OF THAT ENTITY; OR

(3) ANY OTHER CERTIFYING OFFICIAL DEFINED UNDER TITLE 8, § ~~214.14(A)(2)~~ ~~214.14(A)(3)~~ *214.14(A)(3)(I)* OF THE CODE OF FEDERAL REGULATIONS.

(D) "QUALIFYING CRIME" INCLUDES A CRIMINAL OFFENSE FOR WHICH THE NATURE AND ELEMENTS OF THE OFFENSE ARE SUBSTANTIALLY SIMILAR TO THE CRIMINAL ACTIVITY DESCRIBED IN SUBSECTION (E) OF THIS SECTION AND THE ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT THE OFFENSE.

(E) "QUALIFYING CRIMINAL ACTIVITY" MEANS ~~QUALIFYING~~ CRIMINAL ACTIVITY UNDER ~~TITLE 8, § 101(A)(15)(U)(III)~~ § 1101(A)(15)(U)(III) OF THE ~~FEDERAL IMMIGRATION AND NATIONALITY ACT~~ UNITED STATES CODE.

11–931.

(A) FOR PURPOSES OF FILING A PETITION WITH THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES FOR U NONIMMIGRANT STATUS, A VICTIM OR THE VICTIM'S ~~FAMILY MEMBER~~ PARENT, GUARDIAN, OR NEXT FRIEND MAY REQUEST A CERTIFYING OFFICIAL OF A CERTIFYING ENTITY TO CERTIFY VICTIM HELPFULNESS ON A FORM I–918, SUPPLEMENT B CERTIFICATION IF THE VICTIM:

(1) WAS A VICTIM OF A QUALIFYING CRIMINAL ACTIVITY AND HAS BEEN HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY; ~~AND~~

~~(2) HAS BEEN HELPFUL, IS BEING HELPFUL, OR IS LIKELY TO BE HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY.~~

(2) WAS UNDER THE AGE OF 16 YEARS ON THE DATE THAT AN ACT THAT CONSTITUTES AN ELEMENT OF QUALIFYING CRIMINAL ACTIVITY FIRST OCCURRED AND THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND HAS BEEN HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY; OR

(3) IS INCAPACITATED OR INCOMPETENT AND THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND HAS BEEN HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY.

(B) FOR PURPOSES OF DETERMINING HELPFULNESS UNDER SUBSECTION (A) OF THIS SECTION, IF THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND IS ASSISTING, HAS ASSISTED, OR IS LIKELY TO ASSIST LAW ENFORCEMENT AUTHORITIES IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF QUALIFYING CRIMINAL ACTIVITY, THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND SHALL BE CONSIDERED TO BE HELPFUL, TO HAVE BEEN HELPFUL, OR LIKELY TO BE HELPFUL.

(C) IF THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND SATISFIES THE CRITERIA SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION, THE CERTIFYING OFFICIAL SHALL FULLY COMPLETE AND SIGN THE FORM I–918, SUPPLEMENT B CERTIFICATION AND, WITH RESPECT TO VICTIM HELPFULNESS, INCLUDE:

(1) SPECIFIC DETAILS ABOUT THE NATURE OF THE CRIME INVESTIGATED OR PROSECUTED;

(2) A DETAILED DESCRIPTION OF THE VICTIM'S ~~OR THE VICTIM'S PARENT'S, GUARDIAN'S, OR NEXT FRIEND'S~~ HELPFULNESS OR LIKELY HELPFULNESS TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF THE CRIMINAL ACTIVITY; AND

(3) COPIES OF ANY DOCUMENTS IN THE POSSESSION OF THE CERTIFYING OFFICIAL THAT EVINCE THE HARM ENDURED BY THE VICTIM DUE TO THE CRIMINAL ACTIVITY.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE CERTIFYING ENTITY SHALL CERTIFY OR DECLINE CERTIFICATION OF THE FORM I–918, SUPPLEMENT B CERTIFICATION WITHIN 90 DAYS AFTER RECEIVING A REQUEST UNDER SUBSECTION (A) OF THIS SECTION.

(2) IF A NONCITIZEN VICTIM IS THE SUBJECT OF REMOVAL, EXCLUSION, OR DEPORTATION PROCEEDINGS OR SUBJECT TO A FINAL ORDER OF REMOVAL, EXCLUSION, OR DEPORTATION, THE CERTIFYING ENTITY SHALL CERTIFY OR DECLINE CERTIFICATION OF THE FORM I–918, SUPPLEMENT B CERTIFICATION WITHIN 14 DAYS AFTER RECEIVING A REQUEST UNDER SUBSECTION (A) OF THIS SECTION.

(E) A CURRENT INVESTIGATION, THE FILING OF CHARGES, A PROSECUTION, OR A CONVICTION IS NOT REQUIRED FOR A VICTIM OR THE VICTIM'S ~~FAMILY MEMBER~~ PARENT, GUARDIAN, OR NEXT FRIEND TO REQUEST AND OBTAIN THE FORM I–918, SUPPLEMENT B CERTIFICATION UNDER THIS SECTION.

(F) A CERTIFYING OFFICIAL MAY WITHDRAW THE CERTIFICATION PROVIDED UNDER THIS SECTION ONLY ~~IF THE VICTIM REFUSES TO PROVIDE INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED~~ ON REFUSAL TO PROVIDE INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED OF:

(1) THE VICTIM; OR

(2) THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND IF THE VICTIM WAS UNDER THE AGE OF 16 YEARS ON THE DATE THAT AN ACT THAT CONSTITUTES AN ELEMENT OF QUALIFYING CRIMINAL ACTIVITY FIRST OCCURRED OR IF THE VICTIM IS INCAPACITATED OR INCOMPETENT.

(G) A CERTIFYING ENTITY MAY DISCLOSE ~~THE IMMIGRATION STATUS OF THE VICTIM OR PERSON REQUESTING THE FORM I–918, SUPPLEMENT B CERTIFICATION ONLY~~ INFORMATION RELATING TO A VICTIM WHO IS SEEKING OR HAS OBTAINED U NONIMMIGRANT STATUS ONLY:

(1) IN ORDER TO COMPLY WITH FEDERAL LAW ~~OR LEGAL PROCESS~~, A COURT ORDER, OR A DISCOVERY OBLIGATION IN THE PROSECUTION OF A CRIMINAL OFFENSE; OR

~~(2) IF AUTHORIZED BY THE VICTIM OR PERSON REQUESTING THE CERTIFICATION.~~

(2) AFTER ADULT PETITIONERS FOR U NONIMMIGRANT STATUS OR ADULT U NONIMMIGRANT STATUS HOLDERS HAVE PROVIDED WRITTEN CONSENT FOR THE DISCLOSURE OF THE INFORMATION.

(H) (1) EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A CERTIFYING ENTITY OR CERTIFYING OFFICIAL WHO~~, IN GOOD FAITH,~~ ACTS OR FAILS TO ACT *IN GOOD FAITH* IN COMPLIANCE WITH THIS SECTION HAS THE IMMUNITY FROM LIABILITY DESCRIBED ~~IN~~ *UNDER* § 5–643 OF THE COURTS ARTICLE.

(2) A PERSON ~~MAY BRING~~ *WHO BRINGS* AN ACTION TO SEEK ENFORCEMENT OF THIS SECTION ~~BUT~~ MAY NOT BE AWARDED ATTORNEY'S FEES OR COSTS UNLESS THE ACTION DEMONSTRATES WILLFUL OR WANTON MISCONDUCT BY A CERTIFYING ENTITY OR CERTIFYING OFFICIAL.

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

Approved by the Governor, May 13, 2019.

Chapter 423

(House Bill 814)

AN ACT concerning

~~Maryland Health Insurance Option~~
~~(Protect Maryland Health Care Act of 2019)~~
Maryland Easy Enrollment Health Insurance Program

FOR the purpose of establishing the Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program* and the purpose of the ~~Option~~ *Program*; requiring the Maryland Health Benefit Exchange, the Maryland Department of Health, and the State Comptroller to develop and implement certain systems, policies, and practices; requiring certain systems, policies, and practices, except under certain circumstances, to be operational on or before a certain date and available for use by certain individuals when filing certain tax returns; authorizing the Exchange, the Comptroller, and the Department to take certain action to facilitate the implementation of the ~~Option~~ *Program*; requiring the Exchange to establish a Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program* Advisory Workgroup; ~~establishing the Maryland Health Insurance Option Fund; providing for the purpose and administration of the Fund; requiring the Exchange to prepare certain reports on the Fund;~~ requiring the Exchange or the Department to determine eligibility for certain insurance affordability programs under certain

circumstances; establishing certain eligibility determination and enrollment procedures and requirements; requiring the Department to assign a certain individual to and enroll a certain individual in a managed care organization plan under certain circumstances; requiring the Exchange to develop certain data privacy and data security safeguards; ~~exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State;~~ requiring the Comptroller to include a certain checkoff on a certain State income tax return form; requiring a certain State income tax return to be required to include certain information on certain uninsured individuals and ~~authorizing~~ requiring the Comptroller to include a certain separate form ~~for the information~~; providing an individual that files a certain tax return with a certain option to indicate certain preferences for contact from the Exchange; requiring the Comptroller to include in a certain form a certain number of ~~check–off~~ *checkoff* boxes that specify a certain individual's options; requiring the Comptroller, in consultation with the Exchange and with the advice of the Workgroup, to develop certain language for certain ~~check–off~~ *checkoff* boxes and instructions ~~and provide a certain draft of the language to the Exchange and the Advisory Workgroup; requiring the Comptroller to honor a refund interception request for an insurance responsibility amount following a certain order; requiring that a certain insurance responsibility amount be assessed and collected in a certain manner; authorizing the Comptroller to develop certain forms and notices; providing for the application of certain provisions of this Act; requiring certain individuals who are under a certain age to maintain certain minimum essential coverage for the individual and certain household members; requiring a certain individual to pay a certain amount if certain coverage is not maintained for a certain period of time of a certain taxable year; establishing certain requirements for calculating an insurance responsibility amount; providing for certain exemptions from the insurance responsibility amount under certain circumstances; requiring certain individuals to indicate certain minimum essential coverage on a certain income tax return; providing for an appeal process for certain payments and denials of exemptions; requiring the Comptroller to distribute certain revenue into the Fund; requiring the Comptroller to notify the Exchange of a certain suspension of payment; requiring the Exchange to engage in certain contact with a certain individual identified by a certain notice and facilitate certain eligibility and enrollment in certain insurance affordability programs under certain circumstances; authorizing the Exchange to extend a certain enrollment period under certain circumstances; prohibiting certain individuals from being required to pay a certain insurance responsibility amount if the individual makes a certain election and certifies that a certain uninsured individual will enroll in certain coverage within a certain enrollment period; providing for certain retroactive ineligibility for a certain exemption if an uninsured individual does not comply with a certain certification; providing that certain retroactive ineligibility does not apply under certain circumstances; authorizing the Exchange to require or permit certain notice~~; providing for the application of certain provisions of this Act; ~~requiring certain entities that provide minimum essential coverage to certain individuals in a certain calendar year to provide the Comptroller with certain reports that include certain information; requiring certain entities to provide certain statements to certain individuals identified in certain reports on or before certain dates;~~

~~authorizing~~ requiring the Comptroller to convey to the Exchange certain information under certain circumstances; defining certain terms; altering a certain term; ~~stating the legislative intent of the General Assembly;~~ requiring the Advisory Workgroup to advise the Comptroller on certain language and to submit a certain report to the General Assembly on or before a certain date; requiring the Comptroller to ensure that a certain tax system has certain capability and to submit a certain report to the General Assembly on or before a certain date; providing for the severability of this Act; and generally relating to individual health coverage.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 31–101(a), (e), (g), (h), (o–2), and (r)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 31–101(o–1)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Insurance
Section 31–201 through ~~31–208~~ 31–207 to be under the new subtitle "Subtitle 2. Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program*"
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – State Finance and Procurement~~
~~Section 6–226(a)(2)(i)~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – State Finance and Procurement~~
~~Section 6–226(a)(2)(ii)112. and 113.~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

~~BY adding to~~
~~Article – State Finance and Procurement~~
~~Section 6–226(a)(2)(ii)114.~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

BY adding to
Article – Tax – General
Section 2–115~~; and 14–101 through 14–302 to be under the new title "Title 14. Minimum Essential Health Coverage"~~
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Tax – General~~
~~Section 13–918(a)~~
~~Annotated Code of Maryland~~
~~(2016 Replacement Volume and 2018 Supplement)~~

~~Preamble~~

~~WHEREAS, The Affordable Care Act has helped thousands of Maryland residents obtain the financial security and access to health care that results from health coverage; and~~

~~WHEREAS, Health care cost growth has slowed since the Affordable Care Act's implementation; and~~

~~WHEREAS, Health care costs in Maryland remain higher than many families can afford; and~~

~~WHEREAS, Despite the progress achieved under the Affordable Care Act, more work is needed to bring more residents within the circle of coverage, thereby limiting insurance costs for all State residents; and~~

~~WHEREAS, Federal legislation passed in 2017 undermined this progress by eliminating the federal government's role in enforcing the individual responsibility requirements of the Affordable Care Act, resulting in higher premium costs and more uninsured individuals in Maryland; and~~

~~WHEREAS, The General Assembly is committed to filling the gap left by the federal government by implementing an approach to the Affordable Care Act's individual responsibility requirement that helps the uninsured receive coverage whenever possible; and~~

~~WHEREAS, That commitment requires a State–based reporting system that provides information about the health insurance status of Maryland residents for successful implementation; and~~

~~WHEREAS, There is compelling evidence that third–party reporting is crucial for ensuring compliance with tax provisions and providing a good source of third–party reporting to help taxpayers and State officials verify whether an applicable individual maintains minimum essential coverage; and~~

~~WHEREAS, Collection of the insurance responsibility amount is necessary to protect the compelling State interests of protecting the health and welfare of State residents, fostering economic stability and growth, ensuring a stable and well–functioning health insurance market, and ensuring accurate determination of eligibility for premium tax credits; and~~

~~WHEREAS, An effective State–level individual responsibility requirement, with a strong definition of minimum essential coverage consistent with December 2017 rules for the individual and small–group markets, may be the only way to fully protect current insurance markets from instability in health insurance markets, including higher prices and the possibility of areas without any insurance available; and~~

~~WHEREAS, Ensuring the stability of insurance markets, through maximizing the enrollment of eligible individuals, including those with favorable health risks, is a responsibility reserved for states under the McCarran–Ferguson Act and other federal law; and~~

~~WHEREAS, Accuracy in determining eligibility for insurance affordability programs, including premium tax credits, is essential to maintaining the integrity and viability of such programs, on which hundreds of thousands of State residents rely for their health coverage; now, therefore,~~

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

Article – Insurance

31–101.

(a) In this title the following words have the meanings indicated.

(e) (1) "Exchange" means the Maryland Health Benefit Exchange established as a public corporation under § 31–102 of this title.

(2) "Exchange" includes:

(i) the Individual Exchange; and

(ii) the Small Business Health Options Program (SHOP Exchange).

(g) (1) "Health benefit plan" means a policy, contract, certificate, or agreement offered, issued, or delivered by a carrier to an individual or small employer in the State to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(2) "Health benefit plan" does not include:

(i) coverage only for accident or disability insurance or any combination of accident and disability insurance;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit–only insurance;

(vii) coverage for on–site medical clinics; or

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to the federal Health Insurance Portability and Accountability Act, under which benefits for health care services are secondary or incidental to other insurance benefits.

(3) "Health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of the plan:

(i) limited scope dental or vision benefits;

(ii) benefits for long–term care, nursing home care, home health care, community–based care, or any combination of these benefits; or

(iii) such other similar limited benefits as are specified in federal regulations issued pursuant to the federal Health Insurance Portability and Accountability Act.

(4) "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to whether the benefits are provided under any group health plan maintained by the same plan sponsor:

(i) coverage only for a specified disease or illness;

(ii) group hospital indemnity or other fixed indemnity insurance, if the benefits are payable in a fixed dollar amount per period of time, such as $100 per day of hospitalization, regardless of the amount of expenses incurred; or

(iii) individual hospital indemnity or other fixed indemnity insurance, if:

1. the benefits are paid in a fixed dollar amount per period of hospitalization, illness, or service, regardless of the amount of expenses incurred and of the amount of benefits provided with respect to the event or service under any other health coverage; and

2. a notice is displayed prominently in the application materials, in at least 14 point type, that has the following language in capital letters: "This is a supplement to health insurance and is not a substitute for major medical coverage. Lack of major medical coverage (or other minimum essential coverage) may result in an additional payment with your taxes.".

(5) "Health benefit plan" does not include the following if offered as a separate policy, certificate, or contract of insurance:

(i) Medicare supplemental insurance (as defined under § 1882(g)(1) of the Social Security Act);

(ii) coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)); or

(iii) similar supplemental coverage provided to coverage under a group health plan if the coverage qualifies for the exception described in 45 C.F.R. § 146.145(b)(5)(i)(C).

(h) "Individual Exchange" means the division of the Exchange that serves the individual health insurance market.

(o–1) **(1)** "Minimum essential coverage" **[**has the meaning stated in 26 U.S.C. § 5000A**]** **MEANS:**

(I) MEDICARE;

(II) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(III) THE MARYLAND CHILDREN'S HEALTH INSURANCE PROGRAM;

(IV) MEDICAL COVERAGE UNDER 10 U.S.C. §§ 1071 THROUGH 1110B;

(V) A HEALTH CARE PROGRAM UNDER 38 U.S.C. §§ 1701 THROUGH 1788 OR 38 U.S.C. §§ 1802 THROUGH 1834, AS DETERMINED BY THE

SECRETARY OF VETERANS AFFAIRS IN COORDINATION WITH THE SECRETARY OF HEALTH AND HUMAN SERVICES AND THE SECRETARY OF THE TREASURY;

(VI) A HEALTH PLAN UNDER 22 U.S.C. § 2504(E);

(VII) THE NONAPPROPRIATED FUND HEALTH BENEFITS PROGRAM OF THE DEPARTMENT OF DEFENSE, ESTABLISHED UNDER 10 U.S.C. § 1587;

(VIII) COVERAGE UNDER AN ELIGIBLE EMPLOYER–SPONSORED PLAN, AS DEFINED IN 26 U.S.C. § 5000A;

(IX) COVERAGE UNDER A HEALTH PLAN OFFERED IN THE INDIVIDUAL MARKET IN THE STATE;

(X) COVERAGE UNDER A GRANDFATHERED HEALTH PLAN; OR

(XI) OTHER COVERAGE AS THE ~~SECRETARY OF HEALTH AND HUMAN SERVICES, IN COORDINATION WITH THE SECRETARY OF THE TREASURY, RECOGNIZES FOR PURPOSES OF 26 U.S.C. § 5000A~~ EXCHANGE RECOGNIZES, CONSISTENT WITH POLICY GOALS OF SUBTITLE 2 OF THIS TITLE.

(2) "MINIMUM ESSENTIAL COVERAGE" DOES NOT INCLUDE:

(I) HEALTH INSURANCE COVERAGE THAT CONSISTS OF COVERAGE OF EXCEPTED BENEFITS DESCRIBED IN:

1. § 2791(C)(1) OF THE PUBLIC HEALTH SERVICE ACT; OR

2. § 2791(C)(2), (3), OR (4) OF THE PUBLIC HEALTH SERVICE ACT IF THE BENEFITS ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE;

(II) A SHORT–TERM LIMITED DURATION INSURANCE;

(III) AN ASSOCIATION HEALTH PLAN THAT FAILS TO MEET THE REQUIREMENTS OF THE STATE SMALL GROUP MARKET OR, IN THE CASE OF A PLAN PURCHASED BY SOLE PROPRIETORS, THE STATE INDIVIDUAL MARKET; OR

(IV) ANOTHER FORM OF COVERAGE IDENTIFIED BY THE EXCHANGE THAT:

1. DOES NOT MEET THE REQUIREMENTS OF TITLE I OF THE AFFORDABLE CARE ACT; AND

2. UNDERMINES THE STABILITY OR INCREASES AVERAGE PREMIUMS IN THE INDIVIDUAL OR SMALL GROUP MARKET.

(o–2) "Plan year" has the meaning stated in § 15–1201 of this article.

(r) "Qualified health plan" means a health benefit plan that has been certified by the Exchange to meet the criteria for certification described in § 1311(c) of the Affordable Care Act and § 31–115 of this title.

SUBTITLE 2. MARYLAND ~~HEALTH INSURANCE OPTION~~ *EASY ENROLLMENT HEALTH INSURANCE PROGRAM*.

31–201.

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

(B) "ADVISORY WORKGROUP" MEANS THE MARYLAND ~~HEALTH INSURANCE OPTION~~ *EASY ENROLLMENT HEALTH INSURANCE PROGRAM* ADVISORY WORKGROUP ESTABLISHED UNDER § 31–203 OF THIS SUBTITLE.

(C) "COST–SHARING REDUCTION" MEANS A REDUCTION DESCRIBED IN § 1402(C) OF THE AFFORDABLE CARE ACT.

(D) "DEPARTMENT" MEANS THE MARYLAND DEPARTMENT OF HEALTH.

~~**(E) "FUND" MEANS THE MARYLAND HEALTH INSURANCE OPTION FUND ESTABLISHED UNDER § 31–204 OF THIS SUBTITLE.**~~

~~**(F)**~~ **(E) "INSURANCE AFFORDABILITY PROGRAM" MEANS:**

(1) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(2) THE MARYLAND CHILDREN'S HEALTH PROGRAM;

(3) PREMIUM TAX CREDITS; OR

(4) COST–SHARING REDUCTIONS.

~~**(G) "INSURANCE RESPONSIBILITY AMOUNT" HAS THE MEANING STATED IN § 14–101 OF THE TAX – GENERAL ARTICLE.**~~

~~(H)~~ (F) "MODIFIED ADJUSTED GROSS INCOME" HAS THE MEANING STATED IN 42 U.S.C. § 1395R(I)(4)(A).

~~(I) (G) "OPTION" MEANS THE MARYLAND HEALTH INSURANCE OPTION ESTABLISHED UNDER § 31–202 OF THIS SUBTITLE.~~

~~(J)~~ ~~(H)~~ *(G)* "POVERTY LINE" HAS THE MEANING STATED IN 42 U.S.C. § 1397JJ(C)(5).

~~(K)~~ ~~(I)~~ *(H)* "PREMIUM TAX CREDITS" MEANS THE TAX CREDITS DESCRIBED IN § 36B OF THE INTERNAL REVENUE CODE.

~~(L)~~ ~~(J)~~ *(I)* "PROACTIVELY CONTACT" MEANS AN ATTEMPT BY THE EXCHANGE OR THE DEPARTMENT TO REACH AN UNINSURED INDIVIDUAL BY:

(1) MAKING MULTIPLE ATTEMPTS TO CONTACT THE UNINSURED INDIVIDUAL AS REQUESTED ON A STATE INCOME TAX RETURN IN ACCORDANCE WITH § 2–115(B)(2) OF THE TAX – GENERAL ARTICLE;

(2) IF THE ATTEMPTS DESCRIBED IN ITEM (1) OF THIS SUBSECTION DO NOT SUCCESSFULLY REACH THE UNINSURED INDIVIDUAL OR IF NO SPECIFIC METHODS FOR CONTACTING THE UNINSURED INDIVIDUAL WERE REQUESTED, MAKING MULTIPLE ATTEMPTS TO CONTACT THE UNINSURED INDIVIDUAL THROUGH TELEPHONIC AND ELECTRONIC MEANS; AND

(3) IF THE ATTEMPTS DESCRIBED IN ITEMS (1) AND (2) OF THIS SUBSECTION DO NOT SUCCESSFULLY REACH THE UNINSURED INDIVIDUAL TO OBTAIN THE REQUESTED INFORMATION, SENDING PAPER FORMS OR NOTICES TO THE UNINSURED INDIVIDUAL BY MAIL.

(J) "PROGRAM" MEANS THE MARYLAND EASY ENROLLMENT HEALTH INSURANCE PROGRAM ESTABLISHED UNDER § 31–202 OF THIS SUBTITLE.

~~(M)~~ (K) "UNINSURED INDIVIDUAL" MEANS AN INDIVIDUAL UNDER THE AGE OF 65 YEARS WHO IS IDENTIFIED THROUGH A STATE INCOME TAX RETURN UNDER § 2–115 OF THE TAX – GENERAL ARTICLE AS NOT HAVING MINIMUM ESSENTIAL COVERAGE.

~~(N) "ZERO–ADDITIONAL–COST PLAN" MEANS A QUALIFIED HEALTH PLAN THAT IS OFFERED TO AN UNINSURED INDIVIDUAL AND HAS A PREMIUM THAT, THROUGH THE END OF THE APPLICABLE PLAN YEAR, DOES NOT EXCEED THE SUM OF:~~

~~(1) (I) THE INSURANCE RESPONSIBILITY AMOUNT APPLICABLE TO THE UNINSURED INDIVIDUAL; AND~~

~~(II) ANY PREMIUM TAX CREDIT FOR WHICH THE UNINSURED INDIVIDUAL QUALIFIES; OR~~

~~(2) (I) ANY PREMIUM TAX CREDIT FOR WHICH THE UNINSURED INDIVIDUAL QUALIFIES; AND~~

~~(II) THE PORTION OF THE PREMIUM THAT IS ATTRIBUTABLE TO CLAIMS FOR SERVICES THAT ARE NOT ESSENTIAL HEALTH BENEFITS UNDER § 1302(B) OF THE AFFORDABLE CARE ACT AS DETERMINED BY THE EXCHANGE.~~

31–202.

(A) THERE IS A MARYLAND ~~HEALTH INSURANCE OPTION~~ *EASY ENROLLMENT HEALTH INSURANCE PROGRAM*.

(B) THE PURPOSES OF THE ~~OPTION~~ *PROGRAM* ARE TO:

(1) ESTABLISH A STATE–BASED REPORTING SYSTEM TO PROVIDE INFORMATION ABOUT THE HEALTH INSURANCE STATUS OF STATE RESIDENTS THROUGH THE USE OF STATE INCOME TAX RETURNS TO IDENTIFY UNINSURED INDIVIDUALS AND DETERMINE WHETHER AN UNINSURED INDIVIDUAL IS INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE;

(2) DETERMINE WHETHER AN UNINSURED INDIVIDUAL WHO IS INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE QUALIFIES FOR AN INSURANCE AFFORDABILITY PROGRAM;

(3) PROACTIVELY CONTACT AN UNINSURED INDIVIDUAL WHO IS INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE TO ASSIST IN ENROLLING THE UNINSURED INDIVIDUAL IN AN INSURANCE AFFORDABILITY PROGRAM AND MINIMUM ESSENTIAL COVERAGE; AND

~~(4) IMPLEMENT AN INSURANCE RESPONSIBILITY PROGRAM THROUGH WHICH UNINSURED INDIVIDUALS WHO CAN AFFORD MINIMUM ESSENTIAL COVERAGE ARE INCENTIVIZED TO OBTAIN COVERAGE; AND~~

~~(5)~~ (4) MAXIMIZE ENROLLMENT OF ELIGIBLE UNINSURED INDIVIDUALS IN INSURANCE AFFORDABILITY PROGRAMS AND MINIMUM ESSENTIAL COVERAGE TO IMPROVE ACCESS TO CARE AND REDUCE INSURANCE COSTS FOR ALL RESIDENTS OF THE STATE.

(C) (1) THE EXCHANGE, THE DEPARTMENT, AND THE COMPTROLLER SHALL DEVELOP AND IMPLEMENT SYSTEMS, POLICIES, AND PRACTICES THAT ENCOURAGE, FACILITATE, AND STREAMLINE DETERMINATION OF ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS AND ENROLLMENT IN MINIMUM ESSENTIAL COVERAGE TO ACHIEVE THE PURPOSES OF THE ~~OPTION~~ *PROGRAM*.

(2) EXCEPT AS PROVIDED IN ~~§§ 14–103(A) AND 14–201(B)~~ § 2–115(D) OF THE TAX – GENERAL ARTICLE, THE SYSTEMS, POLICIES, AND PRACTICES SHALL BE:

(I) OPERATIONAL ON OR BEFORE JANUARY 1, 2020; AND

(II) AVAILABLE FOR USE BY RESIDENTS OF THE STATE WHEN FILING A STATE INCOME TAX RETURN FOR TAXABLE YEARS THAT BEGIN AFTER DECEMBER 31, 2018.

(D) TO FACILITATE THE MOST EFFICIENT IMPLEMENTATION OF THE ~~OPTION~~ *PROGRAM*, THE EXCHANGE, THE COMPTROLLER, AND THE DEPARTMENT MAY:

(1) ENTER INTO AGREEMENTS;

(2) ADOPT REGULATIONS;

(3) ADOPT GUIDELINES;

(4) ESTABLISH ACCOUNTS;

(5) CONDUCT TRAININGS;

(6) PROVIDE PUBLIC INFORMATION;

(7) EDUCATE TAX PREPARERS; AND

(8) TAKE ANY OTHER STEPS AS MAY BE NECESSARY TO ACCOMPLISH THE PURPOSE OF THE ~~OPTION~~ *PROGRAM*.

31–203.

(A) THE EXCHANGE SHALL ESTABLISH A MARYLAND ~~HEALTH INSURANCE OPTION~~ *EASY ENROLLMENT HEALTH INSURANCE PROGRAM* ADVISORY WORKGROUP TO PROVIDE ONGOING ADVICE REGARDING THE IMPLEMENTATION OF THE ~~OPTION~~ *PROGRAM*.

(B) THE ADVISORY WORKGROUP SHALL INCLUDE REPRESENTATION FROM:

(1) THE OFFICE OF THE COMPTROLLER;

(2) CONSUMER GROUPS;

(3) EMPLOYERS;

(4) INSURERS;

(5) HEALTH CARE PROVIDERS;

(6) NAVIGATORS OR OTHER CONSUMER ASSISTERS;

(7) INSURANCE BROKERS OR AGENTS;

(8) LABOR ORGANIZATIONS;

(9) INCOME TAX PREPARERS;

(10) NATIONAL POLICY EXPERTS; AND

(11) ANY OTHER ORGANIZATIONS OR GROUPS SELECTED BY THE EXCHANGE.

(C) THE ADVISORY WORKGROUP SHALL MEET AT LEAST ONCE EVERY 6 MONTHS.

(D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT THE EXCHANGE FROM CONVENING OTHER FORMAL OR INFORMAL WORKING OR ADVISORY GROUPS TO FACILITATE THE IMPLEMENTATION OF THE ~~OPTION~~ *PROGRAM*.

~~**31–204.**~~

~~**(A) THERE IS A MARYLAND HEALTH INSURANCE OPTION FUND.**~~

~~**(B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING OR REIMBURSEMENT FOR:**~~

~~**(1) REASONABLE ADMINISTRATIVE COSTS INCURRED TO IMPLEMENT THE OPTION, INCLUDING COSTS INCURRED BEFORE THE RECEIPT OF AMOUNTS DESCRIBED IN SUBSECTION (F)(1) OF THIS SECTION; AND**~~

~~**(2) MEASURES THAT HELP STABILIZE THE INDIVIDUAL INSURANCE MARKET, INCREASE ENROLLMENT OF ELIGIBLE INDIVIDUALS, LOWER PREMIUMS**~~

~~FOR INDIVIDUAL INSURANCE, OR OBTAIN INFORMATION TO GUIDE THE ACCOMPLISHMENT OF THOSE GOALS.~~

~~(C) THE EXCHANGE SHALL ADMINISTER THE FUND.~~

~~(D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(E) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE EXCHANGE SHALL ACCOUNT FOR THE FUND.~~

~~(F) THE FUND SHALL CONSIST OF:~~

~~(1) AMOUNTS DISTRIBUTED TO THE EXCHANGE UNDER § 14–205 OF THE TAX – GENERAL ARTICLE;~~

~~(2) INCOME FROM INVESTMENTS MADE ON BEHALF OF THE FUND;~~

~~(3) INTEREST ON DEPOSITS OR INVESTMENTS OF MONEY IN THE FUND; AND~~

~~(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(G) THE FUND SHALL BE USED FOR:~~

~~(1) THE PAYMENT OF REASONABLE ADMINISTRATIVE COSTS INCURRED TO IMPLEMENT THE OPTION; AND~~

~~(2) FOR AMOUNTS THAT REMAIN IN THE FUND AFTER THE PAYMENTS DESCRIBED UNDER ITEM (1) OF THIS SUBSECTION ARE MADE, MEASURES THE EXCHANGE DETERMINES ARE MOST EFFECTIVE IN:~~

~~(I) STABILIZING, INCREASING ENROLLMENT IN, OR LOWERING PREMIUMS IN THE INDIVIDUAL MARKET; OR~~

~~(II) PROVIDING INFORMATION ABOUT THE MOST EFFECTIVE MEANS TO ACCOMPLISH THE PURPOSES OF THE OPTION.~~

~~(H) EXPENDITURES FROM THE FUND FOR THE PURPOSES AUTHORIZED UNDER SUBSECTION (G) OF THIS SECTION MAY BE MADE ONLY:~~

~~(1) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE GENERAL ASSEMBLY IN THE STATE BUDGET; OR~~

~~(2) BY BUDGET AMENDMENT AS PROVIDED FOR IN TITLE 7, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(I) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.~~

~~(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.~~

~~(3) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.~~

~~(4) A DEBT OR AN OBLIGATION OF THE FUND IS NOT A DEBT OF THE STATE OR A PLEDGE OF CREDIT OF THE STATE.~~

~~(J) (1) AFTER THE END OF EACH FISCAL YEAR DURING WHICH THE FUND IS OPERATING, THE EXCHANGE SHALL PREPARE AN ANNUAL REPORT ON THE FUND THAT INCLUDES AN ACCOUNTING OF ALL FINANCIAL RECEIPTS AND EXPENDITURES TO AND FROM THE FUND.~~

~~(2) THE EXCHANGE SHALL SUBMIT A COPY OF THE REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.~~

~~31–205.~~ 31–204.

(A) THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL DETERMINE ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS AS SOON AS POSSIBLE AFTER AN INDIVIDUAL FILES A STATE INCOME TAX RETURN ON WHICH THE INDIVIDUAL CHOSE A ~~CHECK–OFF~~ *CHECKOFF* BOX DESCRIBED IN ~~§ 2–215(C)(3)~~ § 2–115(C)(3) OF THE TAX – GENERAL ARTICLE INDICATING THAT AN UNINSURED INDIVIDUAL MAY BE INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE.

(B) (1) TO THE MAXIMUM EXTENT PRACTICABLE, THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL VERIFY AN UNINSURED INDIVIDUAL'S ELIGIBILITY FOR AN INSURANCE AFFORDABILITY PROGRAM:

(I) WITH INFORMATION ON A STATE INCOME TAX RETURN AND OTHER DATA FROM THIRD–PARTY DATA SOURCES, INCLUDING DATA DESCRIBED IN § 1413 OF THE AFFORDABLE CARE ACT OR AVAILABLE UNDER ~~§ 2–215(C)(5)~~ § 2–115(B)(2) OF THE TAX – GENERAL ARTICLE; AND

(II) WITHOUT REQUESTING ADDITIONAL INFORMATION OR ATTESTATIONS FROM THE UNINSURED INDIVIDUAL.

(2) IF ADDITIONAL ATTESTATIONS OR DOCUMENTATION FROM THE UNINSURED INDIVIDUAL ARE REQUIRED TO ESTABLISH ELIGIBILITY FOR AN INSURANCE AFFORDABILITY PROGRAM, THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL TAKE STEPS TO LIMIT THE BURDEN ON THE UNINSURED INDIVIDUAL, INCLUDING:

(I) PROACTIVELY CONTACTING THE INDIVIDUAL WHO FILED THE TAX RETURN OR THE UNINSURED INDIVIDUAL;

(II) RECORDING, BY TELEPHONIC OR ELECTRONIC MEANS, ATTESTATIONS AND ~~OTHER~~ DOCUMENTATION PROVIDED BY THE INDIVIDUAL WHO FILED THE TAX RETURN OR THE UNINSURED INDIVIDUAL; AND

(III) IF THE ATTESTATIONS OR DOCUMENTATION REQUIRED TO DETERMINE ELIGIBILITY ARE NOT OBTAINED USING THE STEPS DESCRIBED IN ITEMS (I) AND (II) OF THIS PARAGRAPH, FACILITATING THE SELECTION OF AN AUTHORIZED REPRESENTATIVE FOR THE UNINSURED INDIVIDUAL.

~~(D)~~ *(C)* (1) BEFORE DETERMINING ELIGIBILITY OF AN UNINSURED INDIVIDUAL FOR AN INSURANCE AFFORDABILITY PROGRAM, THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL ATTEMPT TO VERIFY THE CITIZENSHIP STATUS OF THE UNINSURED INDIVIDUAL AND EACH HOUSEHOLD MEMBER LISTED ON THE STATE INCOME TAX RETURN, BASED ON THE INFORMATION AVAILABLE FROM THE RETURN AND RELIABLE THIRD–PARTY SOURCES OF CITIZENSHIP DATA.

(2) IF THE PROCESS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION DOES NOT CONFIRM THAT THE UNINSURED INDIVIDUAL AND EACH HOUSEHOLD MEMBER LISTED ON THE STATE INCOME TAX RETURN IS A UNITED STATES CITIZEN, THE EXCHANGE AND THE DEPARTMENT MAY NOT SEEK ADDITIONAL VERIFICATION OR TAKE OTHER STEPS TO DETERMINE ELIGIBILITY FOR OR ENROLL THE UNINSURED INDIVIDUAL IN AN INSURANCE AFFORDABILITY PROGRAM UNTIL THE UNINSURED INDIVIDUAL PROVIDES AFFIRMATIVE CONSENT USING FORMS AND PROCEDURES APPROVED BY THE EXCHANGE.

(3) THE AFFIRMATIVE CONSENT REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY BE SATISFIED THROUGH THE PROCEDURES DESCRIBED IN 42 U.S.C. § 1320B–7(D).

(4) IF CITIZENSHIP IS NOT VERIFIED AND AFFIRMATIVE CONSENT IS NOT PROVIDED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE EXCHANGE AND THE DEPARTMENT MAY NOT TAKE ANY FURTHER STEPS TO

DETERMINE AN UNINSURED INDIVIDUAL'S ELIGIBILITY FOR OR ENROLL AN UNINSURED INDIVIDUAL IN AN INSURANCE AFFORDABILITY PROGRAM.

~~**31–206.**~~ **31–205.**

(A) THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL MAKE A DETERMINATION OF ELIGIBILITY, IN ACCORDANCE WITH ~~§ 31–205~~ § 31–204 OF THIS SUBTITLE, FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND, IF APPLICABLE, THE MARYLAND CHILDREN'S HEALTH PROGRAM UNDER THIS SECTION, BEFORE DETERMINING ELIGIBILITY FOR ANY OTHER INSURANCE AFFORDABILITY PROGRAM.

(B) (1) IF AN UNINSURED INDIVIDUAL IS DETERMINED TO BE ELIGIBLE FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE PROCEDURES DESCRIBED IN THIS SUBSECTION AND GUIDELINES ESTABLISHED BY THE EXCHANGE, IN CONSULTATION WITH THE DEPARTMENT, TO IMPLEMENT THIS SUBSECTION SHALL APPLY.

(2) IF AN UNINSURED INDIVIDUAL FAILS TO SELECT A MANAGED CARE ORGANIZATION PLAN WITHIN A PERIOD OF TIME ESTABLISHED BY THE EXCHANGE, THE DEPARTMENT SHALL ASSIGN THE UNINSURED INDIVIDUAL TO AND PROMPTLY ENROLL THE UNINSURED INDIVIDUAL IN A MANAGED CARE ORGANIZATION PLAN.

(3) BEFORE THE DEPARTMENT ASSIGNS AN UNINSURED INDIVIDUAL TO A MANAGED CARE ORGANIZATION PLAN, THE UNINSURED INDIVIDUAL SHALL RECEIVE:

(I) ADVANCE NOTICE;

(II) AN OPPORTUNITY TO SELECT ANOTHER MANAGED CARE ORGANIZATION PLAN WITHIN THE PERIOD OF TIME ESTABLISHED BY THE EXCHANGE; AND

(III) AN OPPORTUNITY TO OPT OUT OF COVERAGE.

~~**31–207.**~~ **31–206.**

(A) IF AN UNINSURED INDIVIDUAL IS NOT DETERMINED TO BE ELIGIBLE FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM UNDER ~~§ 31–206~~ § 31–205 OF THIS SUBTITLE, THE EXCHANGE SHALL DETERMINE, IN ACCORDANCE WITH ~~§ 31–205~~ § 31–204 OF THIS SUBTITLE, WHETHER THE UNINSURED INDIVIDUAL IS ELIGIBLE FOR PREMIUM TAX CREDITS OR COST–SHARING REDUCTIONS AS DETERMINED UNDER THIS SECTION.

(B) (1) ~~(I)~~ A SPECIAL OR OTHER ENROLLMENT PERIOD FOR THE INDIVIDUAL MARKET SHALL BEGIN ON THE DATE AN INCOME TAX RETURN IS FILED BY OR ON BEHALF OF AN UNINSURED INDIVIDUAL THAT INCLUDES THE CHOICE DESCRIBED IN ~~§ 2–215(C)(3)~~ § 2–115(C)(3) OF THE TAX – GENERAL ARTICLE, IF THE RETURN IS FILED ON OR BEFORE THE DATE SPECIFIED BY THE EXCHANGE.

~~(II) THE DATE SPECIFIED BY THE EXCHANGE MAY BE NOT LATER THAN THE DATE SPECIFIED IN § 10–820(A)(1) AND (3) OF THE TAX – GENERAL ARTICLE.~~

(2) THE ENROLLMENT PERIOD DESCRIBED IN THIS SUBSECTION SHALL LAST FOR A PERIOD OF TIME DETERMINED BY THE EXCHANGE BEFORE THE START OF THE CALENDAR YEAR THAT MAY NOT BE SHORTER THAN 14 DAYS.

(C) (1) INFORMATION ABOUT THE ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL BE COMMUNICATED TO THE PUBLIC AND AFFECTED INDIVIDUALS THROUGH MEASURES THAT MAY INCLUDE LANGUAGE IN THE INSTRUCTIONS FOR THE STATE INDIVIDUAL INCOME TAX RETURN, IF INCLUSION OF THE LANGUAGE IS APPROVED BY THE COMPTROLLER.

(2) THE EXCHANGE IS AUTHORIZED TO CONDUCT OUTREACH TO ~~UNINSURED~~ INDIVIDUALS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, USING METHODS THAT MAY INCLUDE WRITTEN NOTICES AND THE PROVISION OF INDIVIDUALIZED ASSISTANCE BY INSURANCE AGENTS AND BROKERS, NAVIGATORS, TAX PREPARERS, AND EXCHANGE CONTRACTORS AND STAFF.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE EXCHANGE MAY COMPENSATE AN ENTITY FOR OUTREACH DESCRIBED IN PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION IN A MANNER THAT REFLECTS, IN WHOLE OR IN PART, THE NUMBER OF UNINSURED INDIVIDUALS ENROLLED UNDER THIS SECTION AND ~~§ 33–501~~ § 31–204 OF THIS ~~TITLE~~ SUBTITLE BY THAT ENTITY.

~~(D) (1) THE EXCHANGE SHALL IMPLEMENT THE POLICIES AND PROCESS DESCRIBED IN THIS SUBSECTION ONLY IF THE EXCHANGE DETERMINES THAT:~~

~~(I) THE POLICIES AND PROCESS WOULD PROVIDE MINIMUM ESSENTIAL COVERAGE TO AT LEAST 40,000 RESIDENTS WHO WOULD OTHERWISE BE UNINSURED, DESPITE THE OTHER PROVISIONS OF THIS SUBTITLE;~~

~~(II) THERE IS NO SIGNIFICANT RISK THAT CHANGES IN FEDERAL POLICY OR INSURANCE MARKETS WILL PREVENT THE ACHIEVEMENT OF COVERAGE GAINS DESCRIBED IN ITEM (I) OF THIS PARAGRAPH THROUGH AUTOMATIC~~

~~ENROLLMENT IN A QUALIFIED HEALTH PLAN AS PROVIDED FOR IN PARAGRAPH (2) OF THIS SUBSECTION; AND~~

~~(III) REASONABLE ADMINISTRATIVE COSTS TO IMPLEMENT THE POLICIES AND PROCESS, INCLUDING COSTS INCURRED BY THE COMPTROLLER AND THE EXCHANGE, ARE FULLY COVERED WITH FUNDS FROM THE MARYLAND INSURANCE OPTION FUND ESTABLISHED UNDER § 31–204 OF THIS SUBTITLE.~~

~~(2) IF THE EXCHANGE MAKES THE DETERMINATIONS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE EXCHANGE AND THE COMPTROLLER SHALL, AFTER CONSULTING WITH THE ADVISORY WORKGROUP AND PROVIDING ADVANCE NOTICE TO THE GENERAL ASSEMBLY, IMPLEMENT A PROCESS FOR AUTOMATIC ENROLLMENT OF AN UNINSURED INDIVIDUAL IN A ZERO–ADDITIONAL–COST PLAN IF:~~

~~(I) AN INDIVIDUAL WHO FILES A STATE INCOME TAX RETURN SELECTS A CHECK–OFF BOX ON THE RETURN AS DESCRIBED IN § 2–115(D)(3)(I) OF THE TAX – GENERAL ARTICLE INDICATING THAT AN UNINSURED INDIVIDUAL MAY BE INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE;~~

~~(II) THE UNINSURED INDIVIDUAL HAS QUALIFIED FOR PREMIUM TAX CREDITS BUT HAS NOT BEEN ENROLLED IN A QUALIFIED HEALTH PLAN BY THE END OF THE ENROLLMENT PERIOD ESTABLISHED BY THE EXCHANGE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; AND~~

~~(III) THE UNINSURED INDIVIDUAL IS ELIGIBLE FOR ONE OR MORE ZERO–ADDITIONAL–COST PLANS.~~

~~(3) AS PART OF THE PROCESS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE EXCHANGE SHALL IMPLEMENT A RANKING SYSTEM THAT IDENTIFIES THE ZERO–ADDITIONAL–COST PLAN THAT PROVIDES THE MOST VALUE TO AN UNINSURED INDIVIDUAL IF THE UNINSURED INDIVIDUAL IS ELIGIBLE FOR MORE THAN ONE ZERO–ADDITIONAL–COST PLAN.~~

~~(4) THE PROCESS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL ENSURE THAT BEFORE AN UNINSURED INDIVIDUAL IS AUTOMATICALLY ENROLLED IN A ZERO–ADDITIONAL–COST PLAN:~~

~~(I) THE UNINSURED INDIVIDUAL IS INFORMED ABOUT THE ZERO–ADDITIONAL–COST PLAN IN WHICH THE UNINSURED INDIVIDUAL WILL BE AUTOMATICALLY ENROLLED AND IS GIVEN A REASONABLE CHANCE TO OPT OUT OF THE PLAN BEFORE COVERAGE BEGINS;~~

~~(II) IF THE ZERO–ADDITIONAL–COST PLAN HAS AN ACTUARIAL VALUE BELOW A THRESHOLD IDENTIFIED BY THE EXCHANGE, THE UNINSURED INDIVIDUAL IS OFFERED A CHANCE TO ENROLL IN AN ALTERNATIVE PLAN WITH A HIGHER ACTUARIAL VALUE BY PAYING A REQUIRED ADDITIONAL PREMIUM BEFORE BEING AUTOMATICALLY ENROLLED IN THE ZERO–ADDITIONAL–COST PLAN;~~

~~(III) IF MORE THAN ONE HOUSEHOLD MEMBER IS AN UNINSURED INDIVIDUAL ELIGIBLE FOR A ZERO–ADDITIONAL–COST PLAN AND IT IS NOT POSSIBLE TO ENROLL ALL THE HOUSEHOLD MEMBERS IN THE PLAN THAT PROVIDES THEM WITH THE MAXIMUM VALUE AS ESTABLISHED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE EXCHANGE CONSULTS WITH THE AFFECTED HOUSEHOLD MEMBERS BEFORE ENROLLMENT;~~

~~(IV) THE METHOD OF PAYING CARRIERS MINIMIZES OVERALL ADMINISTRATIVE COSTS, ENSURES TIMELY PAYMENTS THAT PREVENT DEFAULTS, AND PREVENTS CONSUMERS FROM EXPERIENCING INVOLUNTARY DEFAULT OR OTHER ADVERSE EVENTS DUE TO ERRORS BY THE EXCHANGE, THE COMPTROLLER, OR A QUALIFIED HEALTH PLAN;~~

~~(V) A CARRIER WILL NOT BE PAID FOR PERIODS DURING WHICH THE UNINSURED INDIVIDUAL IS NOT COVERED, EXCEPT FOR GRACE PERIODS DURING WHICH THE UNINSURED INDIVIDUAL IS ENROLLED IN A ZERO–ADDITIONAL–COST PLAN OFFERED BY THE CARRIER;~~

~~(VI) A CARRIER WILL NOT BE REQUIRED TO INITIATE COVERAGE WITHOUT RECEIVING THE INITIAL MONTH'S FULL PREMIUM PAYMENT FOR A ZERO–ADDITIONAL–COST PLAN OFFERED BY THE CARRIER;~~

~~(VII) THE UNINSURED INDIVIDUAL ENTERS INTO A BINDING CONTRACT OF INSURANCE WITH THE CARRIER THAT OFFERS THE ZERO–ADDITIONAL–COST PLAN, CONSISTENT WITH STANDARDS DEVELOPED BY THE EXCHANGE IN CONSULTATION WITH THE ADMINISTRATION; AND~~

~~(VIII) THE UNINSURED INDIVIDUAL IS INFORMED OF THE DUTIES AND RISKS ASSOCIATED WITH USING ADVANCE PREMIUM TAX CREDITS TO OBTAIN COVERAGE AND HAS THE OPPORTUNITY TO PREVENT ENROLLMENT OR TERMINATE COVERAGE AFTER RECEIVING THE INFORMATION.~~

~~31–208.~~ **31–207.**

(A) THE EXCHANGE SHALL DEVELOP A DETAILED SET OF DATA PRIVACY AND DATA SECURITY SAFEGUARDS TO GOVERN THE CONVEYANCE, STORAGE, AND UTILIZATION OF DATA UNDER THE ~~OPTION~~ *PROGRAM*.

(B) THE SAFEGUARDS DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION SHALL ENSURE THAT THE CONVEYANCE, STORAGE, AND UTILIZATION OF DATA UNDER THE ~~OPTION~~ *PROGRAM* COMPLY WITH APPLICABLE REQUIREMENTS OF FEDERAL AND STATE LAW.

~~Article – State Finance and Procurement~~

~~6–226.~~

~~(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.~~

~~(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:~~

~~112. the Pretrial Services Program Grant Fund; [and]~~

~~113. the Veteran Employment and Transition Success Fund; AND~~

~~114. THE MARYLAND HEALTH INSURANCE OPTION FUND.~~

Article – Tax – General

2–115.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ADVISORY WORKGROUP" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.

(3) "AFFORDABLE CARE ACT" HAS THE MEANING STATED IN § 1–101 OF THE INSURANCE ARTICLE.

(4) "EXCHANGE" HAS THE MEANING STATED IN § 31–101 OF THE INSURANCE ARTICLE.

(5) "INSURANCE AFFORDABILITY PROGRAM" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.

(6) "INSURANCE–RELEVANT INFORMATION" MEANS INFORMATION ABOUT AN UNINSURED INDIVIDUAL THAT IS NEEDED FOR THE EXCHANGE TO:

(I) IDENTIFY THE UNINSURED INDIVIDUAL, INCLUDING WHEN MATCHING DATA AVAILABLE FROM THIRD–PARTY DATA SOURCES;

(II) FACILITATE THE DETERMINATION OF THE UNINSURED INDIVIDUAL'S ELIGIBILITY FOR AN INSURANCE AFFORDABILITY PROGRAM; OR

(III) FACILITATE ENROLLMENT BY THE UNINSURED INDIVIDUAL IN A PLAN WITH MINIMUM ESSENTIAL COVERAGE.

~~**(7) "MARYLAND HEALTH INSURANCE OPTION FUND" MEANS THE FUND ESTABLISHED UNDER § 31–204 OF THE INSURANCE ARTICLE.**~~

~~**(8)**~~ **(7) "MINIMUM ESSENTIAL COVERAGE" HAS THE MEANING STATED IN § 31–101 OF THE INSURANCE ARTICLE.**

~~**(9) (8) "OPTION" MEANS THE MARYLAND HEALTH INSURANCE OPTION ESTABLISHED UNDER § 31–202 OF THE INSURANCE ARTICLE.**~~

~~**(10) (9)**~~ ***(8)*** **"PREMIUM TAX CREDITS" MEANS THE TAX CREDITS DESCRIBED IN § 36B OF THE INTERNAL REVENUE CODE.**

(9) "PROGRAM" MEANS THE MARYLAND EASY ENROLLMENT HEALTH INSURANCE PROGRAM ESTABLISHED UNDER § 31–202 OF THE INSURANCE ARTICLE.

~~**(11)**~~ **(10) "QUALIFIED HEALTH PLAN" MEANS A HEALTH BENEFIT PLAN THAT HAS BEEN CERTIFIED BY THE EXCHANGE TO MEET THE CRITERIA FOR CERTIFICATION DESCRIBED IN § 1311(C) OF THE AFFORDABLE CARE ACT AND § 31–115 OF ~~THIS TITLE~~ *THE INSURANCE ARTICLE*.**

~~**(12)**~~ **(11) "UNINSURED INDIVIDUAL" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.**

(B) (1) THE COMPTROLLER SHALL INCLUDE ON THE INDIVIDUAL INCOME TAX RETURN FORM A CHECKOFF FOR INDICATING WHETHER THE INDIVIDUAL, OR EACH SPOUSE IN THE CASE OF A JOINT RETURN, AND ANY INDIVIDUAL CLAIMED AS A DEPENDENT ON THE TAX RETURN IS AN UNINSURED INDIVIDUAL AT THE TIME THE TAX RETURN IS FILED.

(2) IF A STATE INCOME TAX RETURN INDICATES THAT AN INDIVIDUAL ~~LACKED MINIMUM ESSENTIAL COVERAGE FOR 3 OR MORE MONTHS DURING THE TAXABLE YEAR, AND THE UNINSURED INDIVIDUAL IS UNDER THE AGE OF 65 AT THE~~

~~TIME THE RETURN IS FILED~~ IS AN UNINSURED INDIVIDUAL AT THE TIME THE TAX RETURN IS FILED, THE TAX RETURN SHALL BE REQUIRED TO INCLUDE THE FOLLOWING INFORMATION AS TO EACH UNINSURED INDIVIDUAL:

(I) ~~WHETHER THE UNINSURED INDIVIDUAL REMAINS UNINSURED AT THE TIME THE TAX RETURN IS FILED~~ THE AGE OF EACH UNINSURED INDIVIDUAL;

(II) ~~IF THE UNINSURED INDIVIDUAL REMAINS UNINSURED AT THE TIME THE TAX RETURN IS FILED,~~ ELECTION BY THE INDIVIDUAL FILING THE TAX RETURN OF ONE OF THE TWO ~~CHECK–OFF~~ *CHECKOFF* BOXES DESCRIBED IN SUBSECTION (C) OF THIS SECTION; AND

(III) IF THE INDIVIDUAL WHO FILES A TAX RETURN CHOOSES THE ~~CHECK–OFF~~ *CHECKOFF* BOX DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION, ANY INFORMATION DETERMINED BY THE EXCHANGE AS ESSENTIAL TO DETERMINING ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS, IF THE INFORMATION:

1. IS NOT AVAILABLE FROM A RELIABLE THIRD–PARTY DATA SOURCE;

2. IS NOT OTHERWISE REQUIRED TO BE PROVIDED ON THE RETURN; AND

3. DOES NOT PERTAIN TO CITIZENSHIP OR IMMIGRATION STATUS.

~~(2)~~ (3) FOR AN INDIVIDUAL WHO FILES A TAX RETURN AND CHOOSES THE ~~CHECK–OFF~~ *CHECKOFF* BOX DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION, THE RETURN SHALL GIVE THE INDIVIDUAL WHO FILED THE TAX RETURN THE OPTION TO INDICATE THE UNINSURED INDIVIDUAL'S PREFERRED METHOD FOR THE EXCHANGE TO CONTACT THE INDIVIDUAL WHO FILED THE TAX RETURN OR THE UNINSURED INDIVIDUAL TO FACILITATE EITHER DETERMINATION OF ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS OR ENROLLMENT IN HEALTH COVERAGE.

~~(3) THE COMPTROLLER MAY STRUCTURE THE RETURN SO THAT THE ITEMS DESCRIBED IN THIS SECTION ARE INCLUDED IN A SEPARATE FORM THAT IS REQUIRED ONLY FOR INDIVIDUALS WHO FILE A TAX RETURN INDICATING THAT AN INDIVIDUAL WAS UNINSURED FOR 3 OR MORE MONTHS DURING THE TAXABLE YEAR.~~

~~(C) (1) THE COMPTROLLER SHALL INCLUDE ON THE INCOME TAX RETURN FORM TWO CHECK–OFF BOXES DESCRIBED IN THIS SUBSECTION.~~

~~(2) THE CHECK–OFF BOXES MAY BE PLACED ON THE SEPARATE FORM DESCRIBED IN SUBSECTION (B)(3) OF THIS SECTION.~~

(C) (1) IN ACCORDANCE WITH THIS SUBSECTION, THE COMPTROLLER SHALL INCLUDE WITH THE INCOME TAX RETURN FORM A SEPARATE FORM THAT IS REQUIRED ONLY FOR INDIVIDUALS WHO FILE A TAX RETURN INDICATING THAT AN INDIVIDUAL IS AN UNINSURED INDIVIDUAL AT THE TIME THE TAX RETURN IS FILED.

(2) THE SEPARATE FORM SHALL INCLUDE TWO ~~CHECK–OFF~~ *CHECKOFF* BOXES AS DESCRIBED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION AND THE INFORMATION DESCRIBED IN SUBSECTION (B)(2) AND (3) OF THIS SECTION.

(3) ONE ~~CHECK–OFF~~ *CHECKOFF* BOX SHALL GIVE AN INDIVIDUAL WHO FILES A TAX RETURN THE CHOICE TO HAVE THE EXCHANGE ~~DETERMINE THE UNINSURED INDIVIDUAL'S ELIGIBILITY FOR AN INSURANCE AFFORDABILITY PROGRAM OR ZERO–ADDITIONAL–COST PLAN, USING INFORMATION FROM THE TAX RETURN AND OTHER AVAILABLE INFORMATION~~:

(I) BASED ON INFORMATION IN THE INDIVIDUAL'S TAX RETURN, DETERMINE THE UNINSURED INDIVIDUAL'S ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS; AND

(II) OBTAIN ADDITIONAL DATA THAT MAY BE RELEVANT TO DETERMINE THE UNINSURED INDIVIDUAL'S ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS.

(4) ONE ~~CHECK–OFF~~ *CHECKOFF* BOX SHALL ALLOW AN INDIVIDUAL WHO FILES A TAX RETURN THE CHOICE TO~~:~~

~~(I)~~ NOT HAVE THE EXCHANGE MAKE THE ~~DETERMINATIONS~~ DETERMINATION DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION~~; AND~~

~~(II) ACKNOWLEDGE THAT ELECTING THIS CHOICE MEANS THE UNINSURED INDIVIDUALS WILL NOT BE ENROLLED IN MINIMUM ESSENTIAL COVERAGE AS A RESULT OF FILING THE TAX RETURN~~.

(5) THE COMPTROLLER, IN CONSULTATION WITH THE EXCHANGE AND WITH THE ADVICE OF THE ADVISORY WORKGROUP, SHALL:

(I) DEVELOP LANGUAGE FOR THE ~~CHECK–OFF~~ *CHECKOFF* BOXES DESCRIBED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION ~~THAT IS AS SIMPLE, CLEAR, AND EASY TO UNDERSTAND AS POSSIBLE~~;

(II) ~~INCLUDE WITH~~ DEVELOP LANGUAGE FOR THE INSTRUCTIONS FOR THE STATE INCOME TAX RETURN THAT INCLUDES A DESCRIPTION OF THE EFFECTS OF CHOOSING THE ~~CHECK–OFF~~ *CHECKOFF* BOXES DESCRIBED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, INCLUDING THE PURPOSES FOR WHICH THE INFORMATION DISCLOSED UNDER ~~SUBSECTION (B)(1)(III) OF~~ THIS SECTION MAY BE USED; AND

(III) ~~PROVIDE DRAFT CHECK–OFF BOX LANGUAGE FOR COMMENT TO THE EXCHANGE AND TO THE ADVISORY WORKGROUP~~ ENSURE THAT THE LANGUAGE DEVELOPED UNDER ITEM (I) OF THIS PARAGRAPH IS AS SIMPLE, CLEAR, AND EASY TO UNDERSTAND AS POSSIBLE.

(6) IF AN INDIVIDUAL WHO FILES A TAX RETURN MAKES THE ELECTION DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION, NOTWITHSTANDING THE PROHIBITION UNDER § 13–202 OF THIS ARTICLE, THE COMPTROLLER SHALL CONVEY TO THE EXCHANGE ALL INSURANCE–RELEVANT INFORMATION CONTAINED ON THE RETURN.

(D) (1) EXCEPT AS PROVIDED IN ~~§§ 14–103(C) AND 14–201(B) OF THIS ARTICLE~~ PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION SHALL APPLY TO RETURNS FILED FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2018.

(2) IF THE COMPTROLLER DETERMINES, AFTER CONSULTATION WITH THE EXCHANGE, THAT THE IMPLEMENTATION OF THIS SECTION IS NOT ADMINISTRATIVELY FEASIBLE FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2018, THE COMPTROLLER MAY DELAY IMPLEMENTATION OF THIS SECTION TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2019.

~~13–918.~~

~~(a) The Comptroller shall honor income tax refund interception requests in the following order:~~

~~(1) a refund interception request to collect an unpaid State, county, or municipal tax;~~

~~(2) a refund interception request under Title 10, Subtitle 1, Part II of the Family Law Article;~~

~~(3) A REFUND INTERCEPTION REQUEST TO COLLECT AN INSURANCE RESPONSIBILITY AMOUNT UNDER § 14–201(C) OF THIS ARTICLE;~~

~~[~~(3)~~]~~ ~~(4)~~ ~~a refund interception request for converted funds under § 15–122.2 of the Health – General Article;~~

~~[(4)] (5) a refund interception request under § 3–304 of the State Finance and Procurement Article;~~

~~[(5)] (6) any other refund interception request by the State, county, or other political subdivision of the State;~~

~~[(6)] (7) a request for intercept made by a taxing official under Part IV of this subtitle; and~~

~~[(7)] (8) a request for intercept made by a federal official under Part VI of this subtitle.~~

~~TITLE 14. MINIMUM ESSENTIAL HEALTH COVERAGE.~~

~~SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.~~

~~14–101.~~

~~(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(B) "ADVISORY WORKGROUP" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~(C) "AFFORDABLE CARE ACT" HAS THE MEANING STATED IN § 1–101 OF THE INSURANCE ARTICLE.~~

~~(D) "ENROLLMENT PERIOD" MEANS THE ENROLLMENT PERIOD ESTABLISHED UNDER § 31–307(B) OF THE INSURANCE ARTICLE.~~

~~(E) "EXCHANGE" HAS THE MEANING STATED IN § 31–101 OF THE INSURANCE ARTICLE.~~

~~(F) "INSURANCE AFFORDABILITY PROGRAMS" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~(G) "INSURANCE–RELEVANT INFORMATION" HAS THE MEANING STATED IN § 2–215 OF THIS ARTICLE.~~

~~(H) "INSURANCE RESPONSIBILITY AMOUNT" MEANS THE AMOUNT AN INDIVIDUAL WHO FILES A STATE INCOME TAX RETURN IS REQUIRED TO PAY UNDER § 14–201(C) OF THIS TITLE.~~

~~(I) "MARYLAND HEALTH INSURANCE OPTION FUND" MEANS THE FUND ESTABLISHED UNDER § 31–204 OF THE INSURANCE ARTICLE.~~

~~(J) "MARYLAND MODIFIED ADJUSTED GROSS INCOME" MEANS THE SUM OF:~~

~~(1) MARYLAND ADJUSTED GROSS INCOME, AS DESCRIBED IN § 10–203 OF THIS ARTICLE; AND~~

~~(2) OTHER INCOME THAT:~~

~~(I) CAN BE ASCERTAINED BASED ENTIRELY ON INFORMATION PROVIDED ON THE PORTIONS OF THE STATE INCOME TAX RETURN THAT ARE NOT AFFECTED BY THIS ARTICLE; AND~~

~~(II) HAVE BEEN IDENTIFIED BY THE EXCHANGE, ON OR BEFORE JUNE 1 OF THE APPLICABLE TAXABLE YEAR, AS NECESSARY TO PREVENT SIGNIFICANT ERRORS IN THE DETERMINATION OF ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS.~~

~~(K) "MEDICAL HEALTH CARE" MEANS HEALTH TREATMENT BY OR SUPERVISED BY A MEDICAL DOCTOR THAT IS CUSTOMARILY COVERED BY HEALTH INSURANCE POLICIES QUALIFYING AS MINIMUM ESSENTIAL COVERAGE.~~

~~(L) "MINIMUM ESSENTIAL COVERAGE" HAS THE MEANING STATED IN § 31–101 OF THE INSURANCE ARTICLE.~~

~~(M) "POVERTY LINE" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~(N) "PROACTIVELY CONTACT" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~(O) "UNINSURED INDIVIDUAL" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~14–102.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND § 14–204(B) OF THIS TITLE, AN INSURANCE RESPONSIBILITY AMOUNT SHALL BE ASSESSED AND COLLECTED IN THE MANNER DESCRIBED IN TITLE 13 OF THIS ARTICLE.~~

~~(B) IN CONSULTATION WITH THE EXCHANGE AND THE ADVISORY WORKGROUP, THE COMPTROLLER MAY DEVELOP FORMS AND NOTICES THAT APPLY ONLY TO THE INSURANCE RESPONSIBILITY AMOUNT.~~

~~14–103.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES ONLY TO A TAXABLE YEAR THAT:~~

~~(I) BEGINS AFTER DECEMBER 31, 2018; AND~~

~~(II) ENDS BEFORE THE INDIVIDUAL RESPONSIBILITY TO MAINTAIN HEALTH COVERAGE, DESCRIBED IN § 14–201(B) OF THIS TITLE, TAKES EFFECT.~~

~~(2) IF THE COMPTROLLER DETERMINES, AFTER CONSULTATION WITH THE EXCHANGE, THAT THE IMPLEMENTATION OF THIS SECTION IS NOT ADMINISTRATIVELY FEASIBLE FOR A TAX YEAR THAT BEGINS AFTER DECEMBER 31, 2018, THE COMPTROLLER MAY DELAY IMPLEMENTATION OF THIS SECTION TO A TAX YEAR THAT BEGINS AFTER DECEMBER 31, 2019.~~

~~(B) IN CONSULTATION WITH THE EXCHANGE AND THE ADVISORY WORKGROUP, THE COMPTROLLER SHALL DEVELOP FORMS, INSTRUCTIONS, AND PROCEDURES THAT ACCOMPLISH THE FOLLOWING OBJECTIVES:~~

~~(1) IDENTIFY INDIVIDUALS WHO FILE A STATE INCOME TAX RETURN AND WHO WOULD POTENTIALLY BE LIABLE FOR AN INSURANCE RESPONSIBILITY AMOUNT UNDER § 14–201(C) OF THIS TITLE IF THE OBLIGATION DESCRIBED IN § 14–201(B) OF THIS TITLE HAD BEEN IN EFFECT DURING THE TAXABLE YEAR APPLICABLE TO THE RETURN;~~

~~(2) INFORM THE INDIVIDUALS OF THE ADVERSE CONSEQUENCES THAT COULD POTENTIALLY APPLY IF THEY CONTINUE TO LACK MINIMUM ESSENTIAL COVERAGE UNTIL THE DATE THE REQUIREMENT DESCRIBED IN § 14–201(B) OF THIS TITLE TAKES EFFECT; AND~~

~~(3) ALLOW AND ENCOURAGE INDIVIDUALS WHO ARE UNINSURED AT THE TIME A TAX RETURN IS FILED TO ENROLL IN HEALTH COVERAGE USING PROCEDURES DESCRIBED IN § 2–215 OF THIS ARTICLE AND TITLE 31, SUBTITLE 2 OF THE INSURANCE ARTICLE.~~

~~SUBTITLE 2. INDIVIDUAL RESPONSIBILITY TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.~~

~~14–201.~~

~~(A) THIS SUBTITLE DOES NOT APPLY TO A NONRESIDENT, INCLUDING A NONRESIDENT SPOUSE AND A NONRESIDENT DEPENDENT.~~

~~(B) BEGINNING JANUARY 1, 2021, AN INDIVIDUAL UNDER THE AGE OF 65 YEARS SHALL MAINTAIN MINIMUM ESSENTIAL COVERAGE FOR THE INDIVIDUAL AND EACH HOUSEHOLD MEMBER CLAIMED ON A TAX RETURN WHO IS UNDER THE AGE OF 65 YEARS.~~

~~(C) (1) EXCEPT AS PROVIDED UNDER §§ 14–203 AND 14–207 OF THIS SUBTITLE, IF THE COVERAGE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION IS NOT MAINTAINED FOR 3 OR MORE MONTHS OF THE TAXABLE YEAR, THE UNINSURED INDIVIDUAL SHALL PAY AN AMOUNT DETERMINED UNDER § 14–202 OF THIS SUBTITLE.~~

~~(2) ANY PAYMENT DUE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:~~

~~(I) IN ADDITION TO AND DUE ON THE SAME DATE AS THE STATE INCOME TAX DUE UNDER § 10–105(A) OF THIS ARTICLE; AND~~

~~(II) INCLUDED WITH OTHER PAYMENTS MADE IN ACCORDANCE WITH THE STATE INCOME TAX RETURN FILED BY THE INDIVIDUAL UNDER TITLE 10, SUBTITLE 8 OF THIS ARTICLE FOR THE TAXABLE YEAR THAT INCLUDES THE MONTHS IN WHICH COVERAGE WAS NOT MAINTAINED AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(3) IF AN INDIVIDUAL WHO IS SUBJECT TO A PAYMENT UNDER THIS SECTION FILES A JOINT STATE INCOME TAX RETURN UNDER § 10–807 OF THIS ARTICLE, THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE JOINTLY SHALL BE LIABLE FOR THE PAYMENT.~~

~~14–202.~~

~~(A) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE INSURANCE RESPONSIBILITY AMOUNT SHALL BE EQUAL TO THE GREATER OF:~~

~~(1) 2.5% OF THE SUM OF THE INDIVIDUAL'S MARYLAND MODIFIED ADJUSTED GROSS INCOME AND THE MARYLAND MODIFIED ADJUSTED GROSS INCOME OF ALL INDIVIDUALS CLAIMED ON THE INDIVIDUAL'S INCOME TAX RETURN, MINUS THE FILING THRESHOLD FOR FEDERAL INCOME TAX RETURNS APPLICABLE TO THE INDIVIDUAL; OR~~

~~(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE FOLLOWING AMOUNTS PER INDIVIDUAL:~~

~~(I) $695 FOR EACH ADULT; AND~~

~~(II) $347.50 FOR EACH CHILD UNDER 18 YEARS OLD.~~

~~(B) THE AMOUNTS SPECIFIED UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL BE ADJUSTED FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2019, IN ACCORDANCE WITH THIS SUBSECTION BY MULTIPLYING THE AMOUNT BY A PERCENTAGE EQUAL TO THE QUOTIENT OF:~~

~~(1) THE AVERAGE OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS AS OF THE CLOSE OF THE 12–MONTH PERIOD ENDING ON AUGUST 31 OF THE CALENDAR YEAR, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, USING THE REVISION OF THE CONSUMER PRICE INDEX THAT IS MOST CONSISTENT WITH THE CONSUMER PRICE INDEX FOR CALENDAR YEAR 1986; AND~~

~~(2) THE CONSUMER PRICE INDEX FOR 2019.~~

~~(B) THE INSURANCE RESPONSIBILITY AMOUNT MAY NOT EXCEED AN AMOUNT DETERMINED BY THE EXCHANGE ON OR BEFORE JUNE 1 OF THE TAXABLE YEAR THAT REPRESENTS THE LOWER OF:~~

~~(1) THE AVERAGE STATE PREMIUM FOR BRONZE–LEVEL PLANS; OR~~

~~(2) THE AVERAGE NATIONAL PREMIUM FOR BRONZE–LEVEL PLANS, IF THE EXCHANGE FINDS THAT THE AVERAGE CAN BE DETERMINED RELIABLY USING CREDIBLE DATA SOURCES.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE INSURANCE RESPONSIBILITY AMOUNT SHALL BE REDUCED:~~

~~(I) BY ANY PENALTY PAYMENT MADE TO THE FEDERAL GOVERNMENT UNDER 26 U.S.C. § 5000A AS A RESULT OF THE INDIVIDUAL OR ANOTHER MEMBER OF THE INDIVIDUAL'S HOUSEHOLD EXPERIENCING A PERIOD WITHOUT MINIMUM ESSENTIAL COVERAGE DURING THE TAXABLE YEAR; AND~~

~~(II) BY A PERCENTAGE THAT REFLECTS THE PORTION OF THE YEAR, IN TERMS OF MONTHS, DURING WHICH THE INDIVIDUAL OR THE INDIVIDUAL'S DEPENDENT WHO FAILED TO MAINTAIN THE COVERAGE REQUIRED BY § 14–201(B) OF THIS SUBTITLE FOR 3 OR MORE MONTHS OF THE TAX YEAR EITHER:~~

~~1. MAINTAINED MINIMUM ESSENTIAL COVERAGE; OR~~

~~2. WAS NOT A STATE RESIDENT.~~

~~(2) THE INSURANCE RESPONSIBILITY AMOUNT MAY NOT BE REDUCED BELOW $0.~~

~~14–203.~~

~~(A) AN INDIVIDUAL WHO FILES A TAX RETURN MAY NOT BE REQUIRED TO PAY AN INSURANCE RESPONSIBILITY AMOUNT FOR AN UNINSURED INDIVIDUAL WHO:~~

~~(1) QUALIFIES FOR AN EXEMPTION UNDER 26 U.S.C. § 5000A;~~

~~(2) IS NOT AN APPLICABLE INDIVIDUAL UNDER 26 U.S.C. § 5000A;~~

~~(3) HAD A MARYLAND MODIFIED ADJUSTED GROSS INCOME OF NOT MORE THAN 138% OF THE POVERTY LINE FOR THE TAX YEAR;~~

~~(4) SUBMITS A SWORN AFFIDAVIT WITH THE INCOME TAX RETURN AFFIRMING THAT THE UNINSURED INDIVIDUAL:~~

~~(I) DID NOT MAINTAIN MINIMUM ESSENTIAL COVERAGE BECAUSE OF SINCERELY HELD RELIGIOUS BELIEFS THAT CAUSE THE UNINSURED INDIVIDUALS TO OBJECT TO VIRTUALLY ALL FORMS OF TREATMENT THAT COULD BE COVERED BY HEALTH INSURANCE; AND~~

~~(II) DID NOT OBTAIN MEDICAL HEALTH CARE DURING THE TAX YEAR;~~

~~(5) HAS BECOME ENROLLED IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM AT THE TIME THE RETURN IS FILED;~~

~~(6) MEETS THE REQUIREMENTS OF § 14–207(A) OF THIS SUBTITLE;~~

~~(7) MEETS THE QUALIFICATIONS DESCRIBED IN § 14–207(B) OF THIS SUBTITLE; OR~~

~~(8) IS EXEMPT UNDER STANDARDS ADOPTED BY THE EXCHANGE, IN CONSULTATION WITH THE COMPTROLLER.~~

~~(B) (1) IN DETERMINING WHETHER AN UNINSURED INDIVIDUAL IS EXEMPT UNDER SUBSECTION (A)(1) OR (2) OF THIS SECTION:~~

~~(I) FOR PURPOSES OF AN EXEMPTION UNDER 26 U.S.C. § 5000A, THE REQUIRED CONTRIBUTION FOR AN INDIVIDUAL ELIGIBLE FOR MINIMUM ESSENTIAL COVERAGE UNDER BOTH AN ELIGIBLE EMPLOYER–SPONSORED PLAN AND A QUALIFIED HEALTH PLAN IS THE LESSER OF THE AMOUNTS THAT THE INDIVIDUAL WOULD HAVE TO PAY FOR COVERAGE OF EACH TYPE;~~

~~(II) FOR PURPOSES OF A HOUSEHOLD WITH A MARYLAND MODIFIED ADJUSTED GROSS INCOME ABOVE 138% AND AT OR BELOW 250% OF THE POVERTY LINE FOR THE TAX YEAR, THE INDIVIDUAL SHALL BE EXEMPT BASED ON AN INABILITY TO AFFORD COVERAGE IF THE INDIVIDUAL'S REQUIRED CONTRIBUTION FOR MINIMUM ESSENTIAL COVERAGE EXCEEDS:~~

~~1. FOR AN INDIVIDUAL WITH A MARYLAND MODIFIED ADJUSTED GROSS INCOME AT OR BELOW 150% OF THE POVERTY LINE FOR THE TAX YEAR, 3% OF THE INDIVIDUAL'S MARYLAND MODIFIED ADJUSTED GROSS INCOME;~~

~~2. FOR AN INDIVIDUAL WITH A MARYLAND MODIFIED ADJUSTED GROSS INCOME ABOVE 150% AND AT OR BELOW 200% OF THE POVERTY LINE FOR THE TAX YEAR, 4% OF THE INDIVIDUAL'S MARYLAND MODIFIED ADJUSTED GROSS INCOME; OR~~

~~3. FOR AN INDIVIDUAL WITH A MARYLAND MODIFIED ADJUSTED GROSS INCOME ABOVE 200% OF THE POVERTY LINE FOR THE TAX YEAR, 6.3% OF THE INDIVIDUAL'S MARYLAND MODIFIED ADJUSTED GROSS INCOME.~~

~~(2) THE EXCHANGE SHALL MAKE DETERMINATIONS, IN ACCORDANCE WITH STANDARDS ADOPTED BY THE EXCHANGE, AS TO WHETHER AN UNINSURED INDIVIDUAL IS EXEMPT UNDER SUBSECTION (A) OF THIS SECTION.~~

~~14–204.~~

~~(A) AN INDIVIDUAL WHO FILES A TAX RETURN SHALL INDICATE ON THE INCOME TAX RETURN, IN THE FORM REQUIRED BY THE COMPTROLLER, WHETHER MINIMUM ESSENTIAL COVERAGE WAS MAINTAINED AS REQUIRED UNDER § 14–201(B) OF THIS SUBTITLE OR WHETHER AN EXEMPTION IS CLAIMED FOR AN UNINSURED INDIVIDUAL IDENTIFIED BY THE TAX RETURN.~~

~~(B) (1) AN INDIVIDUAL SHALL HAVE THE RIGHT TO APPEAL TO THE EXCHANGE, IN ACCORDANCE WITH THE PROCEDURES OF § 10–222 OF THE STATE GOVERNMENT ARTICLE, AN INSURANCE RESPONSIBILITY PAYMENT OR THE DENIAL OF AN EXEMPTION UNDER § 14–203 OF THIS SUBTITLE.~~

~~(2) IN CONDUCTING AN APPEAL, THE EXCHANGE SHALL INCORPORATE PROCEDURES TO SAFEGUARD TAXPAYER RIGHTS WITHOUT IMPOSING UNDUE ADMINISTRATIVE BURDENS, WHILE USING THE APPEALS PROCESS AS AN OPPORTUNITY TO FACILITATE ENROLLMENT IN MINIMUM ESSENTIAL COVERAGE FOR UNINSURED INDIVIDUALS.~~

~~(3) NOTWITHSTANDING § 3–103 OF THIS ARTICLE, ANY APPEAL OF A DECISION BY THE EXCHANGE UNDER THIS SUBSECTION SHALL BE GOVERNED BY § 10–222 OF THE STATE GOVERNMENT ARTICLE.~~

~~14–205.~~

~~THE COMPTROLLER SHALL DISTRIBUTE THE REVENUE FROM THE INSURANCE RESPONSIBILITY AMOUNT TO THE EXCHANGE, FOR DEPOSIT INTO THE MARYLAND HEALTH INSURANCE OPTION FUND.~~

~~14–206.~~

~~(A) THE COMPTROLLER PROMPTLY SHALL NOTIFY THE EXCHANGE IF:~~

~~(1) AN INDIVIDUAL WHO FILED A TAX RETURN ELECTED THE OPTION DESCRIBED IN § 2–115(C)(3) OF THIS ARTICLE FOR AN UNINSURED INDIVIDUAL; AND~~

~~(2) A DETERMINATION OF WHETHER AN INSURANCE RESPONSIBILITY AMOUNT IS DUE OR THE AMOUNT OF THE PAYMENT HAS BEEN SUSPENDED, INCLUDING DUE TO FACTORS RELATED TO THE RETURN OTHER THAN AS DESCRIBED IN § 2–115 OF THIS ARTICLE.~~

~~(B) ON RECEIPT OF THE NOTICE GIVEN UNDER SUBSECTION (A) OF THIS SECTION, THE EXCHANGE PROACTIVELY SHALL CONTACT THE INDIVIDUAL WHO FILED THE TAX RETURN OR THE UNINSURED INDIVIDUAL DESCRIBED IN THE NOTICE TO EXPLAIN THE UNINSURED INDIVIDUAL'S OPTIONS AND TO FACILITATE A DETERMINATION OF ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS AND ENROLLMENT IN MINIMUM ESSENTIAL COVERAGE.~~

~~(C) THE EXCHANGE MAY EXTEND THE ENROLLMENT PERIOD, AS DETERMINED APPROPRIATE BY THE EXCHANGE, FOR AN INDIVIDUAL WITH RESPECT TO WHOM NOTICE WAS GIVEN TO THE EXCHANGE UNDER SUBSECTION (A) OF THIS SECTION.~~

~~14–207.~~

~~(A) THIS SECTION DOES NOT APPLY TO TAXABLE YEARS THAT BEGIN AFTER A DATE SPECIFIED BY THE COMPTROLLER IF THE EXCHANGE MAKES THE~~

~~DETERMINATION TO IMPLEMENT POLICIES AND A PROCESS FOR ZERO–ADDITIONAL–COST PLANS AS DESCRIBED IN § 31–207(D) OF THE INSURANCE ARTICLE.~~

~~(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INDIVIDUAL MAY NOT BE REQUIRED TO PAY AN INSURANCE RESPONSIBILITY AMOUNT IF THE INDIVIDUAL FILING THE APPLICABLE TAX RETURN:~~

~~(1) MAKES THE ELECTION DESCRIBED IN § 2–115(C)(3) OF THIS ARTICLE;~~

~~(2) FILES THE RETURN ON OR BEFORE A DATE SPECIFIED BY THE EXCHANGE; AND~~

~~(3) CERTIFIES THAT AN UNINSURED INDIVIDUAL:~~

~~(I) AT THE TIME THE RETURN IS FILED, HAS BEEN UNINSURED CONTINUOUSLY FOR AT LEAST 3 MONTHS;~~

~~(II) WILL ENROLL IN MINIMUM ESSENTIAL COVERAGE WITHIN THE ENROLLMENT PERIOD; AND~~

~~(III) WILL MAINTAIN THE COVERAGE THROUGH THE END OF THE CALENDAR YEAR DURING WHICH THE RETURN IS FILED.~~

~~(C) THE DATE SPECIFIED BY THE EXCHANGE FOR PURPOSES OF SUBSECTION (B)(2) OF THIS SECTION MAY NOT BE LATER THAN THE DATE SPECIFIED IN § 10–820(A) OF THE TAX – GENERAL ARTICLE.~~

~~(D) EXCEPT AS PROVIDED IN SUBSECTIONS (E) THROUGH (I) OF THIS SECTION, AN INDIVIDUAL MAY NOT BE REQUIRED TO PAY AN INSURANCE RESPONSIBILITY AMOUNT IF:~~

~~(1) THE IMMEDIATELY PRECEDING TAXABLE YEAR'S RETURN FILED BY OR ON BEHALF OF AN UNINSURED INDIVIDUAL MET THE REQUIREMENTS DESCRIBED IN SUBSECTION (B) OF THIS SECTION;~~

~~(2) MINIMUM ESSENTIAL COVERAGE BEGAN BY THE DATE DESCRIBED IN SUBSECTION (B) OF THIS SECTION; AND~~

~~(3) THE UNINSURED INDIVIDUAL RETAINED MINIMUM ESSENTIAL COVERAGE THROUGH THE END OF THE CALENDAR YEAR, AS PROMISED IN THE CERTIFICATION.~~

~~(E) EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, IF A CERTIFICATION IS MADE ON BEHALF OF AN UNINSURED INDIVIDUAL UNDER SUBSECTION (B) OF THIS SECTION AND THE UNINSURED INDIVIDUAL DOES NOT OBTAIN AND RETAIN MINIMUM ESSENTIAL COVERAGE THROUGHOUT THE PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THEN THE UNINSURED INDIVIDUAL SHALL:~~

~~(1) BECOME RETROACTIVELY INELIGIBLE FOR THE EXEMPTION CLAIMED, UNDER THAT CERTIFICATION, ON THE PREVIOUS YEAR'S TAX RETURN; AND~~

~~(2) BE INELIGIBLE FOR AN EXEMPTION ON THE CURRENT TAX YEAR'S RETURN.~~

~~(F) (1) IN DETERMINING WHETHER SUBSECTION (E) OF THIS SECTION APPLIES TO AN UNINSURED INDIVIDUAL, THE COMPTROLLER'S INITIAL DETERMINATION MAY RELY ON REPORTS PROVIDED UNDER § 14–301 OF THIS TITLE.~~

~~(2) THE UNINSURED INDIVIDUAL OR INDIVIDUAL WHO FILED THE TAX RETURN MAY APPEAL THE COMPTROLLER'S INITIAL DETERMINATION, USING THE PROCEDURES DESCRIBED IN SUBSECTION (B) OF THIS SECTION.~~

~~(G) IF AN UNINSURED INDIVIDUAL BECOMES RETROACTIVELY INELIGIBLE UNDER SUBSECTION (E)(1) OF THIS SECTION, THE INCOME TAX OWED ON BEHALF OF THE UNINSURED INDIVIDUAL ON THE CURRENT TAX YEAR'S RETURN SHALL INCREASE BY THE SUM OF:~~

~~(1) THE INSURANCE RESPONSIBILITY AMOUNT THAT WOULD HAVE BEEN REQUIRED ON THE PREVIOUS TAX YEAR'S RETURN; AND~~

~~(2) INTEREST FOR LATE PAYMENT OF TAX, CALCULATED BASED ON THE INDIVIDUAL RESPONSIBILITY AMOUNT DESCRIBED IN ITEM (1) OF THIS SUBSECTION.~~

~~(H) (1) SUBSECTION (E) OF THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO AN INDIVIDUAL WHO:~~

~~(I) EITHER:~~

~~1. DELAYS THE START OF COVERAGE BEYOND THE ENROLLMENT PERIOD; OR~~

~~2. TERMINATES COVERAGE BEFORE THE END OF THE CALENDAR YEAR AS REQUIRED BY SUBSECTION (B)(3)(III) OF THIS SECTION; AND~~

~~(II) BEFORE THE DELAY OR TERMINATION, OBTAINS A DETERMINATION BY THE EXCHANGE THAT THE RESULTING COVERAGE GAP EITHER:~~

~~1. SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, QUALIFIES FOR AN EXEMPTION UNDER § 14–203 OF THIS SUBTITLE, OR~~

~~2. INVOLVES AN INDIVIDUAL WHO IS NO LONGER A STATE RESIDENT.~~

~~(2) THE EXEMPTION FOR SHORT COVERAGE GAPS UNDER § 5000A(E)(4) OF THE INTERNAL REVENUE CODE MAY NOT BE USED FOR THE PURPOSE OF PARAGRAPH (1)(II)1 OF THIS SUBSECTION.~~

~~(I) THE EXCHANGE MAY REQUIRE OR ALLOW THE PROVISION OF NOTICES THAT:~~

~~(1) ARE ISSUED BY THE EXCHANGE OR CARRIERS SPONSORING QUALIFIED HEALTH PLANS;~~

~~(2) INFORM INDIVIDUALS WHO HAVE MADE THE CERTIFICATION DESCRIBED IN SUBSECTION (B)(3)(II) AND (III) OF THIS SECTION ABOUT THE CONSEQUENCES OF FAILING TO COMPLY WITH THE CERTIFICATION;~~

~~(3) ENCOURAGE THE INDIVIDUALS TO COMPLY WITH THE CERTIFICATIONS DESCRIBED IN SUBSECTION (B)(3)(II) AND (III) OF THIS SECTION BY OBTAINING AND RETAINING MINIMUM ESSENTIAL COVERAGE; AND~~

~~(4) PROMPTLY INFORM THE COMPTROLLER WHEN AN INDIVIDUAL WHO MADE THE CERTIFICATIONS DESCRIBED IN SUBSECTION (B)(3)(II) AND (III) OF THIS SECTION FAILS TO COMPLY WITH THE CERTIFICATIONS.~~

~~SUBTITLE 3. STATE–BASED INFORMATION SYSTEM.~~

~~14–301.~~

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

~~(B) "APPLICABLE ENTITY" MEANS:~~

~~(1) WITH RESPECT TO EMPLOYMENT–BASED MINIMUM ESSENTIAL COVERAGE, AN EMPLOYER OR OTHER SPONSOR OF AN EMPLOYMENT–BASED HEALTH PLAN;~~

~~(2) WITH RESPECT TO COVERAGE PROVIDED THROUGH THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE MARYLAND DEPARTMENT OF HEALTH; OR~~

~~(3) WITH RESPECT TO ANY OTHER MINIMUM ESSENTIAL COVERAGE PROVIDED, CARRIERS LICENSED OR OTHERWISE AUTHORIZED TO OFFER MINIMUM ESSENTIAL COVERAGE.~~

~~(C) "TAXPAYER IDENTIFICATION NUMBER" MEANS THE NUMBER REQUIRED TO BE INCLUDED ON A FEDERAL INCOME TAX RETURN UNDER 26 U.S.C. § 6109.~~

~~14–302.~~

~~(A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, EACH APPLICABLE ENTITY THAT PROVIDES MINIMUM ESSENTIAL COVERAGE TO AN INDIVIDUAL DURING A CALENDAR YEAR SHALL, AT THE TIME AND IN THE FORM DETERMINED BY THE COMPTROLLER, PROVIDE AN INFORMATION REPORT THAT INCLUDES:~~

~~(1) THE NAME, ADDRESS, AND TAXPAYER IDENTIFICATION NUMBER OF THE PRIMARY INSURED INDIVIDUAL;~~

~~(2) THE NAME AND TAXPAYER IDENTIFICATION NUMBER OF EACH INDIVIDUAL OBTAINING COVERAGE UNDER THE POLICY;~~

~~(3) THE DATES DURING WHICH EACH INDIVIDUAL WAS COVERED UNDER MINIMUM ESSENTIAL COVERAGE DURING THE CALENDAR YEAR; AND~~

~~(4) ANY OTHER INFORMATION THE COMPTROLLER REQUIRES.~~

~~(B) (1) A REPORT IS DEEMED TO MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IF THE REPORT:~~

~~(I) INCLUDES THE INFORMATION CONTAINED IN A RETURN DESCRIBED IN § 6055 OF THE INTERNAL REVENUE CODE OF 1986; OR~~

~~(II) CONSISTS OF THE APPLICABLE ELECTRONIC FILE PROVIDED UNDER THAT SECTION TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF THE TREASURY.~~

~~(2) AN APPLICABLE ENTITY IS NOT REQUIRED TO FILE A REPORT WITH THE COMPTROLLER IF THE U.S. TREASURY DEPARTMENT PROVIDES THE~~

~~SAME INFORMATION TO THE COMPTROLLER, BASED ON INFORMATION IN RETURNS FILED UNDER § 6055 OF THE INTERNAL REVENUE CODE OF 1986.~~

~~(C) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, EACH APPLICABLE ENTITY REQUIRED TO MAKE A REPORT UNDER THIS SECTION SHALL PROVIDE TO EACH INDIVIDUAL IDENTIFIED IN THE REPORT A WRITTEN STATEMENT THAT INCLUDES:~~

~~(1) THE NAME AND ADDRESS OF THE ENTITY REQUIRED TO PROVIDE THE FORM AND THE PHONE NUMBER OF THE INFORMATION CONTACT FOR THE ENTITY; AND~~

~~(2) THE INFORMATION REQUIRED TO BE SHOWN, WITH RESPECT TO THE INDIVIDUAL, ON THE REPORT DESCRIBED IN SUBSECTION (B) OF THIS SECTION.~~

~~(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, AN APPLICABLE ENTITY SHALL PROVIDE THE WRITTEN STATEMENT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE JANUARY 31 OF EACH CALENDAR YEAR IMMEDIATELY FOLLOWING THE CALENDAR YEAR IN WHICH MINIMUM ESSENTIAL COVERAGE WAS PROVIDED TO THE INDIVIDUAL BY THE APPLICABLE ENTITY.~~

~~(E) AN APPLICABLE ENTITY THAT PROVIDES A REPORT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION IS NOT REQUIRED TO PROVIDE THE RESIDENT WITH THE STATEMENT DESCRIBED IN SUBSECTIONS (C) AND (D) OF THIS SECTION.~~

~~(F) IN THE CASE OF COVERAGE PROVIDED BY AN APPLICABLE ENTITY THAT IS A GOVERNMENTAL UNIT OR AN AGENCY OR INSTRUMENTALITY OF A GOVERNMENTAL UNIT, THE OFFICER OR EMPLOYEE WHO ENTERS INTO THE AGREEMENT TO PROVIDE THE COVERAGE SHALL BE RESPONSIBLE FOR THE REPORTS AND STATEMENTS REQUIRED BY THIS SECTION.~~

~~(G) AN APPLICABLE ENTITY MAY CONTRACT WITH THIRD–PARTY SERVICE PROVIDERS, INCLUDING INSURANCE CARRIERS, TO PROVIDE THE REPORTS AND STATEMENTS REQUIRED BY THIS SECTION.~~

~~(H) THE COMPTROLLER MAY CONVEY TO THE EXCHANGE INFORMATION IT RECEIVES UNDER THIS SECTION, IF THE COMPTROLLER DETERMINES THAT THE INFORMATION WOULD HELP THE STATE IMPLEMENT MORE EFFECTIVELY THE MARYLAND HEALTH INSURANCE OPTION, ESTABLISHED UNDER § 31–202 OF THE INSURANCE ARTICLE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that all references contained in this Act to federal law included in, modified by, or promulgated to help implement the federal Patient Protection and Affordable Care Act, as amended by the federal Health Care and Education Reconciliation Act of 2010, and any regulations adopted or guidance issued under the Acts, shall be the provision in effect on or before December 15, 2017.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before November 1, 2021, the Health Insurance Option Advisory Workgroup required to be established under § 31–203 of the Insurance Article, as enacted by Section 1 of this Act, shall:~~

~~(1) conduct a study on whether adding an automatic or default enrollment policy for the individual market, through which individuals would be enrolled by default in zero–additional–cost plans unless they opt out of the coverage or elect a different plan, would be beneficial to the State; and~~

~~(2) report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on its recommendations resulting from the study.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that in developing returns, instructions, forms, and procedures to implement Section 1 of this Act, the Maryland Health Benefits Exchange, the Comptroller, and the Maryland Department of Health shall use language and procedures that, to the maximum extent possible:~~

~~(1) are simple, clear, and easy to understand;~~

~~(2) are effective in encouraging residents of the State to obtain and retain health coverage; and~~

~~(3) make it as easy as possible for residents of the State to obtain and retain health coverage.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program* Advisory Workgroup required to be established under § 31–203 of the Insurance Article, as enacted by Section 1 of this Act, shall:

(1) advise the Comptroller on the language the Comptroller is required to develop under § 2–115(c) of the Tax – General Article, as enacted by Section 1 of this Act; and

(2) on or before December 31, 2022, report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on:

(i) the effectiveness of the Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program* established under Section 1 of this Act;

(ii) recommendations as to whether implementing an individual responsibility amount or implementing automatic enrollment of individuals in a qualified health benefit plan in the individual market is feasible and in the best interest of the State; and

(iii) if the Workgroup determines that implementing an insurance responsibility amount is feasible and in the best interest of the State, the dollar amount of the individual responsibility amount and whether the State should provide an individual the option of obtaining health insurance instead of paying the individual responsibility amount.

SECTION 3. AND BE IT FURTHER ENACTED, That the Comptroller shall:

(1) ensure that the integrated tax system to which the Office of the Comptroller is currently transitioning is a system that has the capability to collect individual responsibility amounts; and

(2) on or before December 1, 2020, report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the progress the Office of the Comptroller has made in transitioning to the integrated tax system and the costs and time needed to include functionality to process and collect individual responsibility amounts in the integrated tax system.

SECTION ~~5.~~ 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, in the case of an uninsured minor child, communications regarding insurance affordability programs or enrollment in minimum essential coverage may be addressed to the child's parent or guardian.

SECTION ~~6.~~ 5. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~7.~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 424

(Senate Bill 802)

AN ACT concerning

~~**Maryland Health Insurance Option**~~
~~**(Protect Maryland Health Care Act of 2019)**~~
Maryland Easy Enrollment Health Insurance Program

FOR the purpose of establishing the Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program* and the purpose of the ~~Option~~ *Program*; requiring the Maryland Health Benefit Exchange, the Maryland Department of Health, and the State Comptroller to develop and implement certain systems, policies, and practices; requiring certain systems, policies, and practices, except under certain circumstances, to be operational on or before a certain date and available for use by certain individuals when filing certain tax returns; authorizing the Exchange, the Comptroller, and the Department to take certain action to facilitate the implementation of the ~~Option~~ *Program*; requiring the Exchange to establish a Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program* Advisory Workgroup; ~~establishing the Maryland Health Insurance Option Fund; providing for the purpose and administration of the Fund; requiring the Exchange to prepare certain reports on the Fund;~~ requiring the Exchange or the Department to determine eligibility for certain insurance affordability programs under certain circumstances; establishing certain eligibility determination and enrollment procedures and requirements; requiring the Department to assign a certain individual to and enroll a certain individual in a managed care organization plan under certain circumstances; requiring the Exchange to develop certain data privacy and data security safeguards; ~~exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State;~~ requiring the Comptroller to include a certain checkoff on a certain State income tax return form; requiring a certain State income tax return to be required to include certain information on certain uninsured individuals and ~~authorizing~~ requiring the Comptroller to include a certain separate form ~~for the information~~; providing an individual that files a certain tax return with a certain option to indicate certain preferences for contact from the Exchange; requiring the Comptroller to include in a certain form a certain number of ~~check–off~~ *checkoff* boxes that specify a certain individual's options; requiring the Comptroller, in consultation with the Exchange and with the advice of the Workgroup, to develop certain language for certain ~~check–off~~ *checkoff* boxes and instructions ~~and provide a certain draft of the language to the Exchange and the Advisory Workgroup; requiring the Comptroller to honor a refund interception request for an insurance responsibility amount following a certain order; requiring that a certain insurance responsibility amount be assessed and collected in a certain manner; authorizing the Comptroller to develop certain forms and notices~~; ~~providing for the application of certain provisions of this Act; requiring certain individuals who are under a certain age to maintain certain minimum essential coverage for the individual and certain household members; requiring a certain individual to pay a certain amount if certain coverage is not maintained for a certain period of time of a certain taxable year; establishing certain requirements for calculating an insurance responsibility amount; providing for certain exemptions from the insurance responsibility amount under certain circumstances; requiring certain individuals to indicate certain~~

~~minimum essential coverage on a certain income tax return; providing for an appeal process for certain payments and denials of exemptions; requiring the Comptroller to distribute certain revenue into the Fund; requiring the Comptroller to notify the Exchange of a certain suspension of payment; requiring the Exchange to engage in certain contact with a certain individual identified by a certain notice and facilitate certain eligibility and enrollment in certain insurance affordability programs under certain circumstances; authorizing the Exchange to extend a certain enrollment period under certain circumstances; prohibiting certain individuals from being required to pay a certain insurance responsibility amount if the individual makes a certain election and certifies that a certain uninsured individual will enroll in certain coverage within a certain enrollment period; providing for certain retroactive ineligibility for a certain exemption if an uninsured individual does not comply with a certain certification; providing that certain retroactive ineligibility does not apply under certain circumstances; authorizing the Exchange to require or permit certain notice;~~ providing for the application of certain provisions of this Act; ~~requiring certain entities that provide minimum essential coverage to certain individuals in a certain calendar year to provide the Comptroller with certain reports that include certain information; requiring certain entities to provide certain statements to certain individuals identified in certain reports on or before certain dates; authorizing~~ requiring the Comptroller to convey to the Exchange certain information under certain circumstances; defining certain terms; altering a certain term; ~~stating the legislative intent of the General Assembly;~~ requiring the Advisory Workgroup to advise the Comptroller on certain language and to submit a certain report to the General Assembly on or before a certain date; requiring the Comptroller to ensure that a certain tax system has certain capability and to submit a certain report to the General Assembly on or before a certain date; providing for the severability of this Act; and generally relating to individual health coverage.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 31–101(a), (e), (g), (h), (o–2), and (r)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 31–101(o–1)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Insurance
Section 31–201 through ~~31–208~~ 31–207 to be under the new subtitle "Subtitle 2. Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program*"
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – State Finance and Procurement~~
~~Section 6–226(a)(2)(i)~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – State Finance and Procurement~~
~~Section 6–226(a)(2)(ii)112. and 113.~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

~~BY adding to~~
~~Article – State Finance and Procurement~~
~~Section 6–226(a)(2)(ii)114.~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

BY adding to
Article – Tax – General
Section 2–115~~; and 14–101 through 14–302 to be under the new title "Title 14. Minimum Essential Health Coverage"~~
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Tax – General~~
~~Section 13–918(a)~~
~~Annotated Code of Maryland~~
~~(2016 Replacement Volume and 2018 Supplement)~~

~~Preamble~~

~~WHEREAS, The Affordable Care Act has helped thousands of Maryland residents obtain the financial security and access to health care that results from health coverage; and~~

~~WHEREAS, Health care cost growth has slowed since the Affordable Care Act's implementation; and~~

~~WHEREAS, Health care costs in Maryland remain higher than many families can afford; and~~

~~WHEREAS, Despite the progress achieved under the Affordable Care Act, more work is needed to bring more residents within the circle of coverage, thereby limiting insurance costs for all State residents; and~~

~~WHEREAS, Federal legislation passed in 2017 undermined this progress by eliminating the federal government's role in enforcing the individual responsibility requirements of the Affordable Care Act, resulting in higher premium costs and more uninsured individuals in Maryland; and~~

~~WHEREAS, The General Assembly is committed to filling the gap left by the federal government by implementing an approach to the Affordable Care Act's individual responsibility requirement that helps the uninsured receive coverage whenever possible; and~~

~~WHEREAS, That commitment requires a State–based reporting system that provides information about the health insurance status of Maryland residents for successful implementation; and~~

~~WHEREAS, There is compelling evidence that third–party reporting is crucial for ensuring compliance with tax provisions and providing a good source of third–party reporting to help taxpayers and State officials verify whether an applicable individual maintains minimum essential coverage; and~~

~~WHEREAS, Collection of the insurance responsibility amount is necessary to protect the compelling State interests of protecting the health and welfare of State residents, fostering economic stability and growth, ensuring a stable and well–functioning health insurance market, and ensuring accurate determination of eligibility for premium tax credits; and~~

~~WHEREAS, An effective State–level individual responsibility requirement, with a strong definition of minimum essential coverage consistent with December 2017 rules for the individual and small–group markets, may be the only way to fully protect current insurance markets from instability in health insurance markets, including higher prices and the possibility of areas without any insurance available; and~~

~~WHEREAS, Ensuring the stability of insurance markets, through maximizing the enrollment of eligible individuals, including those with favorable health risks, is a responsibility reserved for states under the McCarran–Ferguson Act and other federal law; and~~

~~WHEREAS, Accuracy in determining eligibility for insurance affordability programs, including premium tax credits, is essential to maintaining the integrity and viability of such programs, on which hundreds of thousands of State residents rely for their health coverage; now, therefore,~~

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

Article – Insurance

31–101.

(a) In this title the following words have the meanings indicated.

(e) (1) "Exchange" means the Maryland Health Benefit Exchange established as a public corporation under § 31–102 of this title.

(2) "Exchange" includes:

(i) the Individual Exchange; and

(ii) the Small Business Health Options Program (SHOP Exchange).

(g) (1) "Health benefit plan" means a policy, contract, certificate, or agreement offered, issued, or delivered by a carrier to an individual or small employer in the State to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(2) "Health benefit plan" does not include:

(i) coverage only for accident or disability insurance or any combination of accident and disability insurance;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit–only insurance;

(vii) coverage for on–site medical clinics; or

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to the federal Health Insurance Portability and Accountability Act, under which benefits for health care services are secondary or incidental to other insurance benefits.

(3) "Health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of the plan:

(i) limited scope dental or vision benefits;

(ii) benefits for long–term care, nursing home care, home health care, community–based care, or any combination of these benefits; or

(iii) such other similar limited benefits as are specified in federal regulations issued pursuant to the federal Health Insurance Portability and Accountability Act.

(4) "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to whether the benefits are provided under any group health plan maintained by the same plan sponsor:

(i) coverage only for a specified disease or illness;

(ii) group hospital indemnity or other fixed indemnity insurance, if the benefits are payable in a fixed dollar amount per period of time, such as $100 per day of hospitalization, regardless of the amount of expenses incurred; or

(iii) individual hospital indemnity or other fixed indemnity insurance, if:

1. the benefits are paid in a fixed dollar amount per period of hospitalization, illness, or service, regardless of the amount of expenses incurred and of the amount of benefits provided with respect to the event or service under any other health coverage; and

2. a notice is displayed prominently in the application materials, in at least 14 point type, that has the following language in capital letters: "This is a supplement to health insurance and is not a substitute for major medical coverage. Lack of major medical coverage (or other minimum essential coverage) may result in an additional payment with your taxes.".

(5) "Health benefit plan" does not include the following if offered as a separate policy, certificate, or contract of insurance:

(i) Medicare supplemental insurance (as defined under § 1882(g)(1) of the Social Security Act);

(ii) coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)); or

(iii) similar supplemental coverage provided to coverage under a group health plan if the coverage qualifies for the exception described in 45 C.F.R. § 146.145(b)(5)(i)(C).

(h) "Individual Exchange" means the division of the Exchange that serves the individual health insurance market.

(o–1) **(1)** "Minimum essential coverage" **[**has the meaning stated in 26 U.S.C. § 5000A**]** **MEANS:**

(I) MEDICARE;

(II) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(III) THE MARYLAND CHILDREN'S HEALTH INSURANCE PROGRAM;

(IV) MEDICAL COVERAGE UNDER 10 U.S.C. §§ 1071 THROUGH 1110B;

(V) A HEALTH CARE PROGRAM UNDER 38 U.S.C. §§ 1701 THROUGH 1788 OR 38 U.S.C. §§ 1802 THROUGH 1834, AS DETERMINED BY THE SECRETARY OF VETERANS AFFAIRS IN COORDINATION WITH THE SECRETARY OF HEALTH AND HUMAN SERVICES AND THE SECRETARY OF THE TREASURY;

(VI) A HEALTH PLAN UNDER 22 U.S.C. § 2504(E);

(VII) THE NONAPPROPRIATED FUND HEALTH BENEFITS PROGRAM OF THE DEPARTMENT OF DEFENSE, ESTABLISHED UNDER 10 U.S.C. § 1587;

(VIII) COVERAGE UNDER AN ELIGIBLE EMPLOYER–SPONSORED PLAN, AS DEFINED IN 26 U.S.C. § 5000A;

(IX) COVERAGE UNDER A HEALTH PLAN OFFERED IN THE INDIVIDUAL MARKET IN THE STATE;

(X) COVERAGE UNDER A GRANDFATHERED HEALTH PLAN; OR

(XI) OTHER COVERAGE AS THE ~~SECRETARY OF HEALTH AND HUMAN SERVICES, IN COORDINATION WITH THE SECRETARY OF THE TREASURY, RECOGNIZES FOR PURPOSES OF 26 U.S.C. § 5000A~~ EXCHANGE RECOGNIZES, CONSISTENT WITH POLICY GOALS OF SUBTITLE 2 OF THIS TITLE.

(2) "MINIMUM ESSENTIAL COVERAGE" DOES NOT INCLUDE:

(I) HEALTH INSURANCE COVERAGE THAT CONSISTS OF COVERAGE OF EXCEPTED BENEFITS DESCRIBED IN:

1. § 2791(C)(1) OF THE PUBLIC HEALTH SERVICE ACT; OR

2. § 2791(C)(2), (3), OR (4) OF THE PUBLIC HEALTH SERVICE ACT IF THE BENEFITS ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE;

(II) A SHORT–TERM LIMITED DURATION INSURANCE;

(III) AN ASSOCIATION HEALTH PLAN THAT FAILS TO MEET THE REQUIREMENTS OF THE STATE SMALL GROUP MARKET OR, IN THE CASE OF A PLAN PURCHASED BY SOLE PROPRIETORS, THE STATE INDIVIDUAL MARKET; OR

(IV) ANOTHER FORM OF COVERAGE IDENTIFIED BY THE EXCHANGE THAT:

1. DOES NOT MEET THE REQUIREMENTS OF TITLE I OF THE AFFORDABLE CARE ACT; AND

2. UNDERMINES THE STABILITY OR INCREASES AVERAGE PREMIUMS IN THE INDIVIDUAL OR SMALL GROUP MARKET.

(o–2) "Plan year" has the meaning stated in § 15–1201 of this article.

(r) "Qualified health plan" means a health benefit plan that has been certified by the Exchange to meet the criteria for certification described in § 1311(c) of the Affordable Care Act and § 31–115 of this title.

SUBTITLE 2. MARYLAND ~~HEALTH INSURANCE OPTION~~ *EASY ENROLLMENT HEALTH INSURANCE PROGRAM*.

31–201.

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

(B) "ADVISORY WORKGROUP" MEANS THE MARYLAND ~~HEALTH INSURANCE OPTION~~ *EASY ENROLLMENT HEALTH INSURANCE PROGRAM* ADVISORY WORKGROUP ESTABLISHED UNDER § 31–203 OF THIS SUBTITLE.

(C) "COST–SHARING REDUCTION" MEANS A REDUCTION DESCRIBED IN § 1402(C) OF THE AFFORDABLE CARE ACT.

(D) "DEPARTMENT" MEANS THE MARYLAND DEPARTMENT OF HEALTH.

~~(E) "FUND" MEANS THE MARYLAND HEALTH INSURANCE OPTION FUND ESTABLISHED UNDER § 31–204 OF THIS SUBTITLE.~~

~~(F)~~ (E) "INSURANCE AFFORDABILITY PROGRAM" MEANS:

(1) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(2) THE MARYLAND CHILDREN'S HEALTH PROGRAM;

(3) PREMIUM TAX CREDITS; OR

(4) COST–SHARING REDUCTIONS.

~~(G) "INSURANCE RESPONSIBILITY AMOUNT" HAS THE MEANING STATED IN § 14–101 OF THE TAX – GENERAL ARTICLE.~~

~~(H)~~ (F) "MODIFIED ADJUSTED GROSS INCOME" HAS THE MEANING STATED IN 42 U.S.C. § 1395R(I)(4)(A).

~~(I)~~ (G) ~~"OPTION" MEANS THE MARYLAND HEALTH INSURANCE OPTION ESTABLISHED UNDER § 31–202 OF THIS SUBTITLE.~~

~~(J)~~ ~~(H)~~ *(G)* "POVERTY LINE" HAS THE MEANING STATED IN 42 U.S.C. § 1397JJ(C)(5).

~~(K)~~ ~~(I)~~ *(H)* "PREMIUM TAX CREDITS" MEANS THE TAX CREDITS DESCRIBED IN § 36B OF THE INTERNAL REVENUE CODE.

~~(L)~~ ~~(J)~~ *(I)* "PROACTIVELY CONTACT" MEANS AN ATTEMPT BY THE EXCHANGE OR THE DEPARTMENT TO REACH AN UNINSURED INDIVIDUAL BY:

(1) MAKING MULTIPLE ATTEMPTS TO CONTACT THE UNINSURED INDIVIDUAL AS REQUESTED ON A STATE INCOME TAX RETURN IN ACCORDANCE WITH § 2–115(B)(2) OF THE TAX – GENERAL ARTICLE;

(2) IF THE ATTEMPTS DESCRIBED IN ITEM (1) OF THIS SUBSECTION DO NOT SUCCESSFULLY REACH THE UNINSURED INDIVIDUAL OR IF NO SPECIFIC METHODS FOR CONTACTING THE UNINSURED INDIVIDUAL WERE REQUESTED, MAKING MULTIPLE ATTEMPTS TO CONTACT THE UNINSURED INDIVIDUAL THROUGH TELEPHONIC AND ELECTRONIC MEANS; AND

(3) IF THE ATTEMPTS DESCRIBED IN ITEMS (1) AND (2) OF THIS SUBSECTION DO NOT SUCCESSFULLY REACH THE UNINSURED INDIVIDUAL TO

OBTAIN THE REQUESTED INFORMATION, SENDING PAPER FORMS OR NOTICES TO THE UNINSURED INDIVIDUAL BY MAIL.

(J) "PROGRAM" MEANS THE MARYLAND EASY ENROLLMENT HEALTH INSURANCE PROGRAM ESTABLISHED UNDER § 31–202 OF THIS SUBTITLE.

~~(M)~~ **(K) "UNINSURED INDIVIDUAL" MEANS AN INDIVIDUAL UNDER THE AGE OF 65 YEARS WHO IS IDENTIFIED THROUGH A STATE INCOME TAX RETURN UNDER § 2–115 OF THE TAX – GENERAL ARTICLE AS NOT HAVING MINIMUM ESSENTIAL COVERAGE.**

~~(N) "ZERO–ADDITIONAL–COST PLAN" MEANS A QUALIFIED HEALTH PLAN THAT IS OFFERED TO AN UNINSURED INDIVIDUAL AND HAS A PREMIUM THAT, THROUGH THE END OF THE APPLICABLE PLAN YEAR, DOES NOT EXCEED THE SUM OF:~~

~~(1) (I) THE INSURANCE RESPONSIBILITY AMOUNT APPLICABLE TO THE UNINSURED INDIVIDUAL; AND~~

~~(II) ANY PREMIUM TAX CREDIT FOR WHICH THE UNINSURED INDIVIDUAL QUALIFIES; OR~~

~~(2) (I) ANY PREMIUM TAX CREDIT FOR WHICH THE UNINSURED INDIVIDUAL QUALIFIES; AND~~

~~(II) THE PORTION OF THE PREMIUM THAT IS ATTRIBUTABLE TO CLAIMS FOR SERVICES THAT ARE NOT ESSENTIAL HEALTH BENEFITS UNDER § 1302(B) OF THE AFFORDABLE CARE ACT AS DETERMINED BY THE EXCHANGE.~~

31–202.

(A) THERE IS A MARYLAND ~~HEALTH INSURANCE OPTION~~ *EASY ENROLLMENT HEALTH INSURANCE PROGRAM*.

(B) THE PURPOSES OF THE ~~OPTION~~ *PROGRAM* ARE TO:

(1) ESTABLISH A STATE–BASED REPORTING SYSTEM TO PROVIDE INFORMATION ABOUT THE HEALTH INSURANCE STATUS OF STATE RESIDENTS THROUGH THE USE OF STATE INCOME TAX RETURNS TO IDENTIFY UNINSURED INDIVIDUALS AND DETERMINE WHETHER AN UNINSURED INDIVIDUAL IS INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE;

(2) DETERMINE WHETHER AN UNINSURED INDIVIDUAL WHO IS INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE QUALIFIES FOR AN INSURANCE AFFORDABILITY PROGRAM;

(3) PROACTIVELY CONTACT AN UNINSURED INDIVIDUAL WHO IS INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE TO ASSIST IN ENROLLING THE UNINSURED INDIVIDUAL IN AN INSURANCE AFFORDABILITY PROGRAM AND MINIMUM ESSENTIAL COVERAGE; AND

~~**(4) IMPLEMENT AN INSURANCE RESPONSIBILITY PROGRAM THROUGH WHICH UNINSURED INDIVIDUALS WHO CAN AFFORD MINIMUM ESSENTIAL COVERAGE ARE INCENTIVIZED TO OBTAIN COVERAGE; AND**~~

~~**(5)**~~ **(4) MAXIMIZE ENROLLMENT OF ELIGIBLE UNINSURED INDIVIDUALS IN INSURANCE AFFORDABILITY PROGRAMS AND MINIMUM ESSENTIAL COVERAGE TO IMPROVE ACCESS TO CARE AND REDUCE INSURANCE COSTS FOR ALL RESIDENTS OF THE STATE.**

(C) (1) THE EXCHANGE, THE DEPARTMENT, AND THE COMPTROLLER SHALL DEVELOP AND IMPLEMENT SYSTEMS, POLICIES, AND PRACTICES THAT ENCOURAGE, FACILITATE, AND STREAMLINE DETERMINATION OF ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS AND ENROLLMENT IN MINIMUM ESSENTIAL COVERAGE TO ACHIEVE THE PURPOSES OF THE ~~OPTION~~ *PROGRAM*.

(2) EXCEPT AS PROVIDED IN ~~§§ 14–103(A) AND 14–201(B)~~ § 2–115(D) OF THE TAX – GENERAL ARTICLE, THE SYSTEMS, POLICIES, AND PRACTICES SHALL BE:

(I) OPERATIONAL ON OR BEFORE JANUARY 1, 2020; AND

(II) AVAILABLE FOR USE BY RESIDENTS OF THE STATE WHEN FILING A STATE INCOME TAX RETURN FOR TAXABLE YEARS THAT BEGIN AFTER DECEMBER 31, 2018.

(D) TO FACILITATE THE MOST EFFICIENT IMPLEMENTATION OF THE ~~OPTION~~ *PROGRAM*, THE EXCHANGE, THE COMPTROLLER, AND THE DEPARTMENT MAY:

(1) ENTER INTO AGREEMENTS;

(2) ADOPT REGULATIONS;

(3) ADOPT GUIDELINES;

(4) ESTABLISH ACCOUNTS;

(5) CONDUCT TRAININGS;

(6) PROVIDE PUBLIC INFORMATION;

(7) EDUCATE TAX PREPARERS; AND

(8) TAKE ANY OTHER STEPS AS MAY BE NECESSARY TO ACCOMPLISH THE PURPOSE OF THE ~~OPTION~~ *PROGRAM*.

31–203.

(A) THE EXCHANGE SHALL ESTABLISH A MARYLAND ~~HEALTH INSURANCE OPTION~~ *EASY ENROLLMENT HEALTH INSURANCE PROGRAM* ADVISORY WORKGROUP TO PROVIDE ONGOING ADVICE REGARDING THE IMPLEMENTATION OF THE ~~OPTION~~ *PROGRAM*.

(B) THE ADVISORY WORKGROUP SHALL INCLUDE REPRESENTATION FROM:

(1) THE OFFICE OF THE COMPTROLLER;

(2) CONSUMER GROUPS;

(3) EMPLOYERS;

(4) INSURERS;

(5) HEALTH CARE PROVIDERS;

(6) NAVIGATORS OR OTHER CONSUMER ASSISTERS;

(7) INSURANCE BROKERS OR AGENTS;

(8) LABOR ORGANIZATIONS;

(9) INCOME TAX PREPARERS;

(10) NATIONAL POLICY EXPERTS; AND

(11) ANY OTHER ORGANIZATIONS OR GROUPS SELECTED BY THE EXCHANGE.

(C) THE ADVISORY WORKGROUP SHALL MEET AT LEAST ONCE EVERY 6 MONTHS.

(D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT THE EXCHANGE FROM CONVENING OTHER FORMAL OR INFORMAL WORKING OR ADVISORY GROUPS TO FACILITATE THE IMPLEMENTATION OF THE ~~OPTION~~ *PROGRAM*.

~~31–204.~~

~~(A) THERE IS A MARYLAND HEALTH INSURANCE OPTION FUND.~~

~~(B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING OR REIMBURSEMENT FOR:~~

~~(1) REASONABLE ADMINISTRATIVE COSTS INCURRED TO IMPLEMENT THE OPTION, INCLUDING COSTS INCURRED BEFORE THE RECEIPT OF AMOUNTS DESCRIBED IN SUBSECTION (F)(1) OF THIS SECTION; AND~~

~~(2) MEASURES THAT HELP STABILIZE THE INDIVIDUAL INSURANCE MARKET, INCREASE ENROLLMENT OF ELIGIBLE INDIVIDUALS, LOWER PREMIUMS FOR INDIVIDUAL INSURANCE, OR OBTAIN INFORMATION TO GUIDE THE ACCOMPLISHMENT OF THOSE GOALS.~~

~~(C) THE EXCHANGE SHALL ADMINISTER THE FUND.~~

~~(D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(E) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE EXCHANGE SHALL ACCOUNT FOR THE FUND.~~

~~(F) THE FUND SHALL CONSIST OF:~~

~~(1) AMOUNTS DISTRIBUTED TO THE EXCHANGE UNDER § 14–205 OF THE TAX – GENERAL ARTICLE;~~

~~(2) INCOME FROM INVESTMENTS MADE ON BEHALF OF THE FUND;~~

~~(3) INTEREST ON DEPOSITS OR INVESTMENTS OF MONEY IN THE FUND; AND~~

~~(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(G) THE FUND SHALL BE USED FOR:~~

~~(1) THE PAYMENT OF REASONABLE ADMINISTRATIVE COSTS INCURRED TO IMPLEMENT THE OPTION; AND~~

~~(2) FOR AMOUNTS THAT REMAIN IN THE FUND AFTER THE PAYMENTS DESCRIBED UNDER ITEM (1) OF THIS SUBSECTION ARE MADE, MEASURES THE EXCHANGE DETERMINES ARE MOST EFFECTIVE IN:~~

~~(I) STABILIZING, INCREASING ENROLLMENT IN, OR LOWERING PREMIUMS IN THE INDIVIDUAL MARKET; OR~~

~~(II) PROVIDING INFORMATION ABOUT THE MOST EFFECTIVE MEANS TO ACCOMPLISH THE PURPOSES OF THE OPTION.~~

~~(II) EXPENDITURES FROM THE FUND FOR THE PURPOSES AUTHORIZED UNDER SUBSECTION (G) OF THIS SECTION MAY BE MADE ONLY:~~

~~(1) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE GENERAL ASSEMBLY IN THE STATE BUDGET; OR~~

~~(2) BY BUDGET AMENDMENT AS PROVIDED FOR IN TITLE 7, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(I) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.~~

~~(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.~~

~~(3) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.~~

~~(4) A DEBT OR AN OBLIGATION OF THE FUND IS NOT A DEBT OF THE STATE OR A PLEDGE OF CREDIT OF THE STATE.~~

~~(J) (1) AFTER THE END OF EACH FISCAL YEAR DURING WHICH THE FUND IS OPERATING, THE EXCHANGE SHALL PREPARE AN ANNUAL REPORT ON THE FUND THAT INCLUDES AN ACCOUNTING OF ALL FINANCIAL RECEIPTS AND EXPENDITURES TO AND FROM THE FUND.~~

~~(2) THE EXCHANGE SHALL SUBMIT A COPY OF THE REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.~~

~~31–205.~~ **31–204.**

(A) THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL DETERMINE ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS AS SOON AS POSSIBLE AFTER AN INDIVIDUAL FILES A STATE INCOME TAX RETURN ON WHICH THE INDIVIDUAL CHOSE A ~~CHECK–OFF~~ *CHECKOFF* BOX DESCRIBED IN ~~§ 2–215(C)(3)~~ § 2–115(C)(3) OF THE TAX – GENERAL ARTICLE INDICATING THAT AN UNINSURED INDIVIDUAL MAY BE INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE.

(B) (1) TO THE MAXIMUM EXTENT PRACTICABLE, THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL VERIFY AN UNINSURED INDIVIDUAL'S ELIGIBILITY FOR AN INSURANCE AFFORDABILITY PROGRAM:

(I) WITH INFORMATION ON A STATE INCOME TAX RETURN AND OTHER DATA FROM THIRD–PARTY DATA SOURCES, INCLUDING DATA DESCRIBED IN § 1413 OF THE AFFORDABLE CARE ACT OR AVAILABLE UNDER ~~§ 2–215(C)(5)~~ § 2–115(B)(2) OF THE TAX – GENERAL ARTICLE; AND

(II) WITHOUT REQUESTING ADDITIONAL INFORMATION OR ATTESTATIONS FROM THE UNINSURED INDIVIDUAL.

(2) IF ADDITIONAL ATTESTATIONS OR DOCUMENTATION FROM THE UNINSURED INDIVIDUAL ARE REQUIRED TO ESTABLISH ELIGIBILITY FOR AN INSURANCE AFFORDABILITY PROGRAM, THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL TAKE STEPS TO LIMIT THE BURDEN ON THE UNINSURED INDIVIDUAL, INCLUDING:

(I) PROACTIVELY CONTACTING THE INDIVIDUAL WHO FILED THE TAX RETURN OR THE UNINSURED INDIVIDUAL;

(II) RECORDING, BY TELEPHONIC OR ELECTRONIC MEANS, ATTESTATIONS AND ~~OTHER~~ DOCUMENTATION PROVIDED BY THE INDIVIDUAL WHO FILED THE TAX RETURN OR THE UNINSURED INDIVIDUAL; AND

(III) IF THE ATTESTATIONS OR DOCUMENTATION REQUIRED TO DETERMINE ELIGIBILITY ARE NOT OBTAINED USING THE STEPS DESCRIBED IN ITEMS (I) AND (II) OF THIS PARAGRAPH, FACILITATING THE SELECTION OF AN AUTHORIZED REPRESENTATIVE FOR THE UNINSURED INDIVIDUAL.

~~(D)~~ *(C)* (1) BEFORE DETERMINING ELIGIBILITY OF AN UNINSURED INDIVIDUAL FOR AN INSURANCE AFFORDABILITY PROGRAM, THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL ATTEMPT TO VERIFY THE CITIZENSHIP STATUS OF THE UNINSURED INDIVIDUAL AND EACH HOUSEHOLD MEMBER LISTED ON THE STATE INCOME TAX RETURN, BASED ON THE INFORMATION AVAILABLE FROM THE RETURN AND RELIABLE THIRD–PARTY SOURCES OF CITIZENSHIP DATA.

(2) IF THE PROCESS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION DOES NOT CONFIRM THAT THE UNINSURED INDIVIDUAL AND EACH HOUSEHOLD MEMBER LISTED ON THE STATE INCOME TAX RETURN IS A UNITED STATES CITIZEN, THE EXCHANGE AND THE DEPARTMENT MAY NOT SEEK ADDITIONAL VERIFICATION OR TAKE OTHER STEPS TO DETERMINE ELIGIBILITY FOR OR ENROLL THE UNINSURED INDIVIDUAL IN AN INSURANCE AFFORDABILITY PROGRAM UNTIL THE UNINSURED INDIVIDUAL PROVIDES AFFIRMATIVE CONSENT USING FORMS AND PROCEDURES APPROVED BY THE EXCHANGE.

(3) THE AFFIRMATIVE CONSENT REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY BE SATISFIED THROUGH THE PROCEDURES DESCRIBED IN 42 U.S.C. § 1320B–7(D).

(4) IF CITIZENSHIP IS NOT VERIFIED AND AFFIRMATIVE CONSENT IS NOT PROVIDED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE EXCHANGE AND THE DEPARTMENT MAY NOT TAKE ANY FURTHER STEPS TO DETERMINE AN UNINSURED INDIVIDUAL'S ELIGIBILITY FOR OR ENROLL AN UNINSURED INDIVIDUAL IN AN INSURANCE AFFORDABILITY PROGRAM.

~~**31–206.**~~ **31–205.**

(A) THE EXCHANGE OR THE DEPARTMENT, AS APPLICABLE, SHALL MAKE A DETERMINATION OF ELIGIBILITY, IN ACCORDANCE WITH ~~§ 31–205~~ § 31–204 OF THIS SUBTITLE, FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND, IF APPLICABLE, THE MARYLAND CHILDREN'S HEALTH PROGRAM UNDER THIS SECTION, BEFORE DETERMINING ELIGIBILITY FOR ANY OTHER INSURANCE AFFORDABILITY PROGRAM.

(B) (1) IF AN UNINSURED INDIVIDUAL IS DETERMINED TO BE ELIGIBLE FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE PROCEDURES DESCRIBED IN THIS SUBSECTION AND GUIDELINES ESTABLISHED BY THE EXCHANGE, IN CONSULTATION WITH THE DEPARTMENT, TO IMPLEMENT THIS SUBSECTION SHALL APPLY.

(2) IF AN UNINSURED INDIVIDUAL FAILS TO SELECT A MANAGED CARE ORGANIZATION PLAN WITHIN A PERIOD OF TIME ESTABLISHED BY THE EXCHANGE, THE DEPARTMENT SHALL ASSIGN THE UNINSURED INDIVIDUAL TO AND PROMPTLY ENROLL THE UNINSURED INDIVIDUAL IN A MANAGED CARE ORGANIZATION PLAN.

(3) BEFORE THE DEPARTMENT ASSIGNS AN UNINSURED INDIVIDUAL TO A MANAGED CARE ORGANIZATION PLAN, THE UNINSURED INDIVIDUAL SHALL RECEIVE:

(I) ADVANCE NOTICE;

(II) AN OPPORTUNITY TO SELECT ANOTHER MANAGED CARE ORGANIZATION PLAN WITHIN THE PERIOD OF TIME ESTABLISHED BY THE EXCHANGE; AND

(III) AN OPPORTUNITY TO OPT OUT OF COVERAGE.

~~**31–207.**~~ **31–206.**

(A) IF AN UNINSURED INDIVIDUAL IS NOT DETERMINED TO BE ELIGIBLE FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM UNDER ~~§ 31–206~~ § 31–205 OF THIS SUBTITLE, THE EXCHANGE SHALL DETERMINE, IN ACCORDANCE WITH ~~§ 31–205~~ § 31–204 OF THIS SUBTITLE, WHETHER THE UNINSURED INDIVIDUAL IS ELIGIBLE FOR PREMIUM TAX CREDITS OR COST–SHARING REDUCTIONS AS DETERMINED UNDER THIS SECTION.

(B) (1) ~~(I)~~ A SPECIAL OR OTHER ENROLLMENT PERIOD FOR THE INDIVIDUAL MARKET SHALL BEGIN ON THE DATE AN INCOME TAX RETURN IS FILED BY OR ON BEHALF OF AN UNINSURED INDIVIDUAL THAT INCLUDES THE CHOICE DESCRIBED IN ~~§ 2–215(C)(3)~~ § 2–115(C)(3) OF THE TAX – GENERAL ARTICLE, IF THE RETURN IS FILED ON OR BEFORE THE DATE SPECIFIED BY THE EXCHANGE.

~~**(II) THE DATE SPECIFIED BY THE EXCHANGE MAY BE NOT LATER THAN THE DATE SPECIFIED IN § 10–820(A)(1) AND (3) OF THE TAX – GENERAL ARTICLE.**~~

(2) THE ENROLLMENT PERIOD DESCRIBED IN THIS SUBSECTION SHALL LAST FOR A PERIOD OF TIME DETERMINED BY THE EXCHANGE BEFORE THE START OF THE CALENDAR YEAR THAT MAY NOT BE SHORTER THAN 14 DAYS.

(C) (1) INFORMATION ABOUT THE ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL BE COMMUNICATED TO THE PUBLIC AND AFFECTED INDIVIDUALS THROUGH MEASURES THAT MAY INCLUDE LANGUAGE IN THE INSTRUCTIONS FOR THE STATE INDIVIDUAL INCOME TAX RETURN, IF INCLUSION OF THE LANGUAGE IS APPROVED BY THE COMPTROLLER.

(2) THE EXCHANGE IS AUTHORIZED TO CONDUCT OUTREACH TO ~~UNINSURED~~ INDIVIDUALS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, USING METHODS THAT MAY INCLUDE WRITTEN NOTICES AND THE PROVISION OF INDIVIDUALIZED ASSISTANCE BY INSURANCE AGENTS AND BROKERS, NAVIGATORS, TAX PREPARERS, AND EXCHANGE CONTRACTORS AND STAFF.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE EXCHANGE MAY COMPENSATE AN ENTITY FOR OUTREACH DESCRIBED IN PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION IN A MANNER THAT REFLECTS, IN WHOLE OR IN PART, THE NUMBER OF UNINSURED INDIVIDUALS ENROLLED UNDER THIS SECTION AND ~~§ 33–501~~ § 31–204 OF THIS ~~TITLE~~ SUBTITLE BY THAT ENTITY.

~~**(D) (1) THE EXCHANGE SHALL IMPLEMENT THE POLICIES AND PROCESS DESCRIBED IN THIS SUBSECTION ONLY IF THE EXCHANGE DETERMINES THAT:**~~

~~**(I) THE POLICIES AND PROCESS WOULD PROVIDE MINIMUM ESSENTIAL COVERAGE TO AT LEAST 40,000 RESIDENTS WHO WOULD OTHERWISE BE UNINSURED, DESPITE THE OTHER PROVISIONS OF THIS SUBTITLE;**~~

~~**(II) THERE IS NO SIGNIFICANT RISK THAT CHANGES IN FEDERAL POLICY OR INSURANCE MARKETS WILL PREVENT THE ACHIEVEMENT OF COVERAGE GAINS DESCRIBED IN ITEM (I) OF THIS PARAGRAPH THROUGH AUTOMATIC ENROLLMENT IN A QUALIFIED HEALTH PLAN AS PROVIDED FOR IN PARAGRAPH (2) OF THIS SUBSECTION; AND**~~

~~**(III) REASONABLE ADMINISTRATIVE COSTS TO IMPLEMENT THE POLICIES AND PROCESS, INCLUDING COSTS INCURRED BY THE COMPTROLLER AND THE EXCHANGE, ARE FULLY COVERED WITH FUNDS FROM THE MARYLAND INSURANCE OPTION FUND ESTABLISHED UNDER § 31–204 OF THIS SUBTITLE.**~~

~~**(2) IF THE EXCHANGE MAKES THE DETERMINATIONS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE EXCHANGE AND THE COMPTROLLER SHALL, AFTER CONSULTING WITH THE ADVISORY WORKGROUP AND PROVIDING ADVANCE NOTICE TO THE GENERAL ASSEMBLY, IMPLEMENT A PROCESS FOR AUTOMATIC ENROLLMENT OF AN UNINSURED INDIVIDUAL IN A ZERO–ADDITIONAL–COST PLAN IF:**~~

~~**(I) AN INDIVIDUAL WHO FILES A STATE INCOME TAX RETURN SELECTS A CHECK–OFF BOX ON THE RETURN AS DESCRIBED IN § 2–115(D)(3)(I) OF THE TAX – GENERAL ARTICLE INDICATING THAT AN UNINSURED INDIVIDUAL MAY BE INTERESTED IN OBTAINING MINIMUM ESSENTIAL COVERAGE;**~~

~~**(II) THE UNINSURED INDIVIDUAL HAS QUALIFIED FOR PREMIUM TAX CREDITS BUT HAS NOT BEEN ENROLLED IN A QUALIFIED HEALTH PLAN BY THE END OF THE ENROLLMENT PERIOD ESTABLISHED BY THE EXCHANGE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; AND**~~

~~**(III) THE UNINSURED INDIVIDUAL IS ELIGIBLE FOR ONE OR MORE ZERO–ADDITIONAL–COST PLANS.**~~

~~(3) AS PART OF THE PROCESS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE EXCHANGE SHALL IMPLEMENT A RANKING SYSTEM THAT IDENTIFIES THE ZERO–ADDITIONAL–COST PLAN THAT PROVIDES THE MOST VALUE TO AN UNINSURED INDIVIDUAL IF THE UNINSURED INDIVIDUAL IS ELIGIBLE FOR MORE THAN ONE ZERO–ADDITIONAL–COST PLAN.~~

~~(4) THE PROCESS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL ENSURE THAT BEFORE AN UNINSURED INDIVIDUAL IS AUTOMATICALLY ENROLLED IN A ZERO–ADDITIONAL–COST PLAN:~~

~~(I) THE UNINSURED INDIVIDUAL IS INFORMED ABOUT THE ZERO–ADDITIONAL–COST PLAN IN WHICH THE UNINSURED INDIVIDUAL WILL BE AUTOMATICALLY ENROLLED AND IS GIVEN A REASONABLE CHANCE TO OPT OUT OF THE PLAN BEFORE COVERAGE BEGINS;~~

~~(II) IF THE ZERO–ADDITIONAL–COST PLAN HAS AN ACTUARIAL VALUE BELOW A THRESHOLD IDENTIFIED BY THE EXCHANGE, THE UNINSURED INDIVIDUAL IS OFFERED A CHANCE TO ENROLL IN AN ALTERNATIVE PLAN WITH A HIGHER ACTUARIAL VALUE BY PAYING A REQUIRED ADDITIONAL PREMIUM BEFORE BEING AUTOMATICALLY ENROLLED IN THE ZERO–ADDITIONAL–COST PLAN;~~

~~(III) IF MORE THAN ONE HOUSEHOLD MEMBER IS AN UNINSURED INDIVIDUAL ELIGIBLE FOR A ZERO–ADDITIONAL–COST PLAN AND IT IS NOT POSSIBLE TO ENROLL ALL THE HOUSEHOLD MEMBERS IN THE PLAN THAT PROVIDES THEM WITH THE MAXIMUM VALUE AS ESTABLISHED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE EXCHANGE CONSULTS WITH THE AFFECTED HOUSEHOLD MEMBERS BEFORE ENROLLMENT;~~

~~(IV) THE METHOD OF PAYING CARRIERS MINIMIZES OVERALL ADMINISTRATIVE COSTS, ENSURES TIMELY PAYMENTS THAT PREVENT DEFAULTS, AND PREVENTS CONSUMERS FROM EXPERIENCING INVOLUNTARY DEFAULT OR OTHER ADVERSE EVENTS DUE TO ERRORS BY THE EXCHANGE, THE COMPTROLLER, OR A QUALIFIED HEALTH PLAN;~~

~~(V) A CARRIER WILL NOT BE PAID FOR PERIODS DURING WHICH THE UNINSURED INDIVIDUAL IS NOT COVERED, EXCEPT FOR GRACE PERIODS DURING WHICH THE UNINSURED INDIVIDUAL IS ENROLLED IN A ZERO–ADDITIONAL–COST PLAN OFFERED BY THE CARRIER;~~

~~(VI) A CARRIER WILL NOT BE REQUIRED TO INITIATE COVERAGE WITHOUT RECEIVING THE INITIAL MONTH'S FULL PREMIUM PAYMENT FOR A ZERO–ADDITIONAL–COST PLAN OFFERED BY THE CARRIER;~~

~~(VII) THE UNINSURED INDIVIDUAL ENTERS INTO A BINDING CONTRACT OF INSURANCE WITH THE CARRIER THAT OFFERS THE ZERO–ADDITIONAL–COST PLAN, CONSISTENT WITH STANDARDS DEVELOPED BY THE EXCHANGE IN CONSULTATION WITH THE ADMINISTRATION; AND~~

~~(VIII) THE UNINSURED INDIVIDUAL IS INFORMED OF THE DUTIES AND RISKS ASSOCIATED WITH USING ADVANCE PREMIUM TAX CREDITS TO OBTAIN COVERAGE AND HAS THE OPPORTUNITY TO PREVENT ENROLLMENT OR TERMINATE COVERAGE AFTER RECEIVING THE INFORMATION.~~

~~31–208.~~ **31–207.**

(A) THE EXCHANGE SHALL DEVELOP A DETAILED SET OF DATA PRIVACY AND DATA SECURITY SAFEGUARDS TO GOVERN THE CONVEYANCE, STORAGE, AND UTILIZATION OF DATA UNDER THE ~~OPTION~~ *PROGRAM*.

(B) THE SAFEGUARDS DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION SHALL ENSURE THAT THE CONVEYANCE, STORAGE, AND UTILIZATION OF DATA UNDER THE ~~OPTION~~ *PROGRAM* COMPLY WITH APPLICABLE REQUIREMENTS OF FEDERAL AND STATE LAW.

~~Article – State Finance and Procurement~~

~~6–226.~~

~~(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.~~

~~(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:~~

~~112. the Pretrial Services Program Grant Fund; [and]~~

~~113. the Veteran Employment and Transition Success Fund; AND~~

~~114. THE MARYLAND HEALTH INSURANCE OPTION FUND.~~

Article – Tax – General

2–115.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ADVISORY WORKGROUP" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.

(3) "AFFORDABLE CARE ACT" HAS THE MEANING STATED IN § 1–101 OF THE INSURANCE ARTICLE.

(4) "EXCHANGE" HAS THE MEANING STATED IN § 31–101 OF THE INSURANCE ARTICLE.

(5) "INSURANCE AFFORDABILITY PROGRAM" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.

(6) "INSURANCE–RELEVANT INFORMATION" MEANS INFORMATION ABOUT AN UNINSURED INDIVIDUAL THAT IS NEEDED FOR THE EXCHANGE TO:

(I) IDENTIFY THE UNINSURED INDIVIDUAL, INCLUDING WHEN MATCHING DATA AVAILABLE FROM THIRD–PARTY DATA SOURCES;

(II) FACILITATE THE DETERMINATION OF THE UNINSURED INDIVIDUAL'S ELIGIBILITY FOR AN INSURANCE AFFORDABILITY PROGRAM; OR

(III) FACILITATE ENROLLMENT BY THE UNINSURED INDIVIDUAL IN A PLAN WITH MINIMUM ESSENTIAL COVERAGE.

~~**(7) "MARYLAND HEALTH INSURANCE OPTION FUND" MEANS THE FUND ESTABLISHED UNDER § 31–204 OF THE INSURANCE ARTICLE.**~~

~~**(8)**~~ **(7) "MINIMUM ESSENTIAL COVERAGE" HAS THE MEANING STATED IN § 31–101 OF THE INSURANCE ARTICLE.**

~~**(9) (8) "OPTION" MEANS THE MARYLAND HEALTH INSURANCE OPTION ESTABLISHED UNDER § 31–202 OF THE INSURANCE ARTICLE.**~~

~~**(10)**~~ ~~**(9)**~~ ***(8)*** **"PREMIUM TAX CREDITS" MEANS THE TAX CREDITS DESCRIBED IN § 36B OF THE INTERNAL REVENUE CODE.**

(9) "PROGRAM" MEANS THE MARYLAND EASY ENROLLMENT HEALTH INSURANCE PROGRAM ESTABLISHED UNDER § 31–202 OF THE INSURANCE ARTICLE.

~~(11)~~ (10) "QUALIFIED HEALTH PLAN" MEANS A HEALTH BENEFIT PLAN THAT HAS BEEN CERTIFIED BY THE EXCHANGE TO MEET THE CRITERIA FOR CERTIFICATION DESCRIBED IN § 1311(C) OF THE AFFORDABLE CARE ACT AND § 31–115 OF ~~THIS TITLE~~ *THE INSURANCE ARTICLE*.

~~(12)~~ (11) "UNINSURED INDIVIDUAL" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.

(B) (1) THE COMPTROLLER SHALL INCLUDE ON THE INDIVIDUAL INCOME TAX RETURN FORM A CHECKOFF FOR INDICATING WHETHER THE INDIVIDUAL, OR EACH SPOUSE IN THE CASE OF A JOINT RETURN, AND ANY INDIVIDUAL CLAIMED AS A DEPENDENT ON THE TAX RETURN IS AN UNINSURED INDIVIDUAL AT THE TIME THE TAX RETURN IS FILED.

(2) IF A STATE INCOME TAX RETURN INDICATES THAT AN INDIVIDUAL ~~LACKED MINIMUM ESSENTIAL COVERAGE FOR 3 OR MORE MONTHS DURING THE TAXABLE YEAR, AND THE UNINSURED INDIVIDUAL IS UNDER THE AGE OF 65 AT THE TIME THE RETURN IS FILED~~ IS AN UNINSURED INDIVIDUAL AT THE TIME THE TAX RETURN IS FILED, THE TAX RETURN SHALL BE REQUIRED TO INCLUDE THE FOLLOWING INFORMATION AS TO EACH UNINSURED INDIVIDUAL:

(I) ~~WHETHER THE UNINSURED INDIVIDUAL REMAINS UNINSURED AT THE TIME THE TAX RETURN IS FILED~~ THE AGE OF EACH UNINSURED INDIVIDUAL;

(II) ~~IF THE UNINSURED INDIVIDUAL REMAINS UNINSURED AT THE TIME THE TAX RETURN IS FILED,~~ ELECTION BY THE INDIVIDUAL FILING THE TAX RETURN OF ONE OF THE TWO ~~CHECK–OFF~~ *CHECKOFF* BOXES DESCRIBED IN SUBSECTION (C) OF THIS SECTION; AND

(III) IF THE INDIVIDUAL WHO FILES A TAX RETURN CHOOSES THE ~~CHECK–OFF~~ *CHECKOFF* BOX DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION, ANY INFORMATION DETERMINED BY THE EXCHANGE AS ESSENTIAL TO DETERMINING ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS, IF THE INFORMATION:

1. IS NOT AVAILABLE FROM A RELIABLE THIRD–PARTY DATA SOURCE;

2. IS NOT OTHERWISE REQUIRED TO BE PROVIDED ON THE RETURN; AND

3. DOES NOT PERTAIN TO CITIZENSHIP OR IMMIGRATION STATUS.

~~(2)~~ (3) FOR AN INDIVIDUAL WHO FILES A TAX RETURN AND CHOOSES THE ~~CHECK–OFF~~ *CHECKOFF* BOX DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION, THE RETURN SHALL GIVE THE INDIVIDUAL WHO FILED THE TAX RETURN THE OPTION TO INDICATE THE UNINSURED INDIVIDUAL'S PREFERRED METHOD FOR THE EXCHANGE TO CONTACT THE INDIVIDUAL WHO FILED THE TAX RETURN OR THE UNINSURED INDIVIDUAL TO FACILITATE EITHER DETERMINATION OF ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS OR ENROLLMENT IN HEALTH COVERAGE.

~~(3) THE COMPTROLLER MAY STRUCTURE THE RETURN SO THAT THE ITEMS DESCRIBED IN THIS SECTION ARE INCLUDED IN A SEPARATE FORM THAT IS REQUIRED ONLY FOR INDIVIDUALS WHO FILE A TAX RETURN INDICATING THAT AN INDIVIDUAL WAS UNINSURED FOR 3 OR MORE MONTHS DURING THE TAXABLE YEAR.~~

~~(C) (1) THE COMPTROLLER SHALL INCLUDE ON THE INCOME TAX RETURN FORM TWO CHECK–OFF BOXES DESCRIBED IN THIS SUBSECTION.~~

~~(2) THE CHECK–OFF BOXES MAY BE PLACED ON THE SEPARATE FORM DESCRIBED IN SUBSECTION (B)(3) OF THIS SECTION.~~

(C) (1) IN ACCORDANCE WITH THIS SUBSECTION, THE COMPTROLLER SHALL INCLUDE WITH THE INCOME TAX RETURN FORM A SEPARATE FORM THAT IS REQUIRED ONLY FOR INDIVIDUALS WHO FILE A TAX RETURN INDICATING THAT AN INDIVIDUAL IS AN UNINSURED INDIVIDUAL AT THE TIME THE TAX RETURN IS FILED.

(2) THE SEPARATE FORM SHALL INCLUDE TWO ~~CHECK–OFF~~ *CHECKOFF* BOXES AS DESCRIBED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION AND THE INFORMATION DESCRIBED IN SUBSECTION (B)(2) AND (3) OF THIS SECTION.

(3) ONE ~~CHECK–OFF~~ *CHECKOFF* BOX SHALL GIVE AN INDIVIDUAL WHO FILES A TAX RETURN THE CHOICE TO HAVE THE EXCHANGE ~~DETERMINE THE UNINSURED INDIVIDUAL'S ELIGIBILITY FOR AN INSURANCE AFFORDABILITY PROGRAM OR ZERO–ADDITIONAL–COST PLAN, USING INFORMATION FROM THE TAX RETURN AND OTHER AVAILABLE INFORMATION~~:

(I) BASED ON INFORMATION IN THE INDIVIDUAL'S TAX RETURN, DETERMINE THE UNINSURED INDIVIDUAL'S ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS; AND

(II) OBTAIN ADDITIONAL DATA THAT MAY BE RELEVANT TO DETERMINE THE UNINSURED INDIVIDUAL'S ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS.

(4) ONE ~~CHECK–OFF~~ *CHECKOFF* BOX SHALL ALLOW AN INDIVIDUAL WHO FILES A TAX RETURN THE CHOICE TO:

~~(I)~~ NOT HAVE THE EXCHANGE MAKE THE ~~DETERMINATIONS~~ DETERMINATION DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION~~; AND~~

~~(II) ACKNOWLEDGE THAT ELECTING THIS CHOICE MEANS THE UNINSURED INDIVIDUALS WILL NOT BE ENROLLED IN MINIMUM ESSENTIAL COVERAGE AS A RESULT OF FILING THE TAX RETURN~~.

(5) THE COMPTROLLER, IN CONSULTATION WITH THE EXCHANGE AND WITH THE ADVICE OF THE ADVISORY WORKGROUP, SHALL:

(I) DEVELOP LANGUAGE FOR THE ~~CHECK–OFF~~ *CHECKOFF* BOXES DESCRIBED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION ~~THAT IS AS SIMPLE, CLEAR, AND EASY TO UNDERSTAND AS POSSIBLE~~;

(II) ~~INCLUDE WITH~~ DEVELOP LANGUAGE FOR THE INSTRUCTIONS FOR THE STATE INCOME TAX RETURN THAT INCLUDES A DESCRIPTION OF THE EFFECTS OF CHOOSING THE ~~CHECK–OFF~~ *CHECKOFF* BOXES DESCRIBED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, INCLUDING THE PURPOSES FOR WHICH THE INFORMATION DISCLOSED UNDER ~~SUBSECTION (B)(1)(III) OF~~ THIS SECTION MAY BE USED; AND

(III) ~~PROVIDE DRAFT CHECK–OFF BOX LANGUAGE FOR COMMENT TO THE EXCHANGE AND TO THE ADVISORY WORKGROUP~~ ENSURE THAT THE LANGUAGE DEVELOPED UNDER ITEM (I) OF THIS PARAGRAPH IS AS SIMPLE, CLEAR, AND EASY TO UNDERSTAND AS POSSIBLE.

(6) IF AN INDIVIDUAL WHO FILES A TAX RETURN MAKES THE ELECTION DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION, NOTWITHSTANDING THE PROHIBITION UNDER § 13–202 OF THIS ARTICLE, THE COMPTROLLER SHALL CONVEY TO THE EXCHANGE ALL INSURANCE–RELEVANT INFORMATION CONTAINED ON THE RETURN.

(D) (1) EXCEPT AS PROVIDED IN ~~§§ 14–103(C) AND 14–201(B) OF THIS ARTICLE~~ PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION SHALL APPLY TO RETURNS FILED FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2018.

(2) IF THE COMPTROLLER DETERMINES, AFTER CONSULTATION WITH THE EXCHANGE, THAT THE IMPLEMENTATION OF THIS SECTION IS NOT ADMINISTRATIVELY FEASIBLE FOR TAXABLE YEARS BEGINNING AFTER DECEMBER

31, 2018, THE COMPTROLLER MAY DELAY IMPLEMENTATION OF THIS SECTION TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2019.

~~13–918.~~

~~(a) The Comptroller shall honor income tax refund interception requests in the following order:~~

~~(1) a refund interception request to collect an unpaid State, county, or municipal tax;~~

~~(2) a refund interception request under Title 10, Subtitle 1, Part II of the Family Law Article;~~

~~(3) A REFUND INTERCEPTION REQUEST TO COLLECT AN INSURANCE RESPONSIBILITY AMOUNT UNDER § 14–201(C) OF THIS ARTICLE;~~

~~[~~(3)**~~]~~ (4)** ~~a refund interception request for converted funds under § 15–122.2 of the Health – General Article;~~

~~[~~(4)**~~]~~ (5)** ~~a refund interception request under § 3–304 of the State Finance and Procurement Article;~~

~~[~~(5)**~~]~~ (6)** ~~any other refund interception request by the State, county, or other political subdivision of the State;~~

~~[~~(6)**~~]~~ (7)** ~~a request for intercept made by a taxing official under Part IV of this subtitle; and~~

~~[~~(7)**~~]~~ (8)** ~~a request for intercept made by a federal official under Part VI of this subtitle.~~

~~TITLE 14. MINIMUM ESSENTIAL HEALTH COVERAGE.~~

~~SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.~~

~~14–101.~~

~~(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(B) "ADVISORY WORKGROUP" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~(C) "AFFORDABLE CARE ACT" HAS THE MEANING STATED IN § 1–101 OF THE INSURANCE ARTICLE.~~

~~(D) "ENROLLMENT PERIOD" MEANS THE ENROLLMENT PERIOD ESTABLISHED UNDER § 31–307(B) OF THE INSURANCE ARTICLE.~~

~~(E) "EXCHANGE" HAS THE MEANING STATED IN § 31–101 OF THE INSURANCE ARTICLE.~~

~~(F) "INSURANCE AFFORDABILITY PROGRAMS" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~(G) "INSURANCE–RELEVANT INFORMATION" HAS THE MEANING STATED IN § 2–215 OF THIS ARTICLE.~~

~~(H) "INSURANCE RESPONSIBILITY AMOUNT" MEANS THE AMOUNT AN INDIVIDUAL WHO FILES A STATE INCOME TAX RETURN IS REQUIRED TO PAY UNDER § 14–201(C) OF THIS TITLE.~~

~~(I) "MARYLAND HEALTH INSURANCE OPTION FUND" MEANS THE FUND ESTABLISHED UNDER § 31–204 OF THE INSURANCE ARTICLE.~~

~~(J) "MARYLAND MODIFIED ADJUSTED GROSS INCOME" MEANS THE SUM OF:~~

~~(1) MARYLAND ADJUSTED GROSS INCOME, AS DESCRIBED IN § 10–203 OF THIS ARTICLE; AND~~

~~(2) OTHER INCOME THAT:~~

~~(I) CAN BE ASCERTAINED BASED ENTIRELY ON INFORMATION PROVIDED ON THE PORTIONS OF THE STATE INCOME TAX RETURN THAT ARE NOT AFFECTED BY THIS ARTICLE; AND~~

~~(II) HAVE BEEN IDENTIFIED BY THE EXCHANGE, ON OR BEFORE JUNE 1 OF THE APPLICABLE TAXABLE YEAR, AS NECESSARY TO PREVENT SIGNIFICANT ERRORS IN THE DETERMINATION OF ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS.~~

~~(K) "MEDICAL HEALTH CARE" MEANS HEALTH TREATMENT BY OR SUPERVISED BY A MEDICAL DOCTOR THAT IS CUSTOMARILY COVERED BY HEALTH INSURANCE POLICIES QUALIFYING AS MINIMUM ESSENTIAL COVERAGE.~~

~~(L) "MINIMUM ESSENTIAL COVERAGE" HAS THE MEANING STATED IN § 31–101 OF THE INSURANCE ARTICLE.~~

~~(M) "POVERTY LINE" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~(N) "PROACTIVELY CONTACT" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~(O) "UNINSURED INDIVIDUAL" HAS THE MEANING STATED IN § 31–201 OF THE INSURANCE ARTICLE.~~

~~14–102.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND § 14–204(B) OF THIS TITLE, AN INSURANCE RESPONSIBILITY AMOUNT SHALL BE ASSESSED AND COLLECTED IN THE MANNER DESCRIBED IN TITLE 13 OF THIS ARTICLE.~~

~~(B) IN CONSULTATION WITH THE EXCHANGE AND THE ADVISORY WORKGROUP, THE COMPTROLLER MAY DEVELOP FORMS AND NOTICES THAT APPLY ONLY TO THE INSURANCE RESPONSIBILITY AMOUNT.~~

~~14–103.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES ONLY TO A TAXABLE YEAR THAT:~~

~~(I) BEGINS AFTER DECEMBER 31, 2018; AND~~

~~(II) ENDS BEFORE THE INDIVIDUAL RESPONSIBILITY TO MAINTAIN HEALTH COVERAGE, DESCRIBED IN § 14–201(B) OF THIS TITLE, TAKES EFFECT.~~

~~(2) IF THE COMPTROLLER DETERMINES, AFTER CONSULTATION WITH THE EXCHANGE, THAT THE IMPLEMENTATION OF THIS SECTION IS NOT ADMINISTRATIVELY FEASIBLE FOR A TAX YEAR THAT BEGINS AFTER DECEMBER 31, 2018, THE COMPTROLLER MAY DELAY IMPLEMENTATION OF THIS SECTION TO A TAX YEAR THAT BEGINS AFTER DECEMBER 31, 2019.~~

~~(B) IN CONSULTATION WITH THE EXCHANGE AND THE ADVISORY WORKGROUP, THE COMPTROLLER SHALL DEVELOP FORMS, INSTRUCTIONS, AND PROCEDURES THAT ACCOMPLISH THE FOLLOWING OBJECTIVES:~~

~~(1) IDENTIFY INDIVIDUALS WHO FILE A STATE INCOME TAX RETURN AND WHO WOULD POTENTIALLY BE LIABLE FOR AN INSURANCE RESPONSIBILITY~~

~~AMOUNT UNDER § 14–201(C) OF THIS TITLE IF THE OBLIGATION DESCRIBED IN § 14–201(B) OF THIS TITLE HAD BEEN IN EFFECT DURING THE TAXABLE YEAR APPLICABLE TO THE RETURN;~~

~~(2) INFORM THE INDIVIDUALS OF THE ADVERSE CONSEQUENCES THAT COULD POTENTIALLY APPLY IF THEY CONTINUE TO LACK MINIMUM ESSENTIAL COVERAGE UNTIL THE DATE THE REQUIREMENT DESCRIBED IN § 14–201(B) OF THIS TITLE TAKES EFFECT; AND~~

~~(3) ALLOW AND ENCOURAGE INDIVIDUALS WHO ARE UNINSURED AT THE TIME A TAX RETURN IS FILED TO ENROLL IN HEALTH COVERAGE USING PROCEDURES DESCRIBED IN § 2–215 OF THIS ARTICLE AND TITLE 31, SUBTITLE 2 OF THE INSURANCE ARTICLE.~~

~~SUBTITLE 2. INDIVIDUAL RESPONSIBILITY TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.~~

~~14–201.~~

~~(A) THIS SUBTITLE DOES NOT APPLY TO A NONRESIDENT, INCLUDING A NONRESIDENT SPOUSE AND A NONRESIDENT DEPENDENT.~~

~~(B) BEGINNING JANUARY 1, 2021, AN INDIVIDUAL UNDER THE AGE OF 65 YEARS SHALL MAINTAIN MINIMUM ESSENTIAL COVERAGE FOR THE INDIVIDUAL AND EACH HOUSEHOLD MEMBER CLAIMED ON A TAX RETURN WHO IS UNDER THE AGE OF 65 YEARS.~~

~~(C) (1) EXCEPT AS PROVIDED UNDER §§ 14–203 AND 14–207 OF THIS SUBTITLE, IF THE COVERAGE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION IS NOT MAINTAINED FOR 3 OR MORE MONTHS OF THE TAXABLE YEAR, THE UNINSURED INDIVIDUAL SHALL PAY AN AMOUNT DETERMINED UNDER § 14–202 OF THIS SUBTITLE.~~

~~(2) ANY PAYMENT DUE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:~~

~~(I) IN ADDITION TO AND DUE ON THE SAME DATE AS THE STATE INCOME TAX DUE UNDER § 10–105(A) OF THIS ARTICLE; AND~~

~~(II) INCLUDED WITH OTHER PAYMENTS MADE IN ACCORDANCE WITH THE STATE INCOME TAX RETURN FILED BY THE INDIVIDUAL UNDER TITLE 10, SUBTITLE 8 OF THIS ARTICLE FOR THE TAXABLE YEAR THAT INCLUDES THE MONTHS IN WHICH COVERAGE WAS NOT MAINTAINED AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(3) IF AN INDIVIDUAL WHO IS SUBJECT TO A PAYMENT UNDER THIS SECTION FILES A JOINT STATE INCOME TAX RETURN UNDER § 10–807 OF THIS ARTICLE, THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE JOINTLY SHALL BE LIABLE FOR THE PAYMENT.~~

~~14–202.~~

~~(A) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE INSURANCE RESPONSIBILITY AMOUNT SHALL BE EQUAL TO THE GREATER OF:~~

~~(1) 2.5% OF THE SUM OF THE INDIVIDUAL'S MARYLAND MODIFIED ADJUSTED GROSS INCOME AND THE MARYLAND MODIFIED ADJUSTED GROSS INCOME OF ALL INDIVIDUALS CLAIMED ON THE INDIVIDUAL'S INCOME TAX RETURN, MINUS THE FILING THRESHOLD FOR FEDERAL INCOME TAX RETURNS APPLICABLE TO THE INDIVIDUAL; OR~~

~~(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE FOLLOWING AMOUNTS PER INDIVIDUAL:~~

~~(I) $695 FOR EACH ADULT; AND~~

~~(II) $347.50 FOR EACH CHILD UNDER 18 YEARS OLD.~~

~~(B) THE AMOUNTS SPECIFIED UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL BE ADJUSTED FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2019, IN ACCORDANCE WITH THIS SUBSECTION BY MULTIPLYING THE AMOUNT BY A PERCENTAGE EQUAL TO THE QUOTIENT OF:~~

~~(1) THE AVERAGE OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS AS OF THE CLOSE OF THE 12–MONTH PERIOD ENDING ON AUGUST 31 OF THE CALENDAR YEAR, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, USING THE REVISION OF THE CONSUMER PRICE INDEX THAT IS MOST CONSISTENT WITH THE CONSUMER PRICE INDEX FOR CALENDAR YEAR 1986; AND~~

~~(2) THE CONSUMER PRICE INDEX FOR 2019.~~

~~(B) THE INSURANCE RESPONSIBILITY AMOUNT MAY NOT EXCEED AN AMOUNT DETERMINED BY THE EXCHANGE ON OR BEFORE JUNE 1 OF THE TAXABLE YEAR THAT REPRESENTS THE LOWER OF:~~

~~(1) THE AVERAGE STATE PREMIUM FOR BRONZE–LEVEL PLANS; OR~~

~~(2) THE AVERAGE NATIONAL PREMIUM FOR BRONZE–LEVEL PLANS, IF THE EXCHANGE FINDS THAT THE AVERAGE CAN BE DETERMINED RELIABLY USING CREDIBLE DATA SOURCES.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE INSURANCE RESPONSIBILITY AMOUNT SHALL BE REDUCED:~~

~~(I) BY ANY PENALTY PAYMENT MADE TO THE FEDERAL GOVERNMENT UNDER 26 U.S.C. § 5000A AS A RESULT OF THE INDIVIDUAL OR ANOTHER MEMBER OF THE INDIVIDUAL'S HOUSEHOLD EXPERIENCING A PERIOD WITHOUT MINIMUM ESSENTIAL COVERAGE DURING THE TAXABLE YEAR; AND~~

~~(II) BY A PERCENTAGE THAT REFLECTS THE PORTION OF THE YEAR, IN TERMS OF MONTHS, DURING WHICH THE INDIVIDUAL OR THE INDIVIDUAL'S DEPENDENT WHO FAILED TO MAINTAIN THE COVERAGE REQUIRED BY § 14–201(B) OF THIS SUBTITLE FOR 3 OR MORE MONTHS OF THE TAX YEAR EITHER:~~

~~1. MAINTAINED MINIMUM ESSENTIAL COVERAGE; OR~~

~~2. WAS NOT A STATE RESIDENT.~~

~~(2) THE INSURANCE RESPONSIBILITY AMOUNT MAY NOT BE REDUCED BELOW $0.~~

~~14–203.~~

~~(A) AN INDIVIDUAL WHO FILES A TAX RETURN MAY NOT BE REQUIRED TO PAY AN INSURANCE RESPONSIBILITY AMOUNT FOR AN UNINSURED INDIVIDUAL WHO:~~

~~(1) QUALIFIES FOR AN EXEMPTION UNDER 26 U.S.C. § 5000A;~~

~~(2) IS NOT AN APPLICABLE INDIVIDUAL UNDER 26 U.S.C. § 5000A;~~

~~(3) HAD A MARYLAND MODIFIED ADJUSTED GROSS INCOME OF NOT MORE THAN 138% OF THE POVERTY LINE FOR THE TAX YEAR;~~

~~(4) SUBMITS A SWORN AFFIDAVIT WITH THE INCOME TAX RETURN AFFIRMING THAT THE UNINSURED INDIVIDUAL:~~

~~(I) DID NOT MAINTAIN MINIMUM ESSENTIAL COVERAGE BECAUSE OF SINCERELY HELD RELIGIOUS BELIEFS THAT CAUSE THE UNINSURED INDIVIDUALS TO OBJECT TO VIRTUALLY ALL FORMS OF TREATMENT THAT COULD BE COVERED BY HEALTH INSURANCE; AND~~

~~(II) DID NOT OBTAIN MEDICAL HEALTH CARE DURING THE TAX YEAR;~~

~~(5) HAS BECOME ENROLLED IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM AT THE TIME THE RETURN IS FILED;~~

~~(6) MEETS THE REQUIREMENTS OF § 14–207(A) OF THIS SUBTITLE;~~

~~(7) MEETS THE QUALIFICATIONS DESCRIBED IN § 14–207(B) OF THIS SUBTITLE; OR~~

~~(8) IS EXEMPT UNDER STANDARDS ADOPTED BY THE EXCHANGE, IN CONSULTATION WITH THE COMPTROLLER.~~

~~(B) (1) IN DETERMINING WHETHER AN UNINSURED INDIVIDUAL IS EXEMPT UNDER SUBSECTION (A)(1) OR (2) OF THIS SECTION:~~

~~(I) FOR PURPOSES OF AN EXEMPTION UNDER 26 U.S.C. § 5000A, THE REQUIRED CONTRIBUTION FOR AN INDIVIDUAL ELIGIBLE FOR MINIMUM ESSENTIAL COVERAGE UNDER BOTH AN ELIGIBLE EMPLOYER–SPONSORED PLAN AND A QUALIFIED HEALTH PLAN IS THE LESSER OF THE AMOUNTS THAT THE INDIVIDUAL WOULD HAVE TO PAY FOR COVERAGE OF EACH TYPE;~~

~~(II) FOR PURPOSES OF A HOUSEHOLD WITH A MARYLAND MODIFIED ADJUSTED GROSS INCOME ABOVE 138% AND AT OR BELOW 250% OF THE POVERTY LINE FOR THE TAX YEAR, THE INDIVIDUAL SHALL BE EXEMPT BASED ON AN INABILITY TO AFFORD COVERAGE IF THE INDIVIDUAL'S REQUIRED CONTRIBUTION FOR MINIMUM ESSENTIAL COVERAGE EXCEEDS:~~

~~1. FOR AN INDIVIDUAL WITH A MARYLAND MODIFIED ADJUSTED GROSS INCOME AT OR BELOW 150% OF THE POVERTY LINE FOR THE TAX YEAR, 3% OF THE INDIVIDUAL'S MARYLAND MODIFIED ADJUSTED GROSS INCOME;~~

~~2. FOR AN INDIVIDUAL WITH A MARYLAND MODIFIED ADJUSTED GROSS INCOME ABOVE 150% AND AT OR BELOW 200% OF THE POVERTY LINE FOR THE TAX YEAR, 4% OF THE INDIVIDUAL'S MARYLAND MODIFIED ADJUSTED GROSS INCOME; OR~~

~~3. FOR AN INDIVIDUAL WITH A MARYLAND MODIFIED ADJUSTED GROSS INCOME ABOVE 200% OF THE POVERTY LINE FOR THE TAX YEAR, 6.3% OF THE INDIVIDUAL'S MARYLAND MODIFIED ADJUSTED GROSS INCOME.~~

~~(2) THE EXCHANGE SHALL MAKE DETERMINATIONS, IN ACCORDANCE WITH STANDARDS ADOPTED BY THE EXCHANGE, AS TO WHETHER AN UNINSURED INDIVIDUAL IS EXEMPT UNDER SUBSECTION (A) OF THIS SECTION.~~

~~14–204.~~

~~(A) AN INDIVIDUAL WHO FILES A TAX RETURN SHALL INDICATE ON THE INCOME TAX RETURN, IN THE FORM REQUIRED BY THE COMPTROLLER, WHETHER MINIMUM ESSENTIAL COVERAGE WAS MAINTAINED AS REQUIRED UNDER § 14–201(B) OF THIS SUBTITLE OR WHETHER AN EXEMPTION IS CLAIMED FOR AN UNINSURED INDIVIDUAL IDENTIFIED BY THE TAX RETURN.~~

~~(B) (1) AN INDIVIDUAL SHALL HAVE THE RIGHT TO APPEAL TO THE EXCHANGE, IN ACCORDANCE WITH THE PROCEDURES OF § 10–222 OF THE STATE GOVERNMENT ARTICLE, AN INSURANCE RESPONSIBILITY PAYMENT OR THE DENIAL OF AN EXEMPTION UNDER § 14–203 OF THIS SUBTITLE.~~

~~(2) IN CONDUCTING AN APPEAL, THE EXCHANGE SHALL INCORPORATE PROCEDURES TO SAFEGUARD TAXPAYER RIGHTS WITHOUT IMPOSING UNDUE ADMINISTRATIVE BURDENS, WHILE USING THE APPEALS PROCESS AS AN OPPORTUNITY TO FACILITATE ENROLLMENT IN MINIMUM ESSENTIAL COVERAGE FOR UNINSURED INDIVIDUALS.~~

~~(3) NOTWITHSTANDING § 3–103 OF THIS ARTICLE, ANY APPEAL OF A DECISION BY THE EXCHANGE UNDER THIS SUBSECTION SHALL BE GOVERNED BY § 10–222 OF THE STATE GOVERNMENT ARTICLE.~~

~~14–205.~~

~~THE COMPTROLLER SHALL DISTRIBUTE THE REVENUE FROM THE INSURANCE RESPONSIBILITY AMOUNT TO THE EXCHANGE, FOR DEPOSIT INTO THE MARYLAND HEALTH INSURANCE OPTION FUND.~~

~~14–206.~~

~~(A) THE COMPTROLLER PROMPTLY SHALL NOTIFY THE EXCHANGE IF:~~

~~(1) AN INDIVIDUAL WHO FILED A TAX RETURN ELECTED THE OPTION DESCRIBED IN § 2–115(C)(3) OF THIS ARTICLE FOR AN UNINSURED INDIVIDUAL; AND~~

~~(2) A DETERMINATION OF WHETHER AN INSURANCE RESPONSIBILITY AMOUNT IS DUE OR THE AMOUNT OF THE PAYMENT HAS BEEN SUSPENDED, INCLUDING DUE TO FACTORS RELATED TO THE RETURN OTHER THAN AS DESCRIBED IN § 2–115 OF THIS ARTICLE.~~

~~(B) ON RECEIPT OF THE NOTICE GIVEN UNDER SUBSECTION (A) OF THIS SECTION, THE EXCHANGE PROACTIVELY SHALL CONTACT THE INDIVIDUAL WHO FILED THE TAX RETURN OR THE UNINSURED INDIVIDUAL DESCRIBED IN THE NOTICE TO EXPLAIN THE UNINSURED INDIVIDUAL'S OPTIONS AND TO FACILITATE A DETERMINATION OF ELIGIBILITY FOR INSURANCE AFFORDABILITY PROGRAMS AND ENROLLMENT IN MINIMUM ESSENTIAL COVERAGE.~~

~~(C) THE EXCHANGE MAY EXTEND THE ENROLLMENT PERIOD, AS DETERMINED APPROPRIATE BY THE EXCHANGE, FOR AN INDIVIDUAL WITH RESPECT TO WHOM NOTICE WAS GIVEN TO THE EXCHANGE UNDER SUBSECTION (A) OF THIS SECTION.~~

~~14–207.~~

~~(A) THIS SECTION DOES NOT APPLY TO TAXABLE YEARS THAT BEGIN AFTER A DATE SPECIFIED BY THE COMPTROLLER IF THE EXCHANGE MAKES THE DETERMINATION TO IMPLEMENT POLICIES AND A PROCESS FOR ZERO–ADDITIONAL–COST PLANS AS DESCRIBED IN § 31–207(D) OF THE INSURANCE ARTICLE.~~

~~(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INDIVIDUAL MAY NOT BE REQUIRED TO PAY AN INSURANCE RESPONSIBILITY AMOUNT IF THE INDIVIDUAL FILING THE APPLICABLE TAX RETURN:~~

~~(1) MAKES THE ELECTION DESCRIBED IN § 2–115(C)(3) OF THIS ARTICLE;~~

~~(2) FILES THE RETURN ON OR BEFORE A DATE SPECIFIED BY THE EXCHANGE; AND~~

~~(3) CERTIFIES THAT AN UNINSURED INDIVIDUAL:~~

~~(I) AT THE TIME THE RETURN IS FILED, HAS BEEN UNINSURED CONTINUOUSLY FOR AT LEAST 3 MONTHS;~~

~~(II) WILL ENROLL IN MINIMUM ESSENTIAL COVERAGE WITHIN THE ENROLLMENT PERIOD; AND~~

~~(III) WILL MAINTAIN THE COVERAGE THROUGH THE END OF THE CALENDAR YEAR DURING WHICH THE RETURN IS FILED.~~

~~(C) THE DATE SPECIFIED BY THE EXCHANGE FOR PURPOSES OF SUBSECTION (B)(2) OF THIS SECTION MAY NOT BE LATER THAN THE DATE SPECIFIED IN § 10–820(A) OF THE TAX – GENERAL ARTICLE.~~

~~(D) EXCEPT AS PROVIDED IN SUBSECTIONS (E) THROUGH (I) OF THIS SECTION, AN INDIVIDUAL MAY NOT BE REQUIRED TO PAY AN INSURANCE RESPONSIBILITY AMOUNT IF:~~

~~(1) THE IMMEDIATELY PRECEDING TAXABLE YEAR'S RETURN FILED BY OR ON BEHALF OF AN UNINSURED INDIVIDUAL MET THE REQUIREMENTS DESCRIBED IN SUBSECTION (B) OF THIS SECTION;~~

~~(2) MINIMUM ESSENTIAL COVERAGE BEGAN BY THE DATE DESCRIBED IN SUBSECTION (B) OF THIS SECTION; AND~~

~~(3) THE UNINSURED INDIVIDUAL RETAINED MINIMUM ESSENTIAL COVERAGE THROUGH THE END OF THE CALENDAR YEAR, AS PROMISED IN THE CERTIFICATION.~~

~~(E) EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, IF A CERTIFICATION IS MADE ON BEHALF OF AN UNINSURED INDIVIDUAL UNDER SUBSECTION (B) OF THIS SECTION AND THE UNINSURED INDIVIDUAL DOES NOT OBTAIN AND RETAIN MINIMUM ESSENTIAL COVERAGE THROUGHOUT THE PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THEN THE UNINSURED INDIVIDUAL SHALL:~~

~~(1) BECOME RETROACTIVELY INELIGIBLE FOR THE EXEMPTION CLAIMED, UNDER THAT CERTIFICATION, ON THE PREVIOUS YEAR'S TAX RETURN; AND~~

~~(2) BE INELIGIBLE FOR AN EXEMPTION ON THE CURRENT TAX YEAR'S RETURN.~~

~~(F) (1) IN DETERMINING WHETHER SUBSECTION (E) OF THIS SECTION APPLIES TO AN UNINSURED INDIVIDUAL, THE COMPTROLLER'S INITIAL DETERMINATION MAY RELY ON REPORTS PROVIDED UNDER § 14–301 OF THIS TITLE.~~

~~(2) THE UNINSURED INDIVIDUAL OR INDIVIDUAL WHO FILED THE TAX RETURN MAY APPEAL THE COMPTROLLER'S INITIAL DETERMINATION, USING THE PROCEDURES DESCRIBED IN SUBSECTION (B) OF THIS SECTION.~~

~~(G) IF AN UNINSURED INDIVIDUAL BECOMES RETROACTIVELY INELIGIBLE UNDER SUBSECTION (E)(1) OF THIS SECTION, THE INCOME TAX OWED ON BEHALF OF~~

~~THE UNINSURED INDIVIDUAL ON THE CURRENT TAX YEAR'S RETURN SHALL INCREASE BY THE SUM OF:~~

~~(1) THE INSURANCE RESPONSIBILITY AMOUNT THAT WOULD HAVE BEEN REQUIRED ON THE PREVIOUS TAX YEAR'S RETURN; AND~~

~~(2) INTEREST FOR LATE PAYMENT OF TAX, CALCULATED BASED ON THE INDIVIDUAL RESPONSIBILITY AMOUNT DESCRIBED IN ITEM (1) OF THIS SUBSECTION.~~

~~(II) (1) SUBSECTION (E) OF THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO AN INDIVIDUAL WHO:~~

~~(I) EITHER:~~

~~1. DELAYS THE START OF COVERAGE BEYOND THE ENROLLMENT PERIOD; OR~~

~~2. TERMINATES COVERAGE BEFORE THE END OF THE CALENDAR YEAR AS REQUIRED BY SUBSECTION (B)(3)(III) OF THIS SECTION; AND~~

~~(II) BEFORE THE DELAY OR TERMINATION, OBTAINS A DETERMINATION BY THE EXCHANGE THAT THE RESULTING COVERAGE GAP EITHER:~~

~~1. SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, QUALIFIES FOR AN EXEMPTION UNDER § 14–203 OF THIS SUBTITLE, OR~~

~~2. INVOLVES AN INDIVIDUAL WHO IS NO LONGER A STATE RESIDENT.~~

~~(2) THE EXEMPTION FOR SHORT COVERAGE GAPS UNDER § 5000A(E)(4) OF THE INTERNAL REVENUE CODE MAY NOT BE USED FOR THE PURPOSE OF PARAGRAPH (1)(II)1 OF THIS SUBSECTION.~~

~~(I) THE EXCHANGE MAY REQUIRE OR ALLOW THE PROVISION OF NOTICES THAT:~~

~~(1) ARE ISSUED BY THE EXCHANGE OR CARRIERS SPONSORING QUALIFIED HEALTH PLANS;~~

~~(2) INFORM INDIVIDUALS WHO HAVE MADE THE CERTIFICATION DESCRIBED IN SUBSECTION (B)(3)(II) AND (III) OF THIS SECTION ABOUT THE CONSEQUENCES OF FAILING TO COMPLY WITH THE CERTIFICATION;~~

~~(3) ENCOURAGE THE INDIVIDUALS TO COMPLY WITH THE CERTIFICATIONS DESCRIBED IN SUBSECTION (B)(3)(II) AND (III) OF THIS SECTION BY OBTAINING AND RETAINING MINIMUM ESSENTIAL COVERAGE; AND~~

~~(4) PROMPTLY INFORM THE COMPTROLLER WHEN AN INDIVIDUAL WHO MADE THE CERTIFICATIONS DESCRIBED IN SUBSECTION (B)(3)(II) AND (III) OF THIS SECTION FAILS TO COMPLY WITH THE CERTIFICATIONS.~~

~~SUBTITLE 3. STATE–BASED INFORMATION SYSTEM.~~

~~14–301.~~

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

~~(B) "APPLICABLE ENTITY" MEANS:~~

~~(1) WITH RESPECT TO EMPLOYMENT–BASED MINIMUM ESSENTIAL COVERAGE, AN EMPLOYER OR OTHER SPONSOR OF AN EMPLOYMENT–BASED HEALTH PLAN;~~

~~(2) WITH RESPECT TO COVERAGE PROVIDED THROUGH THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE MARYLAND DEPARTMENT OF HEALTH; OR~~

~~(3) WITH RESPECT TO ANY OTHER MINIMUM ESSENTIAL COVERAGE PROVIDED, CARRIERS LICENSED OR OTHERWISE AUTHORIZED TO OFFER MINIMUM ESSENTIAL COVERAGE.~~

~~(C) "TAXPAYER IDENTIFICATION NUMBER" MEANS THE NUMBER REQUIRED TO BE INCLUDED ON A FEDERAL INCOME TAX RETURN UNDER 26 U.S.C. § 6109.~~

~~14–302.~~

~~(A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, EACH APPLICABLE ENTITY THAT PROVIDES MINIMUM ESSENTIAL COVERAGE TO AN INDIVIDUAL DURING A CALENDAR YEAR SHALL, AT THE TIME AND IN THE FORM DETERMINED BY THE COMPTROLLER, PROVIDE AN INFORMATION REPORT THAT INCLUDES:~~

~~(1) THE NAME, ADDRESS, AND TAXPAYER IDENTIFICATION NUMBER OF THE PRIMARY INSURED INDIVIDUAL;~~

~~(2) THE NAME AND TAXPAYER IDENTIFICATION NUMBER OF EACH INDIVIDUAL OBTAINING COVERAGE UNDER THE POLICY;~~

~~(3) THE DATES DURING WHICH EACH INDIVIDUAL WAS COVERED UNDER MINIMUM ESSENTIAL COVERAGE DURING THE CALENDAR YEAR; AND~~

~~(4) ANY OTHER INFORMATION THE COMPTROLLER REQUIRES.~~

~~(B) (1) A REPORT IS DEEMED TO MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IF THE REPORT:~~

~~(I) INCLUDES THE INFORMATION CONTAINED IN A RETURN DESCRIBED IN § 6055 OF THE INTERNAL REVENUE CODE OF 1986; OR~~

~~(II) CONSISTS OF THE APPLICABLE ELECTRONIC FILE PROVIDED UNDER THAT SECTION TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF THE TREASURY.~~

~~(2) AN APPLICABLE ENTITY IS NOT REQUIRED TO FILE A REPORT WITH THE COMPTROLLER IF THE U.S. TREASURY DEPARTMENT PROVIDES THE SAME INFORMATION TO THE COMPTROLLER, BASED ON INFORMATION IN RETURNS FILED UNDER § 6055 OF THE INTERNAL REVENUE CODE OF 1986.~~

~~(C) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, EACH APPLICABLE ENTITY REQUIRED TO MAKE A REPORT UNDER THIS SECTION SHALL PROVIDE TO EACH INDIVIDUAL IDENTIFIED IN THE REPORT A WRITTEN STATEMENT THAT INCLUDES:~~

~~(1) THE NAME AND ADDRESS OF THE ENTITY REQUIRED TO PROVIDE THE FORM AND THE PHONE NUMBER OF THE INFORMATION CONTACT FOR THE ENTITY; AND~~

~~(2) THE INFORMATION REQUIRED TO BE SHOWN, WITH RESPECT TO THE INDIVIDUAL, ON THE REPORT DESCRIBED IN SUBSECTION (B) OF THIS SECTION.~~

~~(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, AN APPLICABLE ENTITY SHALL PROVIDE THE WRITTEN STATEMENT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE JANUARY 31 OF EACH CALENDAR YEAR IMMEDIATELY FOLLOWING THE CALENDAR YEAR IN WHICH MINIMUM ESSENTIAL COVERAGE WAS PROVIDED TO THE INDIVIDUAL BY THE APPLICABLE ENTITY.~~

~~(E) AN APPLICABLE ENTITY THAT PROVIDES A REPORT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION IS NOT REQUIRED TO PROVIDE THE~~

~~RESIDENT WITH THE STATEMENT DESCRIBED IN SUBSECTIONS (C) AND (D) OF THIS SECTION.~~

~~(F) IN THE CASE OF COVERAGE PROVIDED BY AN APPLICABLE ENTITY THAT IS A GOVERNMENTAL UNIT OR AN AGENCY OR INSTRUMENTALITY OF A GOVERNMENTAL UNIT, THE OFFICER OR EMPLOYEE WHO ENTERS INTO THE AGREEMENT TO PROVIDE THE COVERAGE SHALL BE RESPONSIBLE FOR THE REPORTS AND STATEMENTS REQUIRED BY THIS SECTION.~~

~~(G) AN APPLICABLE ENTITY MAY CONTRACT WITH THIRD–PARTY SERVICE PROVIDERS, INCLUDING INSURANCE CARRIERS, TO PROVIDE THE REPORTS AND STATEMENTS REQUIRED BY THIS SECTION.~~

~~(H) THE COMPTROLLER MAY CONVEY TO THE EXCHANGE INFORMATION IT RECEIVES UNDER THIS SECTION, IF THE COMPTROLLER DETERMINES THAT THE INFORMATION WOULD HELP THE STATE IMPLEMENT MORE EFFECTIVELY THE MARYLAND HEALTH INSURANCE OPTION, ESTABLISHED UNDER § 31–202 OF THE INSURANCE ARTICLE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that all references contained in this Act to federal law included in, modified by, or promulgated to help implement the federal Patient Protection and Affordable Care Act, as amended by the federal Health Care and Education Reconciliation Act of 2010, and any regulations adopted or guidance issued under the Acts, shall be the provision in effect on or before December 15, 2017.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before November 1, 2021, the Health Insurance Option Advisory Workgroup required to be established under § 31–203 of the Insurance Article, as enacted by Section 1 of this Act, shall:~~

~~(1) conduct a study on whether adding an automatic or default enrollment policy for the individual market, through which individuals would be enrolled by default in zero–additional–cost plans unless they opt out of the coverage or elect a different plan, would be beneficial to the State; and~~

~~(2) report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on its recommendations resulting from the study.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that in developing returns, instructions, forms, and procedures to implement Section 1 of this Act, the Maryland Health Benefits Exchange, the Comptroller, and the Maryland Department of Health shall use language and procedures that, to the maximum extent possible:~~

~~(1) are simple, clear, and easy to understand;~~

~~(2) are effective in encouraging residents of the State to obtain and retain health coverage; and~~

~~(3) make it as easy as possible for residents of the State to obtain and retain health coverage.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program* Advisory Workgroup required to be established under § 31–203 of the Insurance Article, as enacted by Section 1 of this Act, shall:

(1) advise the Comptroller on the language the Comptroller is required to develop under § 2–115(c) of the Tax – General Article, as enacted by Section 1 of this Act; and

(2) on or before December 31, 2022, report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on:

(i) the effectiveness of the Maryland ~~Health Insurance Option~~ *Easy Enrollment Health Insurance Program* established under Section 1 of this Act;

(ii) recommendations as to whether implementing an individual responsibility amount or implementing automatic enrollment of individuals in a qualified health benefit plan in the individual market is feasible and in the best interest of the State; and

(iii) if the Workgroup determines that implementing an insurance responsibility amount is feasible and in the best interest of the State, the dollar amount of the individual responsibility amount and whether the State should provide an individual the option of obtaining health insurance instead of paying the individual responsibility amount.

SECTION 3. AND BE IT FURTHER ENACTED, That the Comptroller of the State shall:

(1) ensure that the integrated tax system to which the Office of the Comptroller is currently transitioning is a system that has the capability to collect individual responsibility amounts; and

(2) on or before December 1, 2020, report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the progress the Office of the Comptroller has made in transitioning to the integrated tax system and the costs and time needed to include functionality to process and collect individual responsibility amounts in the integrated tax system.

SECTION ~~5.~~ 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, in the case of an uninsured minor child, communications regarding

insurance affordability programs or enrollment in minimum essential coverage may be addressed to the child's parent or guardian.

SECTION ~~6.~~ 5. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~7.~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 425

(Senate Bill 909)

AN ACT concerning

Health Care Practitioners – Medical Examinations on Anesthetized or Unconscious Patients

FOR the purpose of prohibiting health care practitioners and certain students and trainees from performing certain examinations on a patient who is under anesthesia or unconscious unless the health care practitioner, student, or trainee obtained informed consent from the patient for the examination, the performance of the examination is within the ~~scope~~ standard of care for the patient, ~~or~~ the patient is unconscious and the examination is required for diagnostic or treatment purposes, or an emergency exists, it is impractical to obtain the patient's consent, and the examination is required for diagnostic or treatment purposes; authorizing certain health occupations boards to take certain actions against certain health care practitioners under certain circumstances and in accordance with certain hearing provisions; defining a certain term; and generally relating to medical examinations on anesthetized or unconscious patients.

BY adding to
Article – Health Occupations
Section 1–221.1
Annotated Code of Maryland
~~(2015~~ (2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

1–221.1.

(A) IN THIS SECTION, "HEALTH CARE PRACTITIONER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER ~~THE HEALTH OCCUPATIONS ARTICLE~~ THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

(B) A HEALTH CARE PRACTITIONER, OR A STUDENT OR TRAINEE IN AN EDUCATIONAL OR TRAINING PROGRAM TO BECOME A HEALTH CARE PRACTITIONER, MAY NOT PERFORM A PELVIC, PROSTATE, OR RECTAL EXAMINATION ON A PATIENT WHO IS UNDER ANESTHESIA OR UNCONSCIOUS UNLESS:

(1) THE HEALTH CARE PRACTITIONER, STUDENT, OR TRAINEE OBTAINED INFORMED CONSENT FROM THE PATIENT FOR THE EXAMINATION;

(2) THE PERFORMANCE OF THE EXAMINATION IS WITHIN THE ~~SCOPE~~ STANDARD OF CARE FOR THE PATIENT; ~~OR~~

(3) THE PATIENT IS UNCONSCIOUS AND THE EXAMINATION IS REQUIRED FOR DIAGNOSTIC OR TREATMENT PURPOSES; OR

(4) AN EMERGENCY EXISTS, IT IS IMPRACTICAL TO OBTAIN THE PATIENT'S CONSENT, AND THE EXAMINATION IS REQUIRED FOR DIAGNOSTIC OR TREATMENT PURPOSES.

(C) A HEALTH OCCUPATIONS BOARD, IN ACCORDANCE WITH THE HEARING PROCEDURES THAT GOVERN THE DISCIPLINE OF THE HEALTH CARE PRACTITIONER UNDER THE BOARD'S JURISDICTION, MAY REPRIMAND, PLACE ON PROBATION, OR SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF A HEALTH CARE PRACTITIONER UNDER THE BOARD'S JURISDICTION WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

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

Approved by the Governor, May 13, 2019.

Chapter 426

(Senate Bill 318)

AN ACT concerning

Education – School Safety Subcabinet Advisory Board – Membership

FOR the purpose of altering the membership of the School Safety Subcabinet Advisory Board; and generally relating to the School Safety Subcabinet Advisory Board.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–1504
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

7–1504.

(a) There is a School Safety Subcabinet Advisory Board.

(b) The Advisory Board shall include the following members:

(1) One member of the Senate of Maryland, appointed by the President of the Senate;

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) A representative of local superintendents of schools, appointed by the Public School Superintendents' Association of Maryland;

(4) A representative of the Maryland Association of Boards of Education, appointed by the Association;

(5) A school psychologist or licensed or clinical social worker, appointed by the State Superintendent;

(6) A special education administrator, appointed by the State Superintendent;

(7) A classroom teacher, appointed jointly by the Maryland State Education Association and the Baltimore Teachers Union;

(8) A school principal, appointed by the State Superintendent;

(9) One representative of the Department of Human Services, appointed by the Secretary of Human Services;

(10) One representative of the Department of Juvenile Services, appointed by the Secretary of Juvenile Services;

(11) A school resource officer, appointed by the Maryland Association of School Resource Officers;

(12) A sheriff, appointed by the Maryland Sheriffs' Association;

(13) A chief of police, appointed by the Maryland Chiefs of Police Association, Inc.;

(14) An emergency medical, fire, or rescue services professional, appointed by the Maryland Institute for Emergency Medical Services Systems;

(15) The Director of the Maryland Coordination and Analysis Center, or the Director's designee;

(16) One representative of the Maryland Assembly on School–Based Health Care, appointed by the Assembly;

(17) One representative of the Maryland Association of Student Councils, appointed by the Association;

(18) One representative of the Center for School Mental Health at the University of Maryland, Baltimore Campus, appointed by the Center for School Mental Health;

(19) One representative of Disability Rights Maryland, appointed by Disability Rights Maryland; and

(20) The following **[**four**]** **FIVE** members of the public, appointed by the Governor:

(i) A parent of a public school student in the State;

(ii) A parent of a child with disabilities who attends a school in the State;

(iii) A representative of a nonpublic school in the State; **[**and**]**

(iv) A representative of school bus drivers**; AND**

(V) A REPRESENTATIVE OF A NONPUBLIC SPECIAL EDUCATION SCHOOL.

(c) The Governor shall appoint a chair of the Advisory Board from among its members.

(d) A member appointed by the Governor:

(1) Serves at the pleasure of the Governor;

(2) Serves for a term of 3 years and until a successor is appointed and qualifies; and

(3) May be reappointed but may not serve more than two consecutive terms.

(e) A member of the Advisory Board:

(1) May not receive compensation as a member of the Advisory Board; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Advisory Board shall meet regularly at such times and places as it determines.

(g) The Advisory Board shall provide the Subcabinet with advice and assist the Subcabinet in completing its duties.

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

Approved by the Governor, May 13, 2019.

Chapter 427

(Senate Bill 573)

AN ACT concerning

Energy Storage Pilot Project Act

FOR the purpose of requiring the Public Service Commission to establish an energy storage pilot program; providing for the structure and operation of the program; requiring the Commission to require each investor–owned electric company to solicit offers to

develop energy storage projects for certain commercial and regulatory models; requiring each investor–owned electric company to submit ~~an application~~ applications for projects from a certain number of models; establishing that a proposed project must be able to meet reasonably the program's timelines and data collection requirements; requiring an investor–owned electric company to prioritize projects that defer or replace certain needs under certain circumstances; requiring an investor–owned electric company to describe in a project application whether a project demonstrates certain attributes; requiring an investor–owned electric company to include certain information in a project application; authorizing the Commission, for a certain purpose, to determine how to address cost recovery for certain models; authorizing the Commission, for a certain purpose, to allow certain program activity on a project–by–project basis; providing for the beginning and termination of the pilot program; requiring an investor–owned electric company to solicit proposals and apply for Commission approval of certain projects on or before certain dates; requiring the Commission to make a certain determination on or before a certain date; requiring the Commission to solicit comments from certain stakeholders and hold a hearing on certain applications; requiring the Commission to approve, approve with modification, or reject a certain application; requiring an investor–owned electric company to submit a certain amended application within a certain time period; requiring the Commission to approve, approve with modifications, or reject a certain amended application within a certain period of time; authorizing the Commission to establish certain interim deadlines; requiring an investor–owned electric company to submit certain information or data on or before ~~a certain date;~~ certain dates; requiring an investor–owned electric company to make certain data available to the public; requiring certain data to be seasonally adjusted; ~~authorizing an investor–owned electric company, under certain circumstances, to apply for an extension of the pilot program on or before a certain date;~~ requiring the Commission to determine which data related to the projects may be made available only to certain persons and which data related to the projects may be made available to the public; authorizing the Commission to extend the pilot program and delay by a corresponding amount of time a certain evaluation and report under certain circumstances; requiring the Commission to submit a certain interim report to the General Assembly on or before a certain date; requiring the Commission to evaluate certain matters and report certain findings and recommendations to the General Assembly on or before a certain date under certain circumstances; establishing that the pilot program does not preclude any other investments in energy storage by a public service company; providing that the termination of the pilot program does not affect certain cost recovery by an investor–owned electric company; defining certain terms; and generally relating to pilot energy storage projects.

BY adding to
Article – Public Utilities
Section 7–216
Annotated Code of Maryland
(2010 Replacement Volume and 2018 Supplement)

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

Article – Public Utilities

7–216.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "ENERGY STORAGE DEVICE" MEANS A RESOURCE CAPABLE OF ABSORBING ELECTRICAL ENERGY, STORING IT FOR A PERIOD OF TIME, AND ~~DISPATCHING~~ DELIVERING THE ENERGY FOR USE AT A LATER TIME AS NEEDED, REGARDLESS OF WHERE THE RESOURCE IS LOCATED ON THE ELECTRIC DISTRIBUTION SYSTEM.

(II) "ENERGY STORAGE DEVICE" INCLUDES ALL TYPES OF ELECTRIC STORAGE TECHNOLOGIES, REGARDLESS OF THEIR SIZE, STORAGE MEDIUM, OR OPERATIONAL PURPOSE.

(3) "INVESTOR–OWNED ELECTRIC COMPANY" MEANS AN ELECTRIC COMPANY THAT IS NOT A MUNICIPAL ELECTRIC UTILITY OR AN ELECTRIC COOPERATIVE.

(B) (1) THE COMMISSION SHALL ESTABLISH AN ENERGY STORAGE PILOT PROGRAM.

(2) THE CUMULATIVE SIZE OF THE PILOT PROJECTS UNDER THE PROGRAM SHALL BE BETWEEN 5 AND 10 MEGAWATTS, WITH A MINIMUM OF 15 MEGAWATT–HOURS.

(C) THE COMMISSION SHALL REQUIRE EACH INVESTOR–OWNED ELECTRIC COMPANY TO SOLICIT OFFERS TO DEVELOP ENERGY STORAGE PROJECTS FOR EACH OF THE FOLLOWING COMMERCIAL AND REGULATORY MODELS:

(1) A "UTILITY–ONLY" MODEL UNDER WHICH THE ELECTRIC COMPANY WOULD OWN THE PROJECT, CONTROL THE PROJECT FOR GRID RELIABILITY, AND OPERATE THE PROJECT IN WHOLESALE MARKETS OR OTHER APPLICATIONS WHEN NOT PROVIDING GRID SERVICES;

(2) A "UTILITY AND THIRD–PARTY" MODEL UNDER WHICH THE ELECTRIC COMPANY WOULD OWN THE PROJECT AND CONTROL THE PROJECT FOR GRID RELIABILITY, AND A THIRD PARTY WOULD OPERATE THE PROJECT IN

WHOLESALE MARKETS OR OTHER APPLICATIONS WHEN THE PROJECT IS NOT PROVIDING GRID SERVICES;

(3) A "THIRD–PARTY OWNERSHIP" MODEL UNDER WHICH THE ELECTRIC COMPANY WOULD:

(I) CONTRACT WITH A PROJECT OWNED BY A THIRD PARTY FOR GRID RELIABILITY; AND

(II) ALLOW THE THIRD PARTY TO OPERATE THE PROJECT IN WHOLESALE MARKETS OR OTHER APPLICATIONS WHEN THE PROJECT IS NOT PROVIDING GRID SERVICES; AND

(4) A "VIRTUAL POWER PLANT" MODEL UNDER WHICH:

(I) THE ELECTRIC COMPANY WOULD AGGREGATE OR USE A THIRD–PARTY AGGREGATOR TO RECEIVE GRID SERVICES FROM DISTRIBUTED ENERGY STORAGE PROJECTS OWNED BY CUSTOMERS OR A THIRD PARTY; AND

(II) THE PROJECTS WOULD BE USED BY THE CUSTOMERS OR THIRD PARTY FOR OTHER APPLICATIONS WHEN THE PROJECTS ARE NOT PROVIDING GRID SERVICES.

(D) (1) EACH INVESTOR–OWNED ELECTRIC COMPANY SHALL SUBMIT ~~AN APPLICATION~~ APPLICATIONS FOR COMMISSION APPROVAL TO DEPLOY ENERGY STORAGE PROJECTS FROM AT LEAST TWO OF THE MODELS DESCRIBED UNDER SUBSECTION (C) OF THIS SECTION, ONE OF WHICH MUST BE FROM A MODEL DESCRIBED IN SUBSECTION (C)(3) OR (4) OF THIS SECTION.

(2) A PROPOSED PROJECT MUST BE ABLE TO MEET REASONABLY THE PROGRAM'S TIMELINES AND DATA COLLECTION REQUIREMENTS.

(3) AN INVESTOR–OWNED ELECTRIC COMPANY SHALL GIVE PRIORITY TO PROJECTS THAT DIRECTLY DEFER OR REPLACE AN EXISTING OR ANTICIPATED DISTRIBUTION NEED.

(4) AN INVESTOR–OWNED ELECTRIC COMPANY MAY PROPOSE A PROJECT THAT DOES NOT DIRECTLY DEFER OR REPLACE AN EXISTING OR ANTICIPATED DISTRIBUTION NEED IF THE PROJECT INCLUDES GRID BENEFITS, RATEPAYER BENEFITS, OR OTHERWISE HELPS MEET THE STATE'S POLICY GOALS.

(5) AN INVESTOR–OWNED ELECTRIC COMPANY SHALL DESCRIBE IN THE COMPANY'S APPLICATION WHETHER A PROJECT DEMONSTRATES AN

OPPORTUNITY TO REDUCE SYSTEM COSTS ~~OR OTHERWISE OFFERS NET SOCIETAL BENEFITS~~.

(E) AN APPLICATION UNDER SUBSECTION (D) OF THIS SECTION SHALL INCLUDE INFORMATION CONCERNING:

(1) BEST ESTIMATES OF COSTS AND SAVINGS FOR ~~EACH~~ THE PROJECT, INCLUDING:

(I) ESTIMATED PERMITTING AND INTERCONNECTION COSTS;

(II) AN APPROXIMATION OF THE POTENTIAL BENEFITS, INCLUDING COST SAVINGS;

(III) AN ESTIMATE OF FUNDS EXPECTED TO BE RECEIVED FROM WHOLESALE MARKET TRANSACTIONS;

(IV) AN ESTIMATE OF THE VALUE OF ANY DISTRIBUTION INVESTMENT DEFERRAL OR REPLACEMENT DUE TO THE PROJECT, SUCH AS THE PRESENT VALUE OF THE COSTS AVOIDED BY INSTALLING THE STORAGE SYSTEM; ~~AND~~

(V) ESTIMATES OF OTHER SOCIETAL BENEFITS ACHIEVED BY THE PROJECT, SUCH AS INCREMENTAL RELIABILITY AND RESILIENCY, GREENHOUSE GAS EMISSION REDUCTIONS, AND LEARNING BENEFITS; AND

(VI) THE ESTIMATED IMPACT OF EACH PROJECT ON THE INVESTOR–OWNED ELECTRIC COMPANY'S RATES FOR EACH CLASS OF CUSTOMER;

(2) PROJECT LOCATION;

(3) PROJECT SIZE IN WATTS AND DURATION IN WATT–HOURS;

(4) PRIMARY AND SECONDARY APPLICATIONS;

(5) THE BUSINESS MODEL SELECTED FOR THE PROJECT UNDER SUBSECTION (C) OF THIS SECTION;

(6) THE PROJECT DEVELOPER OR ENGINEERING, PROCUREMENT, AND CONSTRUCTION FIRM SELECTED FOR THE PROJECT;

(7) THE TYPE OF ENERGY STORAGE TECHNOLOGY;

(8) THE PROCESS THE INVESTOR–OWNED ELECTRIC COMPANY USED TO SOLICIT OFFERS FOR THE PROJECT, INCLUDING FEEDBACK ON MODELS NOT SELECTED AND AN EXPLANATION FOR WHY THE CHOSEN MODEL WAS SELECTED; AND

(9) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

(F) FOR PURPOSES OF THE PILOT PROGRAM ONLY, THE COMMISSION MAY DETERMINE HOW TO ADDRESS COST RECOVERY FOR THE MODELS DESCRIBED UNDER SUBSECTION (C)(3) AND (4) OF THIS SECTION.

(G) FOR PURPOSES OF THE PILOT PROGRAM ONLY, THE COMMISSION MAY, ON A PROJECT–BY–PROJECT BASIS, ALLOW:

(1) AN INVESTOR–OWNED ELECTRIC COMPANY TO OWN OR OPERATE AN ENERGY STORAGE DEVICE;

(2) AN ENERGY STORAGE DEVICE OWNED OR OPERATED BY AN INVESTOR–OWNED ELECTRIC COMPANY TO PARTICIPATE IN ALL AVAILABLE PJM WHOLESALE REVENUE MARKETS IN ORDER TO REALIZE BENEFITS FOR INVESTOR–OWNED ELECTRIC COMPANY CUSTOMERS;

(3) FULL AND TIMELY COST RECOVERY BY THE INVESTOR–OWNED ELECTRIC COMPANY, AT THE RATE OF RETURN AUTHORIZED BY THE COMMISSION IN THE MOST RECENT BASE RATE PROCEEDING FOR THE INVESTOR–OWNED ELECTRIC COMPANY, TAKING INTO ACCOUNT ANY USE OF AN ASSET THAT MAY NOT BE INCLUDED IN BASE RATES;

(4) AN INVESTOR–OWNED ELECTRIC COMPANY TO COORDINATE THE USE OF AN ENERGY STORAGE DEVICE;

(5) AN INVESTOR–OWNED ELECTRIC COMPANY TO USE FULLY UNTIL THE END OF THE DEVICE'S USEFUL LIFE, AN ENERGY STORAGE DEVICE OWNED OR OPERATED BY THE INVESTOR–OWNED ELECTRIC COMPANY; AND

(6) AN INVESTOR–OWNED ELECTRIC COMPANY TO OFFER REBATES OR OTHER INCENTIVES FOR ENERGY STORAGE DEVICES BEHIND OR IN FRONT OF THE METER THAT CAN BE CONFIGURED TO PROVIDE TEMPORARY BACKUP POWER TO A CUSTOMER.

(H) (1) THE PILOT PROGRAM SHALL BEGIN ON OR BEFORE ~~FEBRUARY 28, 2020~~ JUNE 1, 2019.

(2) (I) ON OR BEFORE ~~FEBRUARY 28, 2021.~~

~~(I)~~ **APRIL 15, 2020,** EACH INVESTOR–OWNED ELECTRIC COMPANY SHALL SOLICIT PROPOSALS AND APPLY FOR COMMISSION APPROVAL~~;~~ FOR THE FIRST ENERGY STORAGE PROJECT REQUIRED UNDER SUBSECTION (D)(1) OF THIS SECTION.

(II) ON OR BEFORE SEPTEMBER 15, 2020, EACH INVESTOR–OWNED ELECTRIC COMPANY SHALL SOLICIT PROPOSALS AND APPLY FOR COMMISSION APPROVAL FOR THE SECOND ENERGY STORAGE PROJECT REQUIRED UNDER SUBSECTION (D)(1) OF THIS SECTION.

~~(III)~~ (3) ON OR BEFORE APRIL 15, 2021:

(I) THE COMMISSION SHALL DETERMINE WHICH PROJECTS TO APPROVE; AND

~~(III)~~ (II) EACH INVESTOR–OWNED ELECTRIC COMPANY SHALL NEGOTIATE CONTRACTS TO IMPLEMENT PROJECTS.

(4) (I) THE COMMISSION SHALL SOLICIT COMMENTS FROM THE MARYLAND ENERGY ADMINISTRATION, THE OFFICE OF PEOPLE'S COUNSEL, AND OTHER STAKEHOLDERS AND HOLD A HEARING ON EACH APPLICATION SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.

(II) THE COMMISSION SHALL APPROVE, APPROVE WITH MODIFICATIONS, OR REJECT AN APPLICATION SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION AFTER:

1. RECEIVING COMMENTS FROM THE MARYLAND ENERGY ADMINISTRATION, THE OFFICE OF PEOPLE'S COUNSEL, AND OTHER STAKEHOLDERS AND HOLDING A HEARING;

2. CONSIDERING THE PROJECTED COSTS AND BENEFITS OF THE PROJECTS PROPOSED FOR INCLUSION IN THE PILOT PROGRAM; AND

3. DETERMINING WHETHER THE PROJECT IS IN THE PUBLIC AND RATEPAYER INTEREST.

(5) (I) IF THE COMMISSION REJECTS AN APPLICATION, WITHIN 3 MONTHS AFTER RECEIVING NOTICE OF THE REJECTION OF AN APPLICATION, THE INVESTOR–OWNED ELECTRIC COMPANY SHALL SUBMIT AN AMENDED APPLICATION FOR COMMISSION APPROVAL.

(II) THE COMMISSION SHALL APPROVE, APPROVE WITH MODIFICATIONS, OR REJECT AN AMENDED APPLICATION WITHIN 3 MONTHS AFTER RECEIPT OF THE AMENDED APPLICATION.

~~(3)~~ (6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON OR BEFORE FEBRUARY 28, 2022, ALL APPROVED PROJECTS SHALL BECOME OPERATIONAL.

(II) THE COMMISSION MAY, FOR GOOD CAUSE SHOWN, GRANT AN EXTENSION FROM THE DEADLINE ESTABLISHED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR UNANTICIPATED PROJECT DEVELOPMENT DELAYS.

(III) THE COMMISSION MAY ESTABLISH ADDITIONAL INTERIM DEADLINES.

~~(4)~~ (7) (I) ON OR BEFORE ~~FEBRUARY 28, 2023,~~ JULY 1 OF 2023, 2024, AND 2025, AN INVESTOR–OWNED ELECTRIC COMPANY SHALL SUBMIT TO THE COMMISSION, THE MARYLAND ENERGY ADMINISTRATION, AND THE OFFICE OF PEOPLE'S COUNSEL INFORMATION OR DATA CONCERNING:

1. ESTIMATED PROJECT COSTS;

2. FINAL PROJECT COSTS;

3. THE NUMBER OF DAYS NECESSARY TO ACHIEVE PROJECT INTERCONNECTION;

4. THE TOTAL COST OF PROJECT INTERCONNECTION;

5. THE NUMBER OF DAYS NECESSARY TO ACHIEVE PROJECT PERMITTING;

6. THE TOTAL COST OF PROJECT PERMITTING;

7. THE CONTRACTUAL OR COMMITTED COMMERCIAL OPERATION DATE;

8. THE ACTUAL COMMERCIAL OPERATION DATE;

9. THE NAME AND ADDRESS OF THE PROJECT DEVELOPER;

10. THE LOCATION AND ADDRESS OF THE PROJECT;

11. THE SIZE OF THE ENERGY STORAGE PROJECT IN WATTS;

12. THE DURATION OF THE ENERGY STORAGE PROJECT IN WATT–HOURS;

13. THE TYPE OF ENERGY STORAGE TECHNOLOGY;

14. THE IDENTITIES OF ANY PROJECT OWNERS OR LESSORS;

15. ANY PROJECT FINANCING METHODS;

16. THE IDENTITY OF ANY ENTITY THAT PROVIDES FINANCING FOR THE PROJECT;

17. THE LENGTH OF ANY PROJECT CONTRACT;

18. ANY INVERTERS USED FOR THE PROJECT, INCLUDING THE TYPE AND MANUFACTURER;

19. ANY MANUFACTURER WARRANTY, INCLUDING ITS DURATION;

20. ANY DEVELOPER WARRANTY, INCLUDING ITS DURATION;

21. ANY TECHNOLOGY WITH WHICH THE PROJECT IS PAIRED;

22. HOW METERS AND INVERTERS ASSOCIATED WITH THE PROJECT ARE CONFIGURED;

23. ANY SYSTEM INTEGRATOR ASSOCIATED WITH THE PROJECT;

24. PROJECT SAFETY, INCLUDING BATTERY TYPE AND CHEMISTRY;

25. ANY ENERGY MANAGEMENT SYSTEM ASSOCIATED WITH THE PROJECT;

26. ANY ENERGY STORAGE POWER CONVERSION SYSTEM ASSOCIATED WITH THE PROJECT;

27. THE BUSINESS MODEL SELECTED FOR THE PROJECT UNDER SUBSECTION (C) OF THIS SECTION;

28. THE COST RECOVERY MECHANISM FOR THE PROJECT;

29. THE RATE OF RETURN APPLIED TO THE PROJECT;

30. FOR A VIRTUAL POWER PLANT PROJECT UNDER SUBSECTION (C)(4) OF THIS SECTION, THE NUMBER AND TYPE OF CUSTOMERS PARTICIPATING;

31. FOR A VIRTUAL POWER PLANT PROJECT UNDER SUBSECTION (C)(4) OF THIS SECTION, THE IDENTITY OF THE AGGREGATOR;

32. OPERATIONAL CHALLENGES RELATED TO MULTIPLE STAKEHOLDER OR THIRD–PARTY USE OF THE STORAGE ASSET;

33. THE TYPES OF REVENUE EXPECTED FROM THE PROJECT, INCLUDING ANY WHOLESALE MARKET REVENUES;

34. THE TYPES OF REVENUE PROVIDED BY THE PROJECT, INCLUDING ANY WHOLESALE MARKET REVENUES;

35. THE DISTRIBUTION NEED THE PROJECT ADDRESSED;

36. THE AMOUNT OF TIME THE PROJECT IS EXPECTED TO DEFER THE NEED FOR AN ALTERNATIVE INVESTMENT;

37. ANY VALUE OF OPTIONALITY ASSOCIATED WITH THE AMOUNT OF TIME THE PROJECT IS EXPECTED TO DEFER THE NEED FOR AN ALTERNATIVE INVESTMENT;

38. THE EXPECTED LOAD PROJECTION BEFORE THE PROJECT WAS INSTALLED;

39. ENHANCED GRID RELIABILITY AS A RESULT OF THE PROJECT;

40. FOR A UTILITY AND THIRD–PARTY PROJECT UNDER SUBSECTION (C)(2) OF THIS SECTION, THE DOLLAR VALUE OF THE LEASE PAYMENTS FROM THE THIRD PARTY TO THE UTILITY;

41. FOR A UTILITY AND THIRD–PARTY PROJECT UNDER SUBSECTION (C)(2) OF THIS SECTION, THE DURATION OF THE LEASE AGREEMENT BETWEEN THE THIRD PARTY AND THE UTILITY;

42. ANY OTHER IDENTIFIED BENEFITS, INCLUDING RESILIENCY AND SOCIAL BENEFITS;

43. EXPECTED AND ACTUAL STORAGE SYSTEM CYCLING;

44. THE PROJECT'S SUCCESS IN SWITCHING BETWEEN APPLICATIONS WITHOUT CHALLENGES OR PROBLEMS;

45. OCCASIONS WHEN THE PROJECT WAS UNABLE TO SERVE AN APPLICATION;

46. ANY PROJECT DELAYS AND THE CAUSES FOR THE DELAYS;

47. ANY EMISSIONS REDUCTIONS EXPECTED AS A RESULT OF THE PROJECT; AND

48. ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

(II) ~~AN~~ SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, AN INVESTOR–OWNED ELECTRIC COMPANY SHALL MAKE ALL DATA PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT IS NOT PROPRIETARY OR CONFIDENTIAL AVAILABLE TO THE PUBLIC.

(III) TO THE EXTENT POSSIBLE, ANY ANNUALIZED DATA PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE SEASONALLY ADJUSTED.

(IV) AFTER RECEIVING COMMENTS FROM ALL PARTIES, THE COMMISSION SHALL DETERMINE:

1. WHICH DATA RELATED TO THE PROJECTS SHALL BE MADE AVAILABLE ONLY TO THE TECHNICAL STAFF OF THE COMMISSION AND THE OFFICE OF PEOPLE'S COUNSEL; AND

2. WHICH DATA RELATED TO THE PROJECTS SHALL BE MADE AVAILABLE TO THE PUBLIC.

(I) ON OR BEFORE APRIL 1, ~~2023~~ 2026, IF AN INVESTOR–OWNED ELECTRIC COMPANY DETERMINES THAT ADDITIONAL TIME TO GATHER DATA WOULD PROVIDE ADDITIONAL OPPORTUNITIES FOR LEARNING AND JUSTIFY CONTINUING THE PILOT ~~PROGRAM, THE ELECTRIC COMPANY MAY APPLY FOR AN EXTENSION OF THE PILOT PROGRAM FROM THE COMMISSION.~~ PROGRAM, THE COMMISSION MAY EXTEND THE PILOT PROGRAM AND DELAY BY A CORRESPONDING AMOUNT OF TIME THE EVALUATION AND REPORT REQUIRED UNDER SUBSECTION (K) OF THIS SECTION.

(J) ~~ON OR BEFORE DECEMBER 31, 2023,~~ ON OR BEFORE JULY 1, 2024, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE COMMISSION SHALL SUBMIT AN INTERIM REPORT TO THE GENERAL ASSEMBLY THAT PROVIDES AN INITIAL EVALUATION OF THE PROJECTS APPROVED UNDER THIS SECTION BASED ON:

(1) PROJECT COSTS;

(2) VALUE STREAMS;

(3) ANY REDUCTION IN SYSTEM COSTS;

(4) ANY ISSUES ENCOUNTERED IN THE EARLY IMPLEMENTATION PHASE; AND

(5) AN ANALYSIS OF ANY FUNDS GENERATED FROM THE WHOLE MARKET.

(K) (1) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, ON OR BEFORE JULY 1, 2026, IN CONSULTATION WITH THE MARYLAND ENERGY ADMINISTRATION AND THE OFFICE OF PEOPLE'S COUNSEL, THE COMMISSION SHALL EVALUATE THE PROJECTS APPROVED UNDER THIS SECTION BASED ON:

~~(1)~~ (I) THE OVERALL COST OF THE PROJECT;

~~(2)~~ (II) WHETHER THE PROJECT WAS OPTIMIZED THROUGH MULTIPLE APPLICATIONS;

~~(3)~~ (III) WHETHER THE PROJECT MANAGED TO CAPTURE DIFFERENT VALUE STREAMS;

~~(4)~~ (IV) WHETHER THE PROJECT REDUCED SYSTEM COSTS;

~~(5)~~ (V) WHETHER THE PROJECT DEFERRED OR REPLACED ENTIRELY A TRADITIONAL INVESTMENT ON THE DISTRIBUTION SYSTEM, AND ANY VALUE OF SUCH A DEFERRAL OR REPLACEMENT;

~~(6)~~ (VI) AN ANALYSIS OF ANY FUNDS GENERATED FROM THE WHOLESALE MARKET;

~~(7)~~ (VII) OTHER BENEFITS PROVIDED AS A RESULT OF THE PROJECT;

~~(8)~~ (VIII) ISSUES THAT THE PROJECT ENCOUNTERED IN IMPLEMENTATION; AND

~~(9)~~ (IX) WHETHER THE PROJECT ALTERED THE QUALITY OR AVAILABILITY OF ELECTRICITY SUPPLY.

~~(K)~~ (2) ON OR BEFORE DECEMBER 31, ~~2023~~ 2026, THE COMMISSION SHALL REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON ITS FINDINGS UNDER ~~SUBSECTION (J) OF THIS SECTION~~ PARAGRAPH (1) OF THIS SUBSECTION AND ITS RECOMMENDATIONS FOR THE CONTINUED DEVELOPMENT OF ENERGY STORAGE IN THE STATE.

(L) THE PILOT PROGRAM MAY NOT PRECLUDE ANY OTHER INVESTMENT BY A PUBLIC SERVICE COMPANY IN ENERGY STORAGE.

(M) (1) UNLESS THE COMMISSION EXTENDS THE PILOT PROGRAM IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION, THE PILOT PROGRAM SHALL TERMINATE ON DECEMBER 31, 2026.

(2) THE TERMINATION OF THE PILOT PROGRAM MAY NOT AFFECT THE COST RECOVERY BY AN INVESTOR–OWNED ELECTRIC COMPANY FOR THE LIFETIME OF AN ENERGY STORAGE PROJECT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 428

(Senate Bill 180)

AN ACT concerning

Education – Robotics Grant Program – Alterations

FOR the purpose of expanding eligibility requirements for the Robotics Grant Program to include certain ~~nonprofit~~ organizations ~~and community clubs~~; ~~repealing the requirement for existing nonprofit robotics clubs to be associated with a public school to be eligible for the Program;~~ requiring the Governor to increase a certain appropriation to the Program in the State budget; *requiring the State Department of Education to award grants in a certain manner;* defining a certain term; and generally relating to the Robotics Grant Program.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–123
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

7–123.

(A) IN THIS SECTION, "ELIGIBLE ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT ~~PROVIDES A MAJORITY OF PUBLIC SCHOOL~~*:*

(1) PROVIDES* YOUTH WITH AN OUT–OF–SCHOOL TIME EXPERIENCE THAT FOCUSES ON PERSONAL AND WORKFORCE DEVELOPMENT*; AND

(2) SERVES PUBLIC SCHOOL STUDENTS AS A MAJORITY OF ITS PARTICIPATING YOUTH.

~~(a)~~ **(B)** (1) There is a Robotics Grant Program in the State.

(2) The purpose of the Program is to provide grants to public schools ~~[~~and~~]~~, ~~nonprofit~~ **ELIGIBLE** [robotics] **ORGANIZATIONS**~~, AND COMMUNITY clubs~~ in the State to support existing robotics programs and to increase the number of robotics programs in the State.

~~(b)~~ **(C)** ~~[~~(1)~~]~~ A school~~, A NONPROFIT ORGANIZATION, OR A COMMUNITY CLUB~~ **OR AN ELIGIBLE ORGANIZATION** is eligible to receive a grant under this section if the school~~, NONPROFIT ORGANIZATION,~~ **OR ELIGIBLE ORGANIZATION** ~~OR COMMUNITY CLUB~~ is proposing a new robotics program or club or has an existing robotics program or club.

~~[~~(2) An ~~existing nonprofit robotics club~~ **ELIGIBLE ORGANIZATION** is eligible to receive a grant under this section **ONLY** if the ~~nonprofit robotics club~~ **ELIGIBLE ORGANIZATION** is associated with a public school.~~]~~

~~(c)~~ **(D)** The Governor shall include in the State budget an annual appropriation of at least **[**$250,000**]** ~~**$500,000**~~ **$350,000** to the Program.

~~(d)~~ **(E)** ***(1)*** The Department shall implement and administer the Program in accordance with this section.

(2) TO THE EXTENT PRACTICABLE, THE DEPARTMENT SHALL AWARD GRANTS TO ENSURE GEOGRAPHIC DIVERSITY AMONG THE GRANTEES.

~~(e)~~ **(F)** The Department may adopt regulations to implement the requirements of this section.

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

Approved by the Governor, May 13, 2019.

Chapter 429

(Senate Bill 464)

AN ACT concerning

School Bus Monitoring Cameras – Civil Penalty – Sunset Repeal

FOR the purpose of repealing the termination date for a provision of law that increased the maximum civil penalty for a violation recorded by a school bus monitoring camera for failure to stop for a school vehicle operating alternately flashing red lights; and generally relating to civil penalties for violations recorded by school bus monitoring cameras.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–706 and 21–706.1(a)(6) and (e)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Chapter 744 of the Acts of the General Assembly of 2017
Section 3

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

Article – Transportation

21–706.

(a) If a school vehicle has stopped on a roadway and is operating the alternately flashing red lights specified in § 22–228 of this article, the driver of any other vehicle meeting or overtaking the school vehicle shall stop at least 20 feet from the rear of the school vehicle, if approaching the school vehicle from its rear, or at least 20 feet from the front of the school vehicle, if approaching the school vehicle from its front.

(b) If a school vehicle has stopped on a roadway and is operating the alternately flashing red lights specified in § 22–228 of this article, the driver of any other vehicle meeting or overtaking the school vehicle may not proceed until the school vehicle resumes motion or the alternately flashing red lights are deactivated.

(c) This section does not apply to the driver of a vehicle on a divided highway, if the school vehicle is on a different roadway.

(d) A person convicted of a violation of this section is subject to a fine not exceeding $1,000.

21–706.1.

(a) (6) "Violation" means a violation of § 21–706 of this subtitle.

(e) (1) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or, in accordance with subsection (h)(5) of this section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by a school bus monitoring camera during the commission of a violation.

(2) A civil penalty under this subsection may not exceed $500.

(3) For purposes of this section, the District Court shall prescribe:

(i) A uniform citation form consistent with subsection (f)(1) of this section and § 7–302 of the Courts Article; and

(ii) A civil penalty, which shall be indicated on the citation, to be paid by persons who choose to prepay the civil penalty without appearing in District Court.

Chapter 744 of the Acts of 2017

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. **[**It shall remain effective for a period of 2 years and, at the end of June 30, 2019, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

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

Approved by the Governor, May 13, 2019.

Chapter 430

(Senate Bill 465)

AN ACT concerning

Nonpublic Schools – Fire Drill Requirements – State Fire Prevention Code

FOR the purpose of requiring each nonpublic school in the State to hold fire drills in accordance with the State Fire Prevention Code, keep records of the fire drills, and send copies of the records to the State Board of Education; and generally relating to fire drills in nonpublic schools.

BY adding to
Article – Education
Section 7–408.1
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 6–206(a)(1) and (d)
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Education

7–408.1.

(A) EACH NONPUBLIC SCHOOL IN THE STATE SHALL HOLD FIRE DRILLS IN ACCORDANCE WITH THE STATE FIRE PREVENTION CODE ESTABLISHED UNDER § 6–206 OF THE PUBLIC SAFETY ARTICLE.

(B) EACH NONPUBLIC SCHOOL SHALL:

(1) KEEP RECORDS OF THESE FIRE DRILLS; AND

(2) SEND A COPY OF THE RECORDS TO THE STATE BOARD.

Article – Public Safety

6–206.

(a) (1) (i) To protect life and property from the hazards of fire and explosion, the Commission shall adopt comprehensive regulations as a State Fire Prevention Code.

(ii) The State Fire Prevention Code shall comply with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection.

(iii) The State Fire Prevention Code has the force and effect of law in the political subdivisions of the State.

(d) (1) The State Fire Prevention Code establishes the minimum requirements to protect life and property from the hazards of fire and explosion.

(2) If a State or local law or regulation is more stringent than the State Fire Prevention Code, the more stringent law or regulation governs if the more stringent law or regulation is:

(i) not inconsistent with the State Fire Prevention Code; and

(ii) not contrary to recognized standards and good engineering practices.

(3) If there is a question whether a State or local law or regulation governs, the decision of the Commission determines:

(i) which law or regulation governs; and

(ii) whether State and local officials have complied with the State Fire Prevention Code.

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

Approved by the Governor, May 13, 2019.

Chapter 431

(Senate Bill 657)

AN ACT concerning

Pilot Program – Alleged Rape, Sexual Offense, or Child Sexual Abuse – HIV Postexposure Prophylaxis

FOR the purpose of establishing the Pilot Program for Preventing HIV Infection for Rape Victims; establishing the purpose of the pilot program; requiring the Governor's Office of Crime Control and Prevention to administer the pilot program; requiring that a victim of an alleged rape or sexual offense or a victim of alleged child sexual abuse be provided with a full course of treatment and follow–up care for postexposure prophylaxis for the prevention of HIV infection at the request of the victim and as prescribed by a health care provider; authorizing a victim who receives treatment under a certain provision of this Act to decline to provide certain information under certain circumstances; requiring the physician, qualified health care provider, or hospital providing a victim with certain treatment to inform the victim of a certain right; requiring that the treatment and follow–up care be provided without charge to the victim under certain circumstances; providing that the physician, qualified health care provider, or hospital providing the treatment or follow–up care is entitled to be paid by the Criminal Injuries Compensation Board under certain circumstances; providing for a certain immunity for certain persons; requiring the Governor's Office of Crime Control and Prevention to report to the Governor and General Assembly on or before a certain date; defining certain terms; providing for the termination of this Act; and generally relating to the Pilot Program for Preventing HIV Infection for Rape Victims.

BY adding to
Article – Criminal Procedure
Section 11–1008
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Criminal Procedure

11–1008.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CHILD" MEANS ANY INDIVIDUAL UNDER THE AGE OF 18 YEARS.

(3) "HIV" MEANS THE HUMAN IMMUNODEFICIENCY VIRUS THAT CAUSES ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(4) "PHYSICIAN" HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(5) "QUALIFIED HEALTH CARE PROVIDER" HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(6) "SEXUAL ABUSE" HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(B) (1) THERE IS A PILOT PROGRAM FOR PREVENTING HIV INFECTION FOR RAPE VICTIMS.

(2) THE PURPOSE OF THE PILOT PROGRAM IS TO PREVENT HIV INFECTION FOR VICTIMS OF AN ALLEGED RAPE OR SEXUAL OFFENSE OR VICTIMS OF ALLEGED CHILD SEXUAL ABUSE.

(3) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL ADMINISTER THE PILOT PROGRAM.

(C) (1) TO ACCOMPLISH THE PURPOSE OF THE PILOT PROGRAM, A VICTIM OF AN ALLEGED RAPE OR SEXUAL OFFENSE OR A VICTIM OF ALLEGED CHILD SEXUAL ABUSE SHALL BE PROVIDED WITH A FULL COURSE OF TREATMENT AND FOLLOW–UP CARE FOR POSTEXPOSURE PROPHYLAXIS FOR THE PREVENTION OF HIV INFECTION AT THE REQUEST OF THE VICTIM AND AS PRESCRIBED BY A HEALTH CARE PROVIDER.

(2) (I) A VICTIM WHO RECEIVES TREATMENT UNDER THIS SUBSECTION MAY DECLINE TO PROVIDE HEALTH INSURANCE INFORMATION OR SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM IF THE VICTIM BELIEVES THAT PROVIDING THE INFORMATION WOULD INTERFERE WITH PERSONAL PRIVACY OR SAFETY.

(II) THE PHYSICIAN, QUALIFIED HEALTH CARE PROVIDER, OR HOSPITAL PROVIDING A VICTIM WITH TREATMENT AND FOLLOW–UP CARE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INFORM THE VICTIM OF THE VICTIM'S RIGHT TO DECLINE TO PROVIDE HEALTH INSURANCE INFORMATION OR SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM.

(III) IF A VICTIM DECLINES TO PROVIDE HEALTH INSURANCE INFORMATION OR TO SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM:

1. THE TREATMENT AND FOLLOW–UP CARE SHALL BE PROVIDED WITHOUT CHARGE TO THE VICTIM; AND

2. SUBJECT TO THE LIMITATION ESTABLISHED UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE PHYSICIAN, QUALIFIED HEALTH CARE PROVIDER, OR HOSPITAL PROVIDING THE TREATMENT OR FOLLOW–UP CARE IS ENTITLED TO BE PAID BY THE CRIMINAL INJURIES COMPENSATION BOARD AS PROVIDED UNDER SUBTITLE 8 OF THIS TITLE FOR THE COSTS OF PROVIDING THE SERVICES.

(IV) THE TOTAL AMOUNT PAID TO PHYSICIANS, QUALIFIED HEALTH CARE PROVIDERS, AND HOSPITALS FROM THE CRIMINAL INJURIES COMPENSATION BOARD UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH MAY NOT EXCEED $750,000 ANNUALLY.

(D) (1) A PHYSICIAN OR A QUALIFIED HEALTH CARE PROVIDER WHO EXAMINES A VICTIM OF ALLEGED CHILD SEXUAL ABUSE UNDER THE PROVISIONS OF THIS SECTION IS IMMUNE FROM CIVIL LIABILITY THAT MAY RESULT FROM THE FAILURE OF THE PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER TO OBTAIN CONSENT FROM THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN FOR THE EXAMINATION OR TREATMENT OF THE CHILD.

(2) THE IMMUNITY PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION EXTENDS TO:

(I) ANY HOSPITAL WITH WHICH THE PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER IS AFFILIATED OR TO WHICH THE CHILD IS BROUGHT; AND

(II) ANY INDIVIDUAL WORKING UNDER THE CONTROL OR SUPERVISION OF THE HOSPITAL.

(E) ON OR BEFORE DECEMBER 1, 2021, THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE OPERATION AND RESULTS OF THE PILOT PROGRAM, INCLUDING:

(1) THE NUMBER OF PATIENTS THAT QUALIFIED TO RECEIVE POSTEXPOSURE PROPHYLAXIS UNDER THE PILOT PROGRAM;

(2) THE NUMBER OF PATIENTS THAT CHOSE TO RECEIVE POSTEXPOSURE PROPHYLAXIS;

(3) THE TOTAL AMOUNT REIMBURSED TO PROVIDERS FOR THE POSTEXPOSURE PROPHYLAXIS; AND

(4) THE COST OF THE POSTEXPOSURE PROPHYLAXIS TREATMENT AND FOLLOW–UP CARE PROVIDED UNDER THE PILOT PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019. It shall remain effective for a period of 3 years and, at the end of September 30, 2022, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2019.

Chapter 432

(Senate Bill 870)

AN ACT concerning

Income Tax – Child and Dependent Care Tax Credit – Alterations

FOR the purpose of altering the maximum income limits for eligibility for a certain credit against the State income tax for certain child and dependent care expenses; altering the phase–out of the tax credit; making the credit refundable, subject to certain income limits; increasing, each taxable year, certain income eligibility and refundability thresholds by a certain cost–of–living adjustment; providing for the application of this Act; and generally relating to a credit against the State income tax for child and dependent care expenses.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–716
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Tax – General

10–716.

(a) (1) In this section the following words have the meanings indicated.

(2) "Federal child and dependent care credit" means the child and dependent care credit properly claimed by an individual for the taxable year under § 21 of the Internal Revenue Code.

(3) "Qualifying individual" means a qualifying individual within the meaning of § 21(b) of the Internal Revenue Code.

(b) An individual **[**whose federal adjusted gross income for the taxable year does not exceed $50,000, or $25,000 in the case of a married individual filing a separate return,**]** **OR A MARRIED COUPLE FILING A JOINT *INCOME TAX* RETURN** may claim a credit against the State income tax as provided in this section for expenses paid by the individual **OR MARRIED COUPLE** during **[**the**]** **A** taxable year for the care of a qualifying individual **IF THE FEDERAL ADJUSTED GROSS INCOME OF THE INDIVIDUAL OR MARRIED COUPLE FOR THE TAXABLE YEAR DOES NOT EXCEED:**

(1) ~~$110,000~~ *$92,000*, IN THE CASE OF AN INDIVIDUAL; OR

(2) ~~$141,000~~ *$143,000*, IN THE CASE OF A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN.

(c) **[**Subject to subsection (d) of this section ***AND EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION***, the**]** ~~THE~~ credit allowed under **SUBSECTION (B) OF** this section equals the lesser of:

[(1) ~~32.5%~~ ***32%*** of the federal child and dependent care credit; or**]**

~~**(1) (I) 35% OF THE FEDERAL CHILD AND DEPENDENT CARE CREDIT FOR:**~~

~~**1. AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME DOES NOT EXCEED $50,000; OR**~~

~~**2. A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN WHOSE FEDERAL ADJUSTED GROSS INCOME DOES NOT EXCEED $75,000;**~~

~~**(II) 30% OF THE FEDERAL CHILD AND DEPENDENT CARE CREDIT FOR:**~~

~~**1. AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $50,000 BUT IS NOT GREATER THAN $75,000; OR**~~

~~**2. A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $75,000 BUT IS NOT GREATER THAN $110,000;**~~

~~(III) 20% OF THE FEDERAL CHILD AND DEPENDENT CARE CREDIT FOR:~~

~~1. AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $75,000 BUT IS NOT GREATER THAN $91,000; OR~~

~~2. A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $110,000 BUT IS NOT GREATER THAN $125,000; OR~~

~~(IV) 10% OF THE FEDERAL CHILD AND DEPENDENT CARE CREDIT FOR:~~

~~1. AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $91,000 BUT IS NOT GREATER THAN $110,000; OR~~

~~2. A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $125,000 BUT IS NOT GREATER THAN $141,000; OR~~

(2) the State income tax for the taxable year.

~~[~~(d) (1) If an individual's federal adjusted gross income for the taxable year exceeds ~~$41,000~~ ***$30,000***, the credit otherwise allowed under this section shall be reduced by ~~10%~~ ***1%*** for each ~~$1,000~~ ***$2,000*** or fraction of ~~$1,000~~ ***$2,000*** by which the individual's federal adjusted gross income exceeds ~~$41,000~~ ***$30,000***.

(2) In the case of a married ~~individual filing a separate return~~ ***COUPLE FILING A JOINT INCOME TAX RETURN***, if the individual's federal adjusted gross income for the taxable year exceeds ~~$20,500~~ ***$50,000***, the credit otherwise allowed under this section shall be reduced by ~~10%~~ ***1%*** for each ~~$500~~ ***$3,000*** or fraction of ~~$500~~ ***$3,000*** by which the individual's federal adjusted gross income exceeds ~~$20,500~~ ***$50,000***.~~]~~

~~(D)~~ ***(E)*** **IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR MARRIED COUPLE MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS IF THE INDIVIDUAL'S OR MARRIED COUPLE'S FEDERAL ADJUSTED GROSS INCOME DOES NOT EXCEED:**

(1) $50,000 IN THE CASE OF AN INDIVIDUAL; OR

(2) $75,000 IN THE CASE OF A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN.

~~(E)~~ *(F)* **(1) ~~(I)~~ FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2019, THE MAXIMUM INCOME THRESHOLDS UNDER SUBSECTION ~~(C)(1)(II)~~ *(B)* OF THIS SECTION AND THE MAXIMUM INCOME THRESHOLDS UNDER SUBSECTION ~~(D)~~ *(E)* OF THIS SECTION SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE PRODUCT OF THE MAXIMUM INCOME THRESHOLDS AND THE COST–OF–LIVING ADJUSTMENT SPECIFIED IN THIS SUBSECTION.**

~~**(II) EACH MINIMUM AND MAXIMUM THRESHOLD AMOUNT UNDER SUBSECTION (C)(1) OF THIS SECTION SHALL BE INCREASED BY THE SAME DOLLAR AMOUNT AS THE INCREASE DETERMINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**~~

(2) FOR PURPOSES OF THIS SUBSECTION, THE COST–OF–LIVING ADJUSTMENT IS THE COST–OF–LIVING ADJUSTMENT WITHIN THE MEANING OF § 1(F)(3) OF THE INTERNAL REVENUE CODE FOR THE CALENDAR YEAR IN WHICH A TAXABLE YEAR BEGINS, AS DETERMINED BY THE COMPTROLLER, BY SUBSTITUTING "CALENDAR YEAR 2018" FOR "CALENDAR YEAR 2016" IN § 1(F)(3)(A) OF THE INTERNAL REVENUE CODE.

(3) IF ANY INCREASE DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT A MULTIPLE OF $50, THE INCREASE SHALL BE ROUNDED DOWN TO THE NEXT LOWEST MULTIPLE OF $50.

[(e)**]** ~~(F)~~ *(G)* The credit allowed under this section does not affect the treatment under this title of any deduction or exclusion allowed under this title or allowed for federal income tax purposes for expenses paid by the individual for the care of a qualifying individual.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2018.

Approved by the Governor, May 13, 2019.

Chapter 433

(House Bill 432)

AN ACT concerning

Property Tax – Exemptions – Nonprofit Charitable Museums

FOR the purpose of providing that certain property owned by a certain nonprofit charitable museum is not subject to a certain limitation concerning an exemption of certain

charitable or educational properties from the property tax; providing for the application of this Act; and generally relating to the property tax and certain exemptions for charitable or educational property.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 7–202(b)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 7–202(c)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Tax – Property

7–202.

(b) (1) Except as provided in subsection (c) of this section and subject to § 7–204.1 of this subtitle, property is not subject to property tax if the property:

(i) is necessary for and actually used exclusively for a charitable or educational purpose to promote the general welfare of the people of the State, including an activity or an athletic program of an educational institution; and

(ii) is owned by:

1. a nonprofit hospital;

2. a nonprofit charitable, fraternal, educational, or literary organization including:

A. a public library that is authorized under Title 23 of the Education Article; and

B. a men's or women's club that is a nonpolitical and nonstock club;

3. a corporation, limited liability company, or trustee that holds the property for the sole benefit of an organization that qualifies for an exemption under this section; or

4. a nonprofit housing corporation.

(2) The exemption under paragraph (1)(ii)1 of this subsection includes any personal property initially leased by a nonprofit hospital for more than 1 year under a lease that is noncancellable except for cause.

(c) **(1) THIS SUBSECTION DOES NOT APPLY TO REAL PROPERTY OWNED BY A NONPROFIT CHARITABLE MUSEUM THAT:**

(I) IS OPEN TO THE PUBLIC; AND

(II) DOES NOT CHARGE AN ADMISSION FEE.

[(1)**] (2)** Except for a nonprofit hospital, not more than 100 acres of real property owned by an exempt organization and appurtenant to the premises of the exempt organization is exempt from property tax, if the property is located outside of a municipal corporation or Baltimore City.

[(2)**] (3)** Not more than 100 acres of real property of a nonprofit hospital that is appurtenant to the hospital is exempt from property tax.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019, and shall be applicable to all taxable years beginning after June 30, 2019.

Approved by the Governor, May 13, 2019.

Chapter 434

(Senate Bill 296)

AN ACT concerning

Property Tax – Exemptions – Nonprofit Charitable Museums

FOR the purpose of providing that certain property owned by a certain nonprofit charitable museum is not subject to a certain limitation concerning an exemption of certain charitable or educational properties from the property tax; providing for the application of this Act; and generally relating to the property tax and certain exemptions for charitable or educational property.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 7–202(b)
Annotated Code of Maryland

(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 7–202(c)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Tax – Property

7–202.

(b) (1) Except as provided in subsection (c) of this section and subject to § 7–204.1 of this subtitle, property is not subject to property tax if the property:

(i) is necessary for and actually used exclusively for a charitable or educational purpose to promote the general welfare of the people of the State, including an activity or an athletic program of an educational institution; and

(ii) is owned by:

1. a nonprofit hospital;

2. a nonprofit charitable, fraternal, educational, or literary organization including:

A. a public library that is authorized under Title 23 of the Education Article; and

B. a men's or women's club that is a nonpolitical and nonstock club;

3. a corporation, limited liability company, or trustee that holds the property for the sole benefit of an organization that qualifies for an exemption under this section; or

4. a nonprofit housing corporation.

(2) The exemption under paragraph (1)(ii)1 of this subsection includes any personal property initially leased by a nonprofit hospital for more than 1 year under a lease that is noncancellable except for cause.

(c) **(1) THIS SUBSECTION DOES NOT APPLY TO REAL PROPERTY OWNED BY A NONPROFIT CHARITABLE MUSEUM THAT:**

(I) IS OPEN TO THE PUBLIC; AND

(II) DOES NOT CHARGE AN ADMISSION FEE.

[(1)**] (2)** Except for a nonprofit hospital, not more than 100 acres of real property owned by an exempt organization and appurtenant to the premises of the exempt organization is exempt from property tax, if the property is located outside of a municipal corporation or Baltimore City.

[(2)**] (3)** Not more than 100 acres of real property of a nonprofit hospital that is appurtenant to the hospital is exempt from property tax.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019, and shall be applicable to all taxable years beginning after June 30, 2019.

Approved by the Governor, May 13, 2019.

Chapter 435

(House Bill 99)

AN ACT concerning

Estates and Trusts – Elective Share of Surviving Spouse

FOR the purpose of repealing certain provisions of law relating to a surviving spouse making an election to take a certain share of the net estate of the decedent instead of the property left to the surviving spouse under the will; establishing certain purposes of this Act; providing that a surviving spouse may take a certain elective share amount of a certain estate subject to election; specifying the manner in which the value of certain qualifying lifetime transfers, augmented estate, and estate subject to election shall be calculated; recodifying certain provisions of law relating to the right of election of a surviving spouse and certain time limits for electing to take an elective share; providing that the right of election may be exercised by a certain guardian of the property of the surviving spouse or a certain agent of the surviving spouse under certain circumstances; requiring the guardian of the property or the agent to provide certain notice before exercising the right of election of a surviving spouse; providing that an exercise of the right of election by the guardian of the property or the agent is valid except under certain circumstances; establishing certain procedures and a certain form for an election to take an elective share; authorizing the waiver of a certain right of election; requiring certain fiduciaries to deliver certain information and provide certain notice relating to a certain elective share of a surviving spouse; requiring a certain trustee to provide

certain notice relating to the trust within a certain period of time; requiring the surviving spouse to deliver certain information to certain fiduciaries under certain circumstances; establishing the priority to be used in determining the sources from which a certain elective share amount is payable; establishing the manner of payment of a certain elective share under certain circumstances; providing certain immunity for certain payors and other third parties who make certain payments or transfers before receiving notice of a certain election; establishing the effect of an election to take a certain elective share on the rights of the surviving spouse under a certain will and a certain revocable trust; requiring certain persons, on the payment of an elective share, to file with a certain register of wills a certain statement; requiring the register, on a certain request, to redact from the statement certain information; requiring the register, on receipt of a certain request, to certify in a certain manner the accuracy of the calculation and payment of the elective share; requiring certain persons to deliver to the register certain information and documentation; prohibiting the register from disclosing certain information or documentation; authorizing the orphans' court, or the court exercising jurisdiction of the orphans' court in a county, to pass orders that may be necessary to determine the value or sources of payment of a certain elective share; authorizing the court, in a certain action, to modify, under certain circumstances, certain calculations or sources of payment of a certain elective share, consider the circumstances of certain transfers or arrangements, award certain attorney's fees, pass certain orders requiring certain individuals to provide certain information to the court, and transmit certain issues of fact to a certain circuit court; providing that a personal representative is entitled to certain reimbursement for certain commissions and attorney's fees in connection with an election to take an elective share; authorizing a court, with respect to a certain minor or disabled person, to authorize or direct an election to take an elective share without first appointing a guardian; altering certain provisions in certain statutory forms for a power of attorney relating to authority to elect to take an elective share in accordance with this Act; defining certain terms; making stylistic changes; providing for the application of this Act; *providing for a delayed effective date;* and generally relating to the elective share of a surviving spouse.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–102(a); the subtitle designation "Subtitle 2. Family Allowance; Dower and Curtesy" immediately preceding Section 3–201; and 7–603, 13–204(a), 17–202, and 17–203
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Estates and Trusts
Section 3–201(a)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing
Article – Estates and Trusts
Section 3–203 through 3–208
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Estates and Trusts
Section 3–401 through 3–413 to be under the new subtitle "Subtitle 4. Elective Share of Surviving Spouse"; and 14.5–606
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

2–102.

(a) **(1)** The court may **[**conduct judicial probate, direct the conduct of a personal representative, and pass orders which may be required in the course of the administration of an estate of a decedent. It may summon witnesses**]:**

(I) CONDUCT JUDICIAL PROBATE;

(II) DIRECT THE CONDUCT OF A PERSONAL REPRESENTATIVE;

(III) SUMMON WITNESSES; AND

(IV) ISSUE ORDERS THAT MAY BE:

1. REQUIRED IN THE COURSE OF THE ADMINISTRATION OF AN ESTATE OF A DECEDENT; OR

2. NECESSARY TO DETERMINE THE VALUE OR SOURCES OF PAYMENT OF AN ELECTIVE SHARE UNDER § 3–413 OF THIS ARTICLE.

(2) The court may not, under pretext of incidental power or constructive authority, exercise any jurisdiction not expressly conferred.

Subtitle 2. Family Allowance **[**and Statutory Share of Surviving Spouse**]; DOWER AND CURTESY**.

3–201.

(a) The surviving spouse is entitled to receive an allowance of $10,000 for personal use.

[3–203.

(a) In this section, "net estate" means the property of the decedent passing by testate succession, without a deduction for State or federal estate or inheritance taxes, and reduced by:

(1) Funeral and administration expenses;

(2) Family allowances; and

(3) Enforceable claims and debts against the estate.

(b) Instead of property left to the surviving spouse by will, the surviving spouse may elect to take a one–third share of the net estate if there is also a surviving issue, or a one–half share of the net estate if there is no surviving issue.

(c) The surviving spouse who makes this election may not take more than a one–half share of the net estate.

(d) For the purposes of this section, the net estate and the property allocable to a share of a surviving spouse shall be valued as of the date or dates of distribution.

(e) (1) For the purposes of this section, a surviving spouse who has elected to take against a will shall be entitled to the surviving spouse's portion of the income earned on the net estate during the period of administration based on a one–third or one–half share, whichever is applicable.

(2) If one or more distributions have been made to a surviving spouse or another person that require an adjustment in the relative interests of the beneficiaries, the applicable share shall be adjusted.**]**

[3–204.

The right of election of the surviving spouse is personal to him. It is not transferable and cannot be exercised subsequent to his death. If the surviving spouse is under 18 years of age or under disability, the election may be exercised by order of the court having jurisdiction of the person or property of the spouse or person under disability.**]**

[3–205.

The right of election of a surviving spouse may be waived before or after marriage by a written contract, agreement, or waiver signed by the party waiving the right of election.

Unless it provides to the contrary, a waiver of "all rights" in the property or estate of a present or prospective spouse, or a complete property settlement entered into after or in anticipation of separation or divorce, is a waiver of any right to his family allowance as well as to his elective share by each spouse in the property of the spouse, his right to letters under § 5–104 of this article, and is an irrevocable renunciation of any benefit which would pass to him from the other by intestate succession, by statutory share, or by virtue of the provisions of a will executed before the waiver or property settlement.**]**

[3–206.

(a) (1) The election by a surviving spouse to take an elective share shall be made within the later of:

(i) Nine months after the date of the decedent's death; or

(ii) Six months after the first appointment of a personal representative under a will.

(2) (i) Within the period for making an election, the surviving spouse may file with the court a petition for an extension of time, with a copy given to the personal representative.

(ii) For good cause shown, the court may extend the time for election for a period not to exceed three months at a time.

(b) The surviving spouse may withdraw the election at any time before the expiration of the time for making the election to take an elective share.**]**

[3–207.

(a) An election to take an elective share of an estate of a decedent shall be in writing and signed by the surviving spouse or other person entitled to make the election pursuant to § 3–204 of this subtitle, and shall be filed in the court in which the personal representative of the decedent was appointed.

(b) The election may be in this form.

I, A. B., surviving spouse of C. D., late of the County (City) of....., renounce all provisions in the will of C. D. and elect to take my elective share of the decedent's estate.

.....
(Signature)**]**

[3–208.

(a) (1) Upon the election of the surviving spouse to take the elective share of

the property of the decedent, all property or other benefits which would have passed to the surviving spouse under the will shall be treated as if the surviving spouse had died before the execution of the will.

(2) The surviving spouse and a person claiming through the surviving spouse may not receive property under the will.

(b) (1) If there is an election to take an elective share, contribution to the payment of it shall be prorated among all legatees.

(2) Instead of contributing an interest in specific property to the elective share, a legatee or legatees, but not the personal representative, may pay the surviving spouse in cash, or other property acceptable to the spouse, an amount equal to the fair market value of the surviving spouse's interest in specific property on the date or dates of distribution.

(3) Unless specifically provided in the will, a legatee is not entitled to sequestration or compensation from another legatee, or from another part of the estate of the decedent, except that an interest renounced by the surviving spouse and not included in the share of the net estate received by the surviving spouse under this section may be subject to sequestration for the benefit of individuals who are the natural objects of the bounty of the decedent, in order to avoid a substantial distortion of the intended dispositions of the testator.**]**

SUBTITLE 4. ELECTIVE SHARE OF SURVIVING SPOUSE.

3–401.

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

(B) "AUGMENTED ESTATE" MEANS AN ESTATE AS CALCULATED UNDER § 3–404 OF THIS SUBTITLE.

(C) "COURT" MEANS:

(1) EXCEPT WITH RESPECT TO A PROCEEDING UNDER § 12–502 OF THE COURTS ARTICLE OR AS OTHERWISE PROVIDED UNDER THE MARYLAND RULES, THE ORPHANS' COURT, OR THE COURT EXERCISING THE JURISDICTION OF THE ORPHANS' COURT, FOR THE COUNTY IN WHICH THE ELECTION UNDER § 3–403 OF THIS SUBTITLE IS FILED; OR

(2) WITH RESPECT TO THE ENFORCEMENT OF PAYMENT OF AN ELECTIVE SHARE OR ANY PORTION THEREOF UNDER § 3–410 OF THIS SUBTITLE, THE COURT HAVING JURISDICTION OVER THE PROPERTY FROM WHICH THE PAYMENT IS

TO BE MADE.

(D) "ESTATE SUBJECT TO ELECTION" MEANS THE PORTION OF AN AUGMENTED ESTATE THAT IS SUBJECT TO ELECTION AS CALCULATED UNDER § 3–404 OF THIS SUBTITLE.

(E) "MARITAL TRUST" MEANS ANY TRUST CREATED FOR THE EXCLUSIVE LIFETIME BENEFIT OF THE SPOUSE OF A DECEDENT OR OF THE SETTLOR OF THE TRUST IF:

(1) THE SPOUSE IS ENTITLED TO ALL INCOME FROM THE PROPERTY HELD BY THE TRUST, PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, OR HAS A USUFRUCT INTEREST FOR LIFE IN THE PROPERTY; AND

(2) THE SPOUSE HAS THE POWER TO COMPEL THE TRUSTEES OF THE TRUST TO CONVERT UNPRODUCTIVE ASSETS INTO INCOME–PRODUCING ASSETS.

(F) "PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN" MEANS THE PERSON RESPONSIBLE FOR FILING A MARYLAND ESTATE TAX RETURN FOR A DECEDENT UNDER § 7–305 OF THE TAX – GENERAL ARTICLE, REGARDLESS OF WHETHER A MARYLAND ESTATE TAX RETURN ACTUALLY IS REQUIRED TO BE FILED FOR THE DECEDENT.

(G) "PROBATE ESTATE" MEANS ALL PROPERTY PASSING BY TESTATE SUCCESSION.

(H) "QUALIFYING JOINT INTEREST" MEANS AN INTEREST IN PROPERTY HELD AS A JOINT TENANT WITH RIGHT OF SURVIVORSHIP OR EQUIVALENT, OR A TENANCY–BY–THE–ENTIRETIES EQUAL TO:

(1) IN THE CASE OF A JOINT TENANCY WITH RIGHT OF SURVIVORSHIP OR EQUIVALENT, THE GREATER OF:

(I) THE TENANT'S FRACTIONAL INTEREST IN THE PROPERTY; OR

(II) THE PERCENTAGE OF THE PROPERTY'S VALUE, EXCLUSIVE OF INCOME OR APPRECIATION, CONTRIBUTED BY THE TENANT; OR

(2) IN THE CASE OF A TENANCY–BY–THE–ENTIRETIES, ONE–HALF OF THE VALUE OF THE PROPERTY.

(I) (1) "QUALIFYING LIFETIME TRANSFER" MEANS:

(I) AN IRREVOCABLE TRANSFER MADE DURING THE LIFETIME OF THE TRANSFEROR IN WHICH THE TRANSFEROR RETAINED FOR A PERIOD ACTUALLY TERMINATING AT OR AFTER THE TRANSFEROR'S DEATH:

1. POSSESSION OF THE PROPERTY;

2. THE RIGHT TO RECEIVE THE INCOME FROM THE PROPERTY;

3. THE USE OR ENJOYMENT OF THE PROPERTY;

4. A QUALIFYING JOINT INTEREST;

5. A QUALIFYING POWER OF DISPOSITION; OR

6. THE RIGHT TO RECEIVE AN ANNUITY OR OTHER PERIODIC PAYMENT FROM THE PROPERTY, INCLUDING, WITHOUT LIMITATION, A PERIODIC PAYMENT BASED ON THE VALUE OF THE PROPERTY;

(II) AN IRREVOCABLE TRANSFER MADE DURING THE LIFETIME OF THE TRANSFEROR IN WHICH THE TRANSFEROR RETAINED AN INTEREST DESCRIBED IN ITEM (I) OF THIS PARAGRAPH THAT ACTUALLY TERMINATED BEFORE THE TRANSFEROR'S DEATH, AND THE REMAINING VALUE OF THE PROPERTY TRANSFERRED THEN PASSED TO A RECIPIENT OTHER THAN THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE; OR

(III) ANY OTHER IRREVOCABLE TRANSFER MADE DURING THE LIFETIME OF THE TRANSFEROR, OTHER THAN A TRANSFER TO THE TRANSFEROR'S SPOUSE.

(2) "QUALIFYING LIFETIME TRANSFER" DOES NOT INCLUDE A TRANSFER MADE IN ACCORDANCE WITH A BONA FIDE SALE FOR ADEQUATE CONSIDERATION IN MONEY OR MONEY'S WORTH.

(J) "QUALIFYING POWER OF DISPOSITION" MEANS A POWER, WHETHER OR NOT THE HOLDER HAS THE CAPACITY TO EXERCISE THAT POWER, BY WHICH THE HOLDER, DURING THE LIFE OF THE HOLDER OR ON THE HOLDER'S DEATH, MAY:

(1) APPOINT THE PROPERTY SUBJECT TO THE POWER TO THE HOLDER, THE HOLDER'S ESTATE, THE HOLDER'S CREDITORS, OR THE CREDITORS OF THE HOLDER'S ESTATE, UNLESS THE POWER OF APPOINTMENT IS NOT CREATED, DIRECTLY OR INDIRECTLY, BY THE HOLDER AND IS LIMITED BY AN ASCERTAINABLE

STANDARD RELATING TO THE HOLDER'S HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE;

(2) DESIGNATE THE RECIPIENT OR RECIPIENTS OF THE PROPERTY ON THE HOLDER'S DEATH, INCLUDING IN ACCORDANCE WITH A BENEFICIARY DESIGNATION, A PAYABLE ON DEATH DESIGNATION, OR A TRANSFER ON DEATH DESIGNATION; OR

(3) DETERMINE, ALTER, OR AMEND THE POSSESSION OR ENJOYMENT OF, OR THE RIGHT TO INCOME FROM, THE PROPERTY SUBJECT TO THE POWER IF THE POWER WAS CREATED, DIRECTLY OR INDIRECTLY, BY THE HOLDER.

(K) "REVOCABLE" HAS THE MEANING STATED IN § 14.5–103 OF THIS ARTICLE.

(L) "REVOCABLE TRUST OF THE DECEDENT" MEANS ANY TRUST OF WHICH A DECEDENT WAS THE SETTLOR THAT WAS REVOCABLE BY THE DECEDENT BEFORE THE DECEDENT'S DEATH OR INCAPACITY.

(M) "SETTLOR" HAS THE MEANING STATED IN § 14.5–103 OF THIS ARTICLE.

(N) "SPOUSAL BENEFITS" MEANS THE AGGREGATE VALUE OF PROPERTY PASSING TO OR IN TRUST FOR THE BENEFIT OF THE SURVIVING SPOUSE BY REASON OF A DECEDENT'S DEATH AND PROPERTY HELD FOR THE BENEFIT OF THE SURVIVING SPOUSE IN ANY TRUST CREATED DURING A DECEDENT'S LIFETIME OF WHICH THE DECEDENT WAS A SETTLOR, REDUCED BY:

(1) WITH RESPECT TO PROPERTY THAT THE DECEDENT OWNED JOINTLY WITH THE SURVIVING SPOUSE, THAT PORTION OF THE VALUE OF THE PROPERTY THAT IS NOT INCLUDED IN THE ESTATE SUBJECT TO ELECTION;

(2) THE VALUE OF ASSETS PASSING BY REASON OF THE DECEDENT'S DEATH TO ANY TRUST OF WHICH THE SURVIVING SPOUSE IS NOT THE SOLE BENEFICIARY DURING THE SURVIVING SPOUSE'S LIFETIME;

(3) THE VALUE OF ASSETS HELD IN ANY TRUST CREATED DURING THE DECEDENT'S LIFETIME OF WHICH:

(I) THE DECEDENT WAS A SETTLOR; AND

(II) THE SURVIVING SPOUSE IS NOT THE SOLE BENEFICIARY DURING THE SURVIVING SPOUSE'S LIFETIME;

(4) ONE–QUARTER OF THE AGGREGATE VALUE OF ASSETS PASSING BY REASON OF THE DECEDENT'S DEATH TO, OR HELD AT THE TIME OF THE DECEDENT'S DEATH IN, ANY MARITAL TRUST;

(5) ONE–THIRD OF THE AGGREGATE VALUE OF ASSETS PASSING BY REASON OF THE DECEDENT'S DEATH TO, OR HELD AT THE TIME OF THE DECEDENT'S DEATH IN, ANY TRUST, WHETHER TESTAMENTARY OR CREATED DURING THE DECEDENT'S LIFETIME:

(I) EXCLUDING A TRUST DESCRIBED UNDER ITEM (4) OF THIS SUBSECTION;

(II) OF WHICH THE DECEDENT WAS A SETTLOR, IF THE TRUST WAS CREATED DURING THE DECEDENT'S LIFETIME;

(III) THAT IS HELD FOR THE EXCLUSIVE LIFETIME BENEFIT OF THE SURVIVING SPOUSE; AND

(IV) FROM WHICH THE TRUSTEES MAY MAKE DISTRIBUTIONS TO OR FOR THE BENEFIT OF THE SURVIVING SPOUSE IN ACCORDANCE WITH A STANDARD NOT MORE RESTRICTIVE THAN THAT UNDER § 14–402(B)(3) OF THIS ARTICLE; AND

(6) THE ENTIRE VALUE OF ANY TRUST FOR THE EXCLUSIVE LIFETIME BENEFIT OF THE SURVIVING SPOUSE THAT IS NOT A MARITAL TRUST AND IS NOT DESCRIBED UNDER ITEM (5) OF THIS SUBSECTION.

(O) "VALUE" MEANS:

(1) FOR AN ASSET INCLUDED IN THE GROSS ESTATE OF A DECEDENT UNDER § 7–301(B) OF THE TAX – GENERAL ARTICLE, THE VALUE OF THE ASSET UNDER TITLE 7, SUBTITLE 3 OF THE TAX – GENERAL ARTICLE, IF A MARYLAND ESTATE TAX RETURN IS REQUIRED TO BE FILED WITH RESPECT TO THE DECEDENT; AND

(2) FOR ANY OTHER ASSET, THE VALUE OF THE ASSET UNDER § 7–202 OF THIS ARTICLE, REGARDLESS OF WHETHER THE ASSET IS REQUIRED TO BE REPORTED ON AN INVENTORY.

3–402.

THE PURPOSES OF THIS SUBTITLE ARE:

(1) TO ENSURE THAT A SURVIVING SPOUSE IS REASONABLY

PROVIDED FOR DURING THE SURVIVING SPOUSE'S REMAINING LIFETIME; AND

(2) SUBJECT TO ITEM (1) OF THIS SECTION, TO PROVIDE A TESTATOR FLEXIBILITY IN ORDERING THE TESTATOR'S AFFAIRS.

3–403.

THE SURVIVING SPOUSE MAY ELECT TO TAKE AN ELECTIVE SHARE OF AN ESTATE SUBJECT TO ELECTION AS FOLLOWS:

(1) IF THERE IS SURVIVING ISSUE, THE ELECTIVE SHARE SHALL EQUAL ONE–THIRD OF THE VALUE OF THE ESTATE SUBJECT TO ELECTION, REDUCED BY THE VALUE OF ALL SPOUSAL BENEFITS; OR

(2) IF THERE IS NO SURVIVING ISSUE, THE ELECTIVE SHARE SHALL EQUAL ONE–HALF OF THE VALUE OF THE ESTATE SUBJECT TO ELECTION, REDUCED BY THE VALUE OF ALL SPOUSAL BENEFITS.

3–404.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE VALUE OF THE DECEDENT'S AUGMENTED ESTATE SHALL BE CALCULATED BY TOTALING THE VALUE OF:

(I) THE PROBATE ESTATE OF THE DECEDENT;

(II) ALL REVOCABLE TRUSTS OF THE DECEDENT;

(III) ALL PROPERTY WITH RESPECT TO WHICH THE DECEDENT, IMMEDIATELY BEFORE DEATH, HELD A QUALIFYING POWER OF DISPOSITION;

(IV) ALL QUALIFYING JOINT INTERESTS OF THE DECEDENT; AND

(V) ALL QUALIFYING LIFETIME TRANSFERS OF THE DECEDENT.

(2) IF A PROPERTY INTEREST IS INCLUDED IN THE AUGMENTED ESTATE UNDER MORE THAN ONE ITEM OF PARAGRAPH (1) OF THIS SUBSECTION, ONLY THE ITEM RESULTING IN THE LARGEST AUGMENTED ESTATE SHALL APPLY.

(B) THE ESTATE SUBJECT TO ELECTION SHALL BE CALCULATED BY REDUCING THE VALUE OF THE DECEDENT'S AUGMENTED ESTATE BY:

(1) FUNERAL AND ADMINISTRATION EXPENSES PAYABLE FROM THE AUGMENTED ESTATE;

(2) FAMILY ALLOWANCES PAYABLE FROM THE AUGMENTED ESTATE;

(3) ENFORCEABLE CLAIMS AND DEBTS AGAINST ANY PART OF THE AUGMENTED ESTATE;

(4) THE VALUE OF ANY ASSETS INCLUDED IN THE AUGMENTED ESTATE THAT, AT THE TIME OF THE DECEDENT'S DEATH, WERE HELD IN A TRUST OF WHICH THE DECEDENT IS NOT A SETTLOR, IF:

(I) THE ASSETS WERE NOT PREVIOUSLY OWNED BY THE DECEDENT; OR

(II) THE ASSETS WERE PREVIOUSLY OWNED BY THE DECEDENT BUT WERE SOLD BY THE DECEDENT IN ACCORDANCE WITH A BONA FIDE SALE FOR ADEQUATE CONSIDERATION IN MONEY OR MONEY'S WORTH;

(5) THE VALUE OF ANY ASSETS INCLUDED IN THE AUGMENTED ESTATE UNDER SUBSECTION (A)(1)(III) OF THIS SECTION THAT, AT THE TIME OF THE DECEDENT'S DEATH, WERE HELD:

(I) IN A TRUST ESTABLISHED UNDER § 1917(C)(2)(B)(III), (C)(2)(B)(IV), (D)(4)(A), OR (D)(4)(C) OF THE SOCIAL SECURITY ACT;

(II) IN AN ACCOUNT ESTABLISHED UNDER § 529A OF THE INTERNAL REVENUE CODE; OR

(III) IN A SPECIAL NEEDS TRUST FOR THE BENEFIT OF AN INDIVIDUAL WHO IS DISABLED AS DEFINED IN § 1614(A)(3) OF THE SOCIAL SECURITY ACT;

(6) THE VALUE OF ANY PROPERTY INCLUDED IN THE AUGMENTED ESTATE UNDER SUBSECTION (A)(1)(III), (IV), OR (V) OF THIS SECTION, THE DISPOSITION OF WHICH THE SURVIVING SPOUSE OF THE DECEDENT CONSENTED TO IN WRITING DURING THE DECEDENT'S LIFETIME OTHER THAN BY MEANS OF SPOUSAL CONSENT TO SPLIT–GIFT TREATMENT UNDER THE FEDERAL GIFT TAX LAWS;

(7) THE VALUE OF ANY QUALIFYING LIFETIME TRANSFER OF THE DECEDENT DESCRIBED IN § 3–401(I)(1)(II) OF THIS SUBTITLE WHERE:

(I) THE INITIAL TRANSFER TOOK PLACE BEFORE THE DECEDENT'S MARRIAGE TO THE SURVIVING SPOUSE OF THE DECEDENT; OR

(II) THE DECEDENT'S INTEREST IN THE PROPERTY TRANSFERRED TERMINATED MORE THAN 2 YEARS BEFORE THE DECEDENT'S DEATH;

(8) THE VALUE OF ANY QUALIFYING LIFETIME TRANSFER OF THE DECEDENT DESCRIBED IN § 3–401(I)(1)(III) OF THIS SUBTITLE THAT OCCURRED BEFORE THE LATER OF:

(I) THE DECEDENT'S MARRIAGE TO THE SURVIVING SPOUSE OF THE DECEDENT; OR

(II) 2 YEARS BEFORE THE DECEDENT'S DEATH;

(9) THE VALUE OF ANY INTEREST IN REAL PROPERTY INCLUDED IN THE AUGMENTED ESTATE BY REASON OF THE DECEDENT'S RETENTION OF A LIFE ESTATE IN THE REAL PROPERTY IF:

(I) AT THE TIME OF THE DECEDENT'S DEATH, THE DECEDENT HELD NO QUALIFYING POWER OF DISPOSITION OVER THE REAL PROPERTY; AND

(II) THE DECEDENT'S LIFE ESTATE IN THE PROPERTY WAS CREATED MORE THAN 2 YEARS BEFORE THE DECEDENT'S DEATH; AND

(10) THE VALUE OF THE PROCEEDS OF AN INSURANCE POLICY ON THE DECEDENT'S LIFE IN EXCESS OF THE NET CASH SURRENDER VALUE OF THE POLICY IMMEDIATELY BEFORE THE DECEDENT'S DEATH OR, IN THE CASE OF TERM INSURANCE, IN EXCESS OF THE TOTAL PREMIUMS PAID, IF:

(I) THE PROCEEDS ARE INCLUDED IN THE AUGMENTED ESTATE;

(II) THE PROCEEDS ARE PAYABLE TO A CHARITY OR TO OR FOR THE EXCLUSIVE LIFETIME BENEFIT OF AN ANCESTOR, A DESCENDANT, A STEP–DESCENDANT, OR A SIBLING OF THE DECEDENT; AND

(III) 1. THE POLICY WAS PURCHASED BEFORE THE DECEDENT'S MARRIAGE TO THE SURVIVING SPOUSE OF THE DECEDENT;

2. THE POLICY WAS PURCHASED MORE THAN 5 YEARS BEFORE THE DECEDENT'S DEATH; OR

3. THE SURVIVING SPOUSE OF THE DECEDENT CONSENTED IN WRITING DURING THE DECEDENT'S LIFETIME TO THE DISPOSITION

OF THE PROCEEDS AS DESCRIBED IN ITEM (II) OF THIS ITEM.

(C) (1) THE VALUE OF A QUALIFYING LIFETIME TRANSFER DESCRIBED UNDER § 3–401(I)(1)(I) OF THIS SUBTITLE SHALL BE DETERMINED AS IF THE PROPERTY STILL WAS OWNED BY THE TRANSFEROR.

(2) THE VALUE OF A QUALIFYING LIFETIME TRANSFER DESCRIBED UNDER § 3–401(I)(1)(II) OF THIS SUBTITLE SHALL BE DETERMINED AS OF THE DATE OF THE TERMINATION OF THE TRANSFEROR'S INTEREST IN THE TRANSFERRED PROPERTY.

(3) THE VALUE OF A QUALIFYING LIFETIME TRANSFER DESCRIBED UNDER § 3–401(I)(1)(III) OF THIS SUBTITLE SHALL BE DETERMINED AS OF THE DATE OF THE TRANSFER.

3–405.

(A) THE RIGHT OF ELECTION OF A SURVIVING SPOUSE:

(1) IS PERSONAL TO THE SURVIVING SPOUSE;

(2) IS NOT TRANSFERABLE; AND

(3) CANNOT BE EXERCISED AFTER THE SURVIVING SPOUSE'S DEATH.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF THE SURVIVING SPOUSE IS A MINOR OR INCAPACITATED WITHIN THE MEANING OF § 17–101(C) OF THIS ARTICLE, THE ELECTION MAY BE EXERCISED BY:

(1) AN ORDER OF THE COURT HAVING JURISDICTION OF THE PERSON OR PROPERTY OF THE MINOR OR INCAPACITATED PERSON;

(2) A GUARDIAN OF THE PROPERTY OF THE SURVIVING SPOUSE WHO HAS BEEN SPECIFICALLY AUTHORIZED TO MAKE THE ELECTION BY ORDER OF THE COURT HAVING SUPERVISION OF THE GUARDIANSHIP; OR

(3) AN AGENT DESIGNATED BY THE SURVIVING SPOUSE UNDER A POWER OF ATTORNEY THAT SPECIFICALLY AUTHORIZES THE AGENT TO MAKE THE ELECTION.

(C) (1) BEFORE A GUARDIAN OF THE PROPERTY OF THE SURVIVING SPOUSE OR AN AGENT DESIGNATED BY THE SURVIVING SPOUSE UNDER A POWER OF ATTORNEY MAY EXERCISE A RIGHT OF ELECTION UNDER SUBSECTION (B) OF THIS SECTION, THE GUARDIAN OF THE PROPERTY OR THE AGENT SHALL DELIVER NOTICE

OF THE ELECTION TO:

(I) ALL INTERESTED PERSONS IN THE DECEDENT'S ESTATE; AND

(II) ALL PERSONS WHO WOULD INHERIT FROM THE SURVIVING SPOUSE UNDER SUBTITLE 1 OF THIS TITLE IF THE SURVIVING SPOUSE DIED INTESTATE AND UNMARRIED AT THE TIME THE ELECTION IS MADE.

(2) AN EXERCISE OF A RIGHT OF ELECTION UNDER SUBSECTION (B) OF THIS SECTION IS VALID UNLESS:

(I) WITHIN 30 DAYS FOLLOWING THE DELIVERY OF NOTICE OF THE ELECTION IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, A PERSON MAKES AN OBJECTION TO THE ELECTION IN THE COURT IN WHICH THE ELECTION WAS FILED; AND

(II) FOLLOWING A HEARING ON THAT OBJECTION, THE COURT RULES THAT THE ELECTION IS NOT IN THE BEST INTERESTS OF THE SURVIVING SPOUSE.

3–406.

(A) THE RIGHT OF ELECTION OF A SURVIVING SPOUSE MAY BE WAIVED BEFORE OR AFTER MARRIAGE BY A WRITTEN CONTRACT, AGREEMENT, OR WAIVER SIGNED BY THE PARTY WAIVING THE RIGHT OF ELECTION.

(B) UNLESS THE WAIVER PROVIDES TO THE CONTRARY, A WAIVER OF "ALL RIGHTS", OR EQUIVALENT LANGUAGE, IN THE PROPERTY OR ESTATE OF A PRESENT OR PROSPECTIVE SPOUSE OR A COMPLETE PROPERTY SETTLEMENT ENTERED INTO AFTER OR IN ANTICIPATION OF SEPARATION OR DIVORCE IS A WAIVER OF ALL RIGHTS OF FAMILY ALLOWANCE AND ELECTIVE SHARE BY EACH SPOUSE IN THE PROPERTY OF THE OTHER AND THE RIGHT TO LETTERS UNDER § 5–104 OF THIS ARTICLE, AND IS AN IRREVOCABLE RENUNCIATION BY EACH SPOUSE OF ALL BENEFITS THAT WOULD OTHERWISE PASS TO THE SPOUSE FROM THE OTHER BY INTESTATE SUCCESSION, BY ELECTIVE SHARE, OR BY VIRTUE OF A WILL OR REVOCABLE TRUST OF THE PRESENT OR PROSPECTIVE SPOUSE EXECUTED BEFORE THE WAIVER OR PROPERTY SETTLEMENT.

3–407.

(A) (1) THE ELECTION BY A SURVIVING SPOUSE TO TAKE AN ELECTIVE SHARE SHALL BE MADE WITHIN THE LATER OF:

(I) 9 MONTHS AFTER THE DATE OF THE DECEDENT'S DEATH; OR

(II) 6 MONTHS AFTER THE FIRST APPOINTMENT OF A PERSONAL REPRESENTATIVE.

(2) (I) WITHIN THE PERIOD FOR MAKING AN ELECTION, THE SURVIVING SPOUSE MAY FILE WITH THE COURT A PETITION FOR AN EXTENSION OF TIME, WITH A COPY GIVEN TO THE PERSONAL REPRESENTATIVE.

(II) FOR GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME FOR ELECTION FOR A PERIOD NOT TO EXCEED 3 MONTHS AT A TIME.

(B) THE SURVIVING SPOUSE MAY WITHDRAW THE ELECTION AT ANY TIME BEFORE THE EXPIRATION OF THE TIME FOR MAKING THE ELECTION TO TAKE AN ELECTIVE SHARE.

3–408.

(A) (1) AN ELECTION TO TAKE AN ELECTIVE SHARE UNDER THIS SUBTITLE:

(I) SHALL BE IN WRITING AND SIGNED BY THE SURVIVING SPOUSE OR OTHER PERSON ENTITLED TO MAKE THE ELECTION UNDER § 3–405 OF THIS SUBTITLE; AND

(II) 1. SHALL BE FILED IN THE COURT IN WHICH THE PERSONAL REPRESENTATIVE OF THE DECEDENT WAS APPOINTED; OR

2. IF NO PERSONAL REPRESENTATIVE OF THE DECEDENT HAS BEEN APPOINTED, SHALL BE FILED IN THE COURT FOR THE JURISDICTION IN WHICH THE VENUE WOULD BE PROPER UNDER § 5–103 OF THIS ARTICLE.

(2) NOTICE OF THE FILING OF AN ELECTION TO TAKE AN ELECTIVE SHARE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE DELIVERED TO:

(I) THE TRUSTEE OF EACH REVOCABLE TRUST OF THE DECEDENT; OR

(II) THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, IF DIFFERENT FROM THE TRUSTEE.

(B) THE ELECTION MAY BE IN THE FOLLOWING FORM:

"I, A. B., SURVIVING SPOUSE OF C. D., LATE OF THE COUNTY (CITY) OF....., ELECT TO TAKE MY ELECTIVE SHARE OF THE DECEDENT'S ESTATE SUBJECT TO ELECTION UNDER § 3–403 OF THE ESTATES AND TRUSTS ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

.....
(SIGNATURE)".

3–409.

(A) ON RECEIPT OF A WRITTEN REQUEST BY THE SURVIVING SPOUSE, ALL INFORMATION NECESSARY TO CALCULATE THE ELECTIVE SHARE UNDER THIS SUBTITLE SHALL BE DELIVERED TO THE SURVIVING SPOUSE BY, AS APPLICABLE:

(1) THE PERSONAL REPRESENTATIVE OF THE DECEDENT;

(2) THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT; OR

(3) THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN.

(B) (1) THE FILING OF AN ELECTION TO TAKE THE ELECTIVE SHARE UNDER § 3–407 OF THIS SUBTITLE IS DEEMED TO GIVE ADEQUATE NOTICE OF THE ELECTION TO, AS APPLICABLE:

(I) THE PERSONAL REPRESENTATIVE OF THE DECEDENT;

(II) THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT; OR

(III) THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN.

(2) THE PERSON RECEIVING NOTICE OF AN ELECTION TO TAKE THE ELECTIVE SHARE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROMPTLY DELIVER NOTICE OF THE ELECTION TO EACH PERSON FROM WHOM ANY PORTION OF THE ELECTIVE SHARE MAY BE PAYABLE.

(C) WITHIN 60 DAYS AFTER THE DATE A TRUSTEE OF A REVOCABLE TRUST OF THE DECEDENT ACQUIRES KNOWLEDGE OF THE DECEDENT'S DEATH, THE TRUSTEE SHALL NOTIFY THE SURVIVING SPOUSE OF THE EXISTENCE OF THE TRUST, OF THE IDENTITY OF THE TRUSTEES, AND OF THE SURVIVING SPOUSE'S RIGHT TO REQUEST A COPY OF THE TRUST INSTRUMENT.

(D) ON RECEIPT OF A WRITTEN REQUEST BY THE PERSONAL

REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, OR THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, THE SURVIVING SPOUSE SHALL DELIVER TO THE PERSON MAKING THE REQUEST ALL INFORMATION RELEVANT TO THE CALCULATION OF THE ELECTIVE SHARE UNDER THIS SUBTITLE THAT IS IN THE POSSESSION OF THE SURVIVING SPOUSE AND NOT OTHERWISE AVAILABLE TO THE PERSON MAKING THE REQUEST.

3–410.

(A) THIS SECTION DOES NOT APPLY IF PAYMENT OF THE ELECTIVE SHARE OF A SURVIVING SPOUSE IS OTHERWISE PROVIDED FOR IN:

(1) (I) THE DECEDENT'S WILL; OR

(II) THE INSTRUMENT GOVERNING ANY TRUST OF WHICH THE DECEDENT WAS THE SETTLOR; OR

(2) A WRITTEN AGREEMENT BETWEEN THE PERSONS RESPONSIBLE FOR PAYING THE ELECTIVE SHARE THAT IS APPROVED BY THE COURT.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE ELECTIVE SHARE OF A SURVIVING SPOUSE SHALL BE PAID:

(I) FROM THE PORTION OF THE DECEDENT'S PROBATE ESTATE THAT IS INCLUDED IN THE ESTATE SUBJECT TO ELECTION AND DOES NOT CONSTITUTE ANY PART OF THE SPOUSAL BENEFITS;

(II) TO THE EXTENT THE ELECTIVE SHARE IS NOT FULLY PAID AS PROVIDED IN ITEM (I) OF THIS PARAGRAPH:

1. FROM THE PORTION OF ANY REVOCABLE TRUST OF THE DECEDENT THAT IS INCLUDED IN THE ESTATE SUBJECT TO ELECTION AND DOES NOT CONSTITUTE ANY PART OF THE SPOUSAL BENEFITS; AND

2. IF THERE IS MORE THAN ONE REVOCABLE TRUST OF THE DECEDENT THAT IS INCLUDED IN THE ESTATE SUBJECT TO ELECTION, BY APPORTIONMENT AMONG THE TRUSTS IN PROPORTION TO THE VALUE OF THE ASSETS OF EACH REVOCABLE TRUST THAT ARE AVAILABLE TO SATISFY THE ELECTIVE SHARE; AND

(III) TO THE EXTENT THE ELECTIVE SHARE IS NOT FULLY PAID AS PROVIDED IN ITEMS (I) AND (II) OF THIS PARAGRAPH, BY THE RECIPIENTS OF ANY OTHER PORTIONS OF THE ESTATE SUBJECT TO ELECTION THAT DO NOT CONSTITUTE ANY PART OF THE SPOUSAL BENEFITS, PRORATED AMONG THE RECIPIENTS IN

PROPORTION TO THE VALUE OF THE ASSETS RECEIVED BY EACH RECIPIENT.

(2) IF ANY PAYMENT REQUIRED BY THIS SUBSECTION IS PREEMPTED BY FEDERAL LAW OR IS TO BE MADE FROM EITHER A TRUST ESTABLISHED UNDER § 1917(C)(2)(B)(III), (C)(2)(B)(IV), (D)(4)(A), OR (D)(4)(C) OF THE SOCIAL SECURITY ACT, AN ACCOUNT ESTABLISHED UNDER § 529A OF THE INTERNAL REVENUE CODE, OR A SPECIAL NEEDS TRUST FOR THE BENEFIT OF AN INDIVIDUAL WHO IS DISABLED AS DEFINED IN § 1614(A)(3) OF THE SOCIAL SECURITY ACT, THE PORTION OF THE ELECTIVE SHARE PAYABLE UNDER THIS SUBSECTION SHALL BE APPORTIONED AMONG THOSE RECIPIENTS WHOSE BENEFITS ARE NOT PREEMPTED UNDER FEDERAL LAW OR WHO ARE NOT BENEFICIARIES OF THOSE TRUSTS OR ACCOUNTS.

(C) UNLESS THE SURVIVING SPOUSE AND THE PAYOR AGREE OTHERWISE IN WRITING, EACH PERSON REQUIRED TO PAY A PORTION OF THE ELECTIVE SHARE UNDER THIS SECTION SHALL MAKE PAYMENT:

(1) IN A MANNER THAT IS DEEMED TO BE IN ACCORDANCE WITH THE TERMS AND PURPOSES OF ANY INSTRUMENT GOVERNING THE DISPOSITION OF THE PORTION OF THE ESTATE SUBJECT TO ELECTION FROM WHICH THE PORTION OF THE ELECTIVE SHARE IS TO BE PAID; AND

(2) (I) IN CASH;

(II) WITH A PRORATED SHARE OF EACH ITEM OF PROPERTY FROM WHICH THAT PORTION OF THE ELECTIVE SHARE CAN BE PAID; OR

(III) WITH OTHER PROPERTY ACCEPTABLE TO THE SURVIVING SPOUSE, IN AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THAT PORTION OF THE ELECTIVE SHARE TO BE PAID BY THE PAYOR.

(D) A PAYOR OR ANY OTHER THIRD PARTY, OTHER THAN THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, OR THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, IS NOT LIABLE FOR HAVING MADE A PAYMENT OR TRANSFERRED AN ITEM OF PROPERTY, OR ANY OTHER BENEFIT FROM WHICH THE ELECTIVE SHARE MIGHT BE PAID, TO A BENEFICIARY DESIGNATED IN A GOVERNING INSTRUMENT OR BENEFICIARY DESIGNATION IF THE PAYMENT OR TRANSFER IS MADE:

(1) IN GOOD FAITH RELIANCE ON THE VALIDITY OF THE GOVERNING INSTRUMENT OR BENEFICIARY DESIGNATION ON REQUEST AND SATISFACTORY PROOF OF THE DEATH OF THE DECEDENT; AND

(2) BEFORE THE PAYOR OR OTHER THIRD PARTY RECEIVES WRITTEN NOTICE OF THE ELECTION BY THE SURVIVING SPOUSE TO RECEIVE THE ELECTIVE

SHARE UNDER THIS SUBTITLE.

3–411.

(A) ON THE ELECTION OF THE SURVIVING SPOUSE TO TAKE AN ELECTIVE SHARE UNDER THIS SUBTITLE, ALL PROPERTY OR OTHER BENEFITS THAT WOULD HAVE PASSED TO THE SURVIVING SPOUSE UNDER THE WILL, OTHER THAN ANY PORTION OF THE SPOUSAL BENEFITS, SHALL BE TREATED AS IF THE SURVIVING SPOUSE HAD DIED BEFORE THE EXECUTION OF THE WILL.

(B) THE SURVIVING SPOUSE AND A PERSON CLAIMING THROUGH THE SURVIVING SPOUSE MAY NOT RECEIVE PROPERTY UNDER THE WILL, OTHER THAN PROPERTY FORMING ANY PORTION OF THE SPOUSAL BENEFITS.

3–412.

(A) (1) ON THE FINAL PAYMENT OF AN ELECTIVE SHARE, THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, OR THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, AS APPROPRIATE, SHALL FILE WITH THE REGISTER FOR THE COUNTY IN WHICH THE ELECTION UNDER § 3–403 OF THIS SUBTITLE IS FILED A SIGNED STATEMENT, WHICH HAS BEEN VERIFIED BY THE SURVIVING SPOUSE, STATING THE VALUE OF THE ELECTIVE SHARE AND THAT THE ELECTIVE SHARE HAS BEEN PAID IN FULL.

(2) ON THE REQUEST OF THE SURVIVING SPOUSE, THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, OR THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, THE REGISTER SHALL REDACT FROM THE STATEMENT FILED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION THE VALUE OF THE ELECTIVE SHARE.

(B) (1) ON THE REQUEST OF THE SURVIVING SPOUSE, THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, ANY PAYOR OF ANY PORTION OF THE ELECTIVE SHARE, OR ANY OTHER PERSON HAVING AN INTEREST IN THE ASSETS FROM WHICH THE ELECTIVE SHARE HAS BEEN PAID, THE REGISTER SHALL CERTIFY IN WRITING THE ACCURACY OF THE CALCULATION AND PAYMENT OF THE ELECTIVE SHARE.

(2) IF A CERTIFICATION IS REQUESTED UNDER THIS SUBSECTION, THE SURVIVING SPOUSE, THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, THE PERSON RESPONSIBLE

FOR FILING THE ESTATE TAX RETURN, AND ANY PAYOR OF ANY PORTION OF THE ELECTIVE SHARE SHALL DELIVER TO THE REGISTER ANY INFORMATION AND DOCUMENTATION THAT THE REGISTER MAY DEEM NECESSARY TO VERIFY THE ACCURATE CALCULATION OF THE ELECTIVE SHARE AND THE PAYMENT OF THE ELECTIVE SHARE IN FULL.

(3) THE REGISTER MAY NOT DISCLOSE ANY INFORMATION OR DOCUMENTATION SUBMITTED TO THE REGISTER IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

3–413.

IN AN ACTION ARISING UNDER THIS SUBTITLE, A COURT MAY:

(1) ON A SHOWING OF CLEAR AND CONVINCING EVIDENCE, MODIFY:

(I) THE CALCULATION OF THE VALUE OF AN AUGMENTED ESTATE;

(II) THE CALCULATION OF THE VALUE OF AN ESTATE SUBJECT TO ELECTION;

(III) THE CALCULATION OF THE VALUE OF SPOUSAL BENEFITS; OR

(IV) THE SOURCES OF PAYMENT OF AN ELECTIVE SHARE;

(2) CONSIDER THE CIRCUMSTANCES OF ANY TRANSFER OR ARRANGEMENT, INCLUDING:

(I) THE EXTENT OF CONTROL RETAINED BY THE DECEDENT;

(II) THE MOTIVATION FOR THE TRANSFER OR ARRANGEMENT;

(III) THE FAMILIAL RELATIONSHIP BETWEEN THE DECEDENT AND THE BENEFICIARY OF THE TRANSFER OR ARRANGEMENT;

(IV) THE DEGREE, IF ANY, TO WHICH THE TRANSFER OR ARRANGEMENT DEPRIVES THE SURVIVING SPOUSE OF PROPERTY THAT OTHERWISE MIGHT FORM PART OF THE VALUE OF THE AUGMENTED ESTATE, ESTATE SUBJECT TO ELECTION, OR SPOUSAL BENEFITS;

(V) THE DEGREE, IF ANY, TO WHICH THE TRANSFER OR

ARRANGEMENT PROVIDES A BENEFIT TO THE SURVIVING SPOUSE BEYOND WHAT WOULD BE AVAILABLE TO THE SURVIVING SPOUSE AS PART OF THE ELECTIVE SHARE;

(VI) THE LENGTH AND NATURE OF THE RELATIONSHIP BETWEEN THE DECEDENT AND THE SURVIVING SPOUSE; ~~**AND**~~

(VII) THE NATURE AND VALUE OF THE SURVIVING SPOUSE'S ASSETS; **AND**

(VIII) THE RELATIONSHIP OF THE BENEFICIARY OF THE TRANSFER OR ARRANGEMENT TO ANY PREVIOUS OWNER OF THE PROPERTY SUBJECT TO THE TRANSFER OR ARRANGEMENT;

(3) AWARD REASONABLE ATTORNEY'S FEES;

(4) PASS ORDERS REQUIRING THE HOLDER OR RECIPIENT OF ANY PORTION OF AN AUGMENTED ESTATE, AN ESTATE SUBJECT TO ELECTION, OR SPOUSAL BENEFITS TO PROVIDE ANY INFORMATION THAT THE COURT CONSIDERS NECESSARY TO DETERMINE THE VALUE OR SOURCES OF PAYMENT OF AN ELECTIVE SHARE; AND

(5) TRANSMIT ISSUES OF FACT RELATING TO THE VALUE OR SOURCES OF PAYMENT OF AN ELECTIVE SHARE TO THE CIRCUIT COURT OF THE COUNTY IN WHICH THE ELECTION UNDER § 3–403 OF THIS SUBTITLE IS FILED.

7–603.

(A) [When a**]** **A** personal representative or person nominated as personal representative **WHO** defends or prosecutes a proceeding in good faith and with just cause**[**, he**]** shall be entitled to receive **[**his**]** necessary expenses and disbursements from the estate regardless of the outcome of the proceeding.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION TO THE COMPENSATION PROVIDED FOR IN THIS SUBTITLE, A PERSONAL REPRESENTATIVE IS ENTITLED TO REASONABLE COMMISSIONS OR ATTORNEY'S FEES, AS DETERMINED BY THE COURT, IN CONNECTION WITH AN ELECTION BY A SURVIVING SPOUSE TO TAKE AN ELECTIVE SHARE UNDER § 3–403 OF THIS ARTICLE.

(2) THE AMOUNT OF COMPENSATION OR ATTORNEY'S FEES CONSENTED TO BY ALL INTERESTED PERSONS IS PRESUMED TO BE REASONABLE.

13–204.

(a) **(1)** If a basis exists as described in § 13–201 of this subtitle for assuming jurisdiction over the property of a minor or disabled person, the circuit court, without appointing a guardian, may authorize or direct a transaction with respect to the property, service, or care arrangement of the minor or disabled person.

(2) [These**] THE** transactions **DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION** include **[**but are not limited to**]**:

[(1)**] (I)** Payment, delivery, deposit, or retention of funds or property;

[(2)**] (II)** Sale, mortgage, lease, or other transfer of property;

[(3)**] (III)** Purchase of contracts for an annuity, life care, training, or education; **[**or**]**

(IV) MAKING THE ELECTION TO TAKE AN ELECTIVE SHARE OF AN ESTATE SUBJECT TO ELECTION UNDER § 3–403 OF THIS ARTICLE; OR

[(4)**] (V)** Any other transaction described in:

[(i)**] 1.** § 13–203(c)(2) of this subtitle;

[(ii)**] 2.** Title 9, Subtitle 2 of this article; or

[(iii)**] 3.** § 15–102 of this article.

14.5–606.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ESTATE SUBJECT TO ELECTION" HAS THE MEANING STATED IN § 3–401 OF THIS ARTICLE.

(3) "SPOUSAL BENEFITS" HAS THE MEANING STATED IN § 3–401 OF THIS ARTICLE.

(B) AFTER THE FILING OF AN ELECTION TO TAKE AN ELECTIVE SHARE UNDER § 3–403 OF THIS ARTICLE BECOMES FINAL:

(1) ALL PROPERTY OR OTHER BENEFITS THAT WOULD HAVE PASSED TO THE SURVIVING SPOUSE UNDER THE TRUST INSTRUMENT, OTHER THAN ANY PORTION OF THE SPOUSAL BENEFITS, SHALL BE TREATED AS IF THE SURVIVING SPOUSE HAD DIED ON THE DAY BEFORE THE SETTLOR; AND

(2) THE SURVIVING SPOUSE OR A PERSON CLAIMING THROUGH THE SURVIVING SPOUSE MAY NOT RECEIVE PROPERTY, OTHER THAN PROPERTY FORMING ANY PORTION OF THE SPOUSAL BENEFITS, UNDER THE TRUST INSTRUMENT.

17–202.

"MARYLAND STATUTORY FORM

PERSONAL FINANCIAL POWER OF ATTORNEY

IMPORTANT INFORMATION AND WARNING

You should be very careful in deciding whether or not to sign this document. The powers granted by you (the principal) in this document are broad and sweeping. This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

You need not grant all of the powers listed below. If you choose to grant less than all of the listed powers, you may instead use a Maryland Statutory Form Limited Power of Attorney and mark on that Maryland Statutory Form Limited Power of Attorney which powers you intend to delegate to your attorney–in–fact (the Agent) and which you do not want the Agent to exercise.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

You should obtain competent legal advice before you sign this power of attorney if you have any questions about the document or the authority you are granting to your agent.

DESIGNATION OF AGENT

This section of the form provides for designation of one agent.

If you wish to name coagents, skip this section and use the next section ("Designation of Coagents").

I, _____,

(Name of Principal)

Name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF COAGENTS (OPTIONAL)

This section of the form provides for designation of two or more coagents. Coagents are required to act together unanimously unless you otherwise provide in this form.

I, _____,

(Name of Principal)

Name the following persons as coagents: _____

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Special Instructions Regarding Coagents: _____
_____
_____
_____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's
Address: _____

Successor Agent's
Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second
Successor Agent: _____

Second Successor
Agent's Address: _____

Second Successor Agent's
Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I ("the principal") grant my agent and any successor agent, with respect to each subject listed below, the authority to do all acts that I could do to:

(1) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(2) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction;

(3) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(6) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation and communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal; and

(7) Do lawful acts with respect to the subject and all property related to the subject.

SUBJECTS AND AUTHORITY

My agent's authority shall include the authority to act as stated below with regard to each of the following subjects:

Real property – With respect to this subject, I authorize my agent to: demand, buy, sell, convey, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property; pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage; release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted; and manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including: (1) insuring against liability or casualty or other loss; (2) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise; (3) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and (4) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property.

Stocks and bonds – With respect to this subject, I authorize my agent to: buy, sell, and exchange stocks and bonds; establish, continue, modify, or terminate an account with respect to stocks and bonds; pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal; receive certificates and other evidences of ownership with respect to stocks and bonds; exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

Banks and other financial institutions – With respect to this subject, I authorize my agent to: continue, modify, transact all business in connection with, and terminate an account or other banking arrangement made by or on behalf of the principal; establish, modify, transact all business in connection with, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; contract for services available from a financial institution, including renting a safe deposit box or space in a vault; deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal; withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution; receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them; enter a safe deposit box or vault and withdraw or add to the contents; borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal; make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions; and apply for, receive, and use credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a

financial institution.

Insurance and annuities – With respect to this subject, I authorize my agent to: continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract; procure new, different, and additional contracts of insurance and annuities for the principal and select the amount, type of insurance or annuity, and mode of payment; pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent; apply for and receive a loan secured by a contract of insurance or annuity; surrender and receive the cash surrender value on a contract of insurance or annuity; exercise an election; exercise investment powers available under a contract of insurance or annuity; change the manner of paying premiums on a contract of insurance or annuity; change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section; apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal; collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity; select the form and timing of the payment of proceeds from a contract of insurance or annuity; pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment.

Claims and litigation – With respect to this subject, I authorize my agent to: assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief; act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value; pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

Benefits from governmental programs or civil or military service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to: execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal; enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program; prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation; initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or

assistance the principal may be entitled to receive under a statute or regulation; and receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received.

Retirement plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code: (1) an individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408; (2) a Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A; (3) a deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q); (4) an annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b); (5) a pension, profit–sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a); (6) a plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and (7) a nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A) – With respect to this subject, I authorize my agent to: select the form and timing of payments under a retirement plan and withdraw benefits from a plan; make a rollover, including a direct trustee–to–trustee rollover, of benefits from one retirement plan to another; establish a retirement plan in the principal's name; make contributions to a retirement plan; exercise investment powers available under a retirement plan; borrow from, sell assets to, or purchase assets from a retirement plan. I recognize that granting my agent the authority to create or change a beneficiary designation for a retirement plan may affect the benefits that I may receive if that authority is exercised. If I grant my agent the authority to designate the agent, the agent's spouse, or a dependent of the agent as a beneficiary of a retirement plan, the grant may constitute a taxable gift by me and may make the property subject to that authority taxable as a part of the agent's estate. Therefore, if I wish to authorize my agent to create or change a beneficiary designation for any retirement plan, and in particular if I wish to authorize the agent to designate as my beneficiary the agent, the agent's spouse, or a dependent of the agent, I will explicitly state this authority in the Special Instructions section that follows or in a separate power of attorney.

Taxes – With respect to this subject, I authorize my agent to: prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, federal insurance contributions act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax–related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032(A), 26 U.S.C. § 2032(A), closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years; pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority; exercise elections available to the principal under federal, state, local, or foreign tax law; and act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

Digital assets – With respect to this subject, in accordance with the Maryland Fiduciary

Access to Digital Assets Act, my agent shall have authority over and the right to access: (1) the content of any of my electronic communications; (2) any catalogue of electronic communications sent or received by me; and (3) any other digital asset in which I have a right or interest.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

_____
_____
_____
_____
_____
_____
_____
_____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on _____, 20_____.
(Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my property or guardian of my person, I nominate the following person(s) for appointment:

Name of nominee for guardian of my property: _____
Nominee's address: _____
Nominee's telephone number: _____
Name of nominee for guardian of my person: _____
Nominee's address: _____
Nominee's telephone number: _____

DESIGNATION OF AGENT TO MAKE ELECTION TO TAKE ELECTIVE SHARE (OPTIONAL)

IF I AM INCAPACITATED WITHIN THE MEANING OF § 17–101 OF THE ESTATES AND TRUSTS ARTICLE, I DESIGNATE THE FOLLOWING PERSON AS MY AGENT FOR PURPOSES OF MAKING THE ELECTION TO TAKE AN ELECTIVE SHARE OF AN ESTATE

SUBJECT TO ELECTION UNDER § 3–403 OF THE ESTATES AND TRUSTS ARTICLE:

NAME OF DESIGNATED AGENT:_____
DESIGNATED AGENT'S ADDRESS:_____
DESIGNATED AGENT'S TELEPHONE NUMBER:_____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
Your Signature Date

_____
Your Name Printed

_____
_____
Your Address

_____
Your Telephone Number

STATE OF MARYLAND
(COUNTY) OF _____

This document was acknowledged before me on

_____
(Date)

By _____ to be his/her act.
(Name of Principal)

_____ (SEAL, IF ANY)
Signature of Notary
My commission expires: _____

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by

_____
(Name of Principal)

in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

_____
Witness #1 Signature

_____
Witness #1 Name Printed

_____

_____
Witness #1 Address

_____
Witness #1 Telephone Number

_____
Witness #2 Signature

_____
Witness #2 Name Printed

_____

_____
Witness #2 Address

_____
Witness #2 Telephone Number"

17–203.

"MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY

PLEASE READ CAREFULLY

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). You need not give to your agent all the authorities listed below and may give the agent only those limited powers that you specifically indicate. This power of attorney gives your agent the right to make limited decisions for you. You should very carefully weigh your decision as to what powers you give your agent. Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

If you choose to make a grant of limited authority, you should check the boxes that identify the specific authorization you choose to give your agent.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is not entitled to compensation unless you indicate otherwise in the special instructions of this power of attorney. If you indicate that your agent is to receive compensation, your agent is entitled to reasonable compensation or compensation as

specified in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are required to act together unanimously unless you specify otherwise in the Special Instructions.

If your agent is unavailable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

This section of the form provides for designation of one agent.

If you wish to name coagents, skip this section and use the next section ("Designation of Coagents").

I, _____, name the following person
(Name of Principal)
as my agent:

Name of
Agent: _____
Agent's
Address: _____
Agent's Telephone
Number: _____

DESIGNATION OF COAGENTS (OPTIONAL)

This section of the form provides for designation of two or more coagents. Coagents are required to act together unanimously unless you otherwise provide in this form.

I, _____,

(Name of Principal)

Name the following persons as coagents:

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Special Instructions Regarding Coagents: _____
_____
_____
_____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____
Successor Agent's
Address: _____
Successor Agent's Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor
Agent: _____
Second Successor Agent's
Address: _____
Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I ("the principal") grant my agent and any successor agent, with respect to each subject that I choose below, the authority to do all acts that I could do to:

(1) Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating a schedule contemporaneously or at a later time listing some or all of the principal's property and attaching the schedule to this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(6) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) Communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) Do lawful acts with respect to the subject and all property related to the subject.

(INITIAL each authority in any subject you want to include in the agent's general authority. Cross through each authority in any subject that you want to exclude. If you wish to grant general authority over an entire subject, you may initial "All of the above" instead of initialing each authority.)

SUBJECTS AND AUTHORITY

A. Real Property – With respect to this category, I authorize my agent to:

(___) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property

(___) Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, retain title for security, encumber, partition, consent to partitioning, subject to an easement or covenant, subdivide, apply for zoning or other governmental permits, plat or consent to platting, develop, grant an option concerning, lease, sublease, contribute to an entity in exchange for an interest in that entity, or otherwise grant or dispose of an interest in real property or a right incident to real property

(___) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage

(___) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted

(___) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(4) Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property

(___) Use, develop, alter, replace, remove, erect, or install structures or other improvements on real property in or incident to which the principal has, or claims to have, an interest or right

(___) Participate in a reorganization with respect to real property or an entity that owns an interest in or a right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(1) Selling or otherwise disposing of the stocks and bonds or other property;

(2) Exercising or selling an option, a right of conversion, or a similar right with respect to the stocks and bonds or other property; and

(3) Exercising voting rights in person or by proxy

(___) Change the form of title of an interest in or a right incident to real property

(___) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest

(___) All of the above

B. Tangible Personal Property – With respect to this subject, I authorize my agent to:

(___) Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property

(___) Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, create a security interest in, grant options concerning, lease, sublease, or otherwise dispose of tangible personal property or an interest in tangible personal property

(___) Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

(___) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property

(___) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(4) Moving the property from place to place;

(5) Storing the property for hire or on a gratuitous bailment; and

(6) Using and making repairs, alterations, or improvements to the property

(___) Change the form of title of an interest in tangible personal property

(___) All of the above

C. Stocks and Bonds – With respect to this subject, I authorize my agent to:

(___) Buy, sell, and exchange stocks and bonds

(___) Establish, continue, modify, or terminate an account with respect to

stocks and bonds

(___) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal

(___) Receive certificates and other evidences of ownership with respect to stocks and bonds

(___) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote

(___) All of the above

D. Commodities – With respect to this subject, I authorize my agent to:

(___) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange

(___) Establish, continue, modify, and terminate option accounts

(___) All of the above

E. Banks and Other Financial Institutions – With respect to this subject, I authorize my agent to:

(___) Continue, modify, transact all business in connection with, and terminate an account or other banking arrangement made by or on behalf of the principal

(___) Establish, modify, transact all business in connection with, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent

(___) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault

(___) Deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal

(___) Withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution

(___) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them

(___) Enter a safe deposit box or vault and withdraw or add to the contents

(___) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

(___) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person on the principal and pay the draft when due

(___) Receive for the principal and act on a sight draft, warehouse receipt, other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument

(___) Apply for, receive, and use letters of credit, credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit

(___) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution

(___) All of the above

F. Operation of an Entity or a Business – With respect to this subject, I authorize my agent to:

(___) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest

(___) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or an option that the principal has, may have, or claims to have

(___) Enforce the terms of an ownership agreement

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest

(___) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or an option the principal has or claims to have as the holder of stocks and bonds

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds

(___) With respect to an entity or business owned solely by the principal:

(1) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of this power of attorney;

(2) Determine:

(i) The location of the operation of the entity or business;

(ii) The nature and extent of the business of the entity or business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in the operation of the entity or business;

(iv) The amount and types of insurance carried by the entity or business; and

(v) The mode of engaging, compensating, and dealing with the employees and accountants, attorneys, or other advisors of the entity or business;

(3) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(4) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business

(___) Put additional capital into an entity or a business in which the principal has an interest

(___) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business

(___) Sell or liquidate all or part of an entity or business

(___) Establish the value of an entity or a business under a buyout agreement to which the principal is a party

(___) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments

(___) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform other acts to protect the principal from illegal or unnecessary taxation,

assessments, fines, or penalties, with respect to an entity or a business, including attempts to recover, as permitted by law, money paid before or after the execution of this power of attorney

(___) All of the above

G. Insurance and Annuities – With respect to this subject, I authorize my agent to:

(___) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract

(___) Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment

(___) Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent

(___) Apply for and receive a loan secured by a contract of insurance or annuity

(___) Surrender and receive the cash surrender value on a contract of insurance or annuity

(___) Exercise an election

(___) Exercise investment powers available under a contract of insurance or annuity

(___) Change the manner of paying premiums on a contract of insurance or annuity

(___) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section

(___) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal

(___) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity

(___) Select the form and timing of the payment of proceeds from a contract of insurance or annuity

(___) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment

(___) All of the above

H. Estates, Trusts, and Other Beneficial Interests (including trusts, probate estates, guardianships, conservatorships, escrows, or custodianships or funds from which the principal is, may become, or claims to be entitled to a share or payment) – With respect to this subject, I authorize my agent to:

(___) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from the fund described above

(___) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of the fund described above, by litigation or otherwise

(___) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary

(___) Conserve, invest, disburse, or use anything received for an authorized purpose

(___) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor

(___) Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from the fund described above

(___) ELECT TO TAKE AN ELECTIVE SHARE OF AN ESTATE SUBJECT TO ELECTION UNDER § 3–403 OF THE ESTATES AND TRUSTS ARTICLE

(___) All of the above

I. Claims and Litigation – With respect to this subject, I authorize my agent to:

(___) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief

(___) Bring an action to determine adverse claims or intervene or otherwise participate in litigation

(___) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree

(___) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation

(___) Submit to alternative dispute resolution, settle, and propose or accept a compromise

(___) Waive the issuance and service of process on the principal, accept service of process, appear for the principal, designate persons on which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation

(___) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value

(___) Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation

(___) Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation

(___) All of the above

J. Personal and Family Maintenance – With respect to this subject, I authorize my agent to:

(___) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when this power of attorney is executed or later born:

(1) The principal's children;

(2) Other individuals legally entitled to be supported by the principal; and

(3) The individuals whom the principal has customarily supported or indicated the intent to support;

(___) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party

(___) Provide living quarters for the individuals described above by:

(1) Purchase, lease, or other contract; or

(2) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals

(___) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described above

(___) Pay expenses for necessary health care and custodial care on behalf of the individuals described above

(___) Act as the principal's personal representative in accordance with the Health Insurance Portability and Accountability Act, §§ 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320d, and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal

(___) Continue provisions made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing the means of transportation, for the individuals described above

(___) Maintain credit and debit accounts for the convenience of the individuals described above and open new accounts

(___) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue

contributions to those organizations

(NOTE: Authority with respect to personal and family maintenance is neither dependent on, nor limited by, authority that an agent may or may not have with respect to gifts under this power of attorney.)

(___) All of the above

K. Benefits from Governmental Programs or Civil or Military Service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to:

(___) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in "J. Personal and Family Maintenance" above, and for shipment of the household effects of those individuals

(___) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose

(___) Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program

(___) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation

(___) Receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received

(___) All of the above

L. Retirement Plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) An individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408;

(2) A Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A;

(3) A deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q);

(4) An annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b);

(5) A pension, profit–sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a);

(6) A plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and

(7) A nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A) – With respect to this subject, I authorize my agent to:

(___) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan

(___) Make a rollover, including a direct trustee–to–trustee rollover, of benefits from one retirement plan to another

(___) Establish a retirement plan in the principal's name

(___) Make contributions to a retirement plan

(___) Exercise investment powers available under a retirement plan

(___) Borrow from, sell assets to, or purchase assets from a retirement plan

(___) All of the above

M. Taxes – With respect to this subject, I authorize my agent to:

(___) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax–related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032A, 26 U.S.C. § 2032A, closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years

(___) Pay taxes due, collect refunds, post bonds, receive confidential

information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority

(___) Exercise elections available to the principal under federal, state, local, or foreign tax law

(___) Act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority

(___) All of the above

N. Gifts (including gifts to a trust, an account under the Uniform Transfers to Minors Act, a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26 U.S.C. § 529, and an ABLE account as defined under Internal Revenue Code Section 529A, 26 U.S.C. § 529A) – With respect to this subject, I authorize my agent to:

(___) Make outright to, or for the benefit of, a person, a gift of part or all of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount for each donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26 U.S.C. § 2503(b), without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, in an amount for each donee not to exceed twice the annual federal gift tax exclusion limit

(___) Consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, to the splitting of a gift made by the principal's spouse in an amount for each donee not to exceed the aggregate annual gift tax exclusions for both spouses

(NOTE: An agent may only make a gift of the principal's property as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

(1) The value and nature of the principal's property;

(2) The principal's foreseeable obligations and need for maintenance;

(3) Minimization of taxes, including income, estate, inheritance, generation–skipping transfer, and gift taxes;

(4) Eligibility for a benefit, a program, or assistance under a statute or regulation; and

(5) The principal's personal history of making or joining in making gifts.)

(___) All of the above

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(Caution: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. In addition, granting your agent the authority to make gifts to, or to designate as the beneficiary of any retirement plan, the agent, the agent's spouse, or a dependent of the agent may constitute a taxable gift by you and may make the property subject to that authority taxable as part of the agent's estate. INITIAL ONLY the specific authority you WANT to give your agent.)

(___) Create an inter vivos trust, or amend, revoke, or terminate an existing inter vivos trust if the trust expressly authorizes that action by the agent

(___) Make a gift, subject to any special instructions in this power of attorney

(___) Create or change rights of survivorship

(___) Create or change a beneficiary designation, subject to any special instructions in this power of attorney; and, if I wish to authorize my agent to designate the agent, the agent's spouse, or a dependent of the agent as a beneficiary, I will explicitly state this authority within the special instructions of this power of attorney or in a separate power of attorney

(___) Authorize another person to exercise the authority granted under this power of attorney

(___) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

(___) Exercise fiduciary powers that the principal has authority to delegate

(___) Disclaim or refuse an interest in property, including a power of appointment

(___) In accordance with the Maryland Fiduciary Access to Digital Assets Act, access and take control of (1) the content of any of my electronic communications, (2) any catalogue of electronic communications sent or received by me, and (3) any other digital asset in which I have a right or interest

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have

included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

_____
_____
_____
_____
_____
_____
_____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on _____, 20_____.
(Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my property or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for guardian of my property:

_____
Nominee's Address: _____
Nominee's Telephone Number: _____

Name of Nominee for guardian of my person:

_____
Nominee's Address: _____
Nominee's Telephone Number: _____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
Your Signature Date

_____
Your Name Printed

_____

_____

Your Address

_____

Your Telephone Number

STATE OF MARYLAND
(COUNTY) OF _____

This document was acknowledged before me on

_____ ,

(Date)

by _____ .

(Name of Principal)

_____ (Seal, if any)

Signature of Notary

My commission expires:_____

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by

_____

(Name of Principal)

in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

_____

Witness #1 Signature

_____

Witness #1 Name Printed

_____

_____

Witness #1 Address

_____

Witness #1 Telephone Number

_____

Witness #2 Signature

_____

Witness #2 Name Printed

_____

_____

Witness #2 Address

_____

Witness #2 Telephone Number

This document prepared by:

_____

_____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(2) Act with care, competence, and diligence for the best interest of the principal;

(3) Do nothing beyond the authority granted in this power of attorney; and

(4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

_____ _____

(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;

(2) Avoid conflicts that would impair your ability to act in the principal's best interest;

(3) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(4) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and

(5) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

(2) The principal's revocation of the power of attorney or your authority;

(3) The occurrence of a termination event stated in the power of attorney;

(4) The purpose of the power of attorney is fully accomplished; or

(5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article. If you violate the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice."

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any estate of a decedent who died before the effective date of this Act or any revocable trust of a decedent that became irrevocable by reason of the death or incapacity of the settlor before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2019~~ *2020*.

Approved by the Governor, May 13, 2019.

Chapter 436

(House Bill 742)

AN ACT concerning

Child Support – Extraordinary Medical Expenses

FOR the purpose of altering the definition of "extraordinary medical expenses" under the child support guidelines; providing for the application of this Act; and generally relating to child support.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 12–201(a) and 12–204(h), (l), and (m)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 12–201(g)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Family Law

12–201.

(a) In this subtitle the following words have the meanings indicated.

(g) (1) "Extraordinary medical expenses" means uninsured **[**expenses over $100 for a single illness or condition**]** **COSTS FOR MEDICAL TREATMENT IN EXCESS OF $250 IN ANY CALENDAR YEAR**.

(2) "Extraordinary medical expenses" includes uninsured, reasonable, and necessary costs for orthodontia, dental treatment, **VISION CARE,** asthma treatment, physical therapy, treatment for any chronic health problem, and professional counseling or psychiatric therapy for diagnosed mental disorders.

12–204.

(h) (1) Any actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible shall be added to the basic child

support obligation and shall be divided by the parents in proportion to their adjusted actual incomes.

(2) Any extraordinary medical expenses incurred on behalf of a child shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted actual incomes.

(l) (1) Except in cases of shared physical custody, each parent's child support obligation shall be determined by adding each parent's respective share of the basic child support obligation, work–related child care expenses, health insurance expenses, extraordinary medical expenses, and additional expenses under subsection (i) of this section.

(2) The obligee shall be presumed to spend that parent's total child support obligation directly on the child or children.

(3) The obligor shall owe that parent's total child support obligation as child support to the obligee minus any ordered payments included in the calculations made directly by the obligor on behalf of the child or children for work–related child care expenses, health insurance expenses, extraordinary medical expenses, or additional expenses under subsection (i) of this section.

(m) (1) In cases of shared physical custody, the adjusted basic child support obligation shall first be divided between the parents in proportion to their respective adjusted actual incomes.

(2) Each parent's share of the adjusted basic child support obligation shall then be multiplied by the percentage of time the child or children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent.

(3) Subject to the provisions of paragraphs (4) and (5) of this subsection, the parent owing the greater amount under paragraph (2) of this subsection shall owe the difference in the 2 amounts as child support.

(4) In addition to the amount of the child support owed under paragraph (3) of this subsection, if either parent incurs child care expenses under subsection (g) of this section, health insurance expenses under subsection (h)(1) of this section, extraordinary medical expenses under subsection (h)(2) of this section, or additional expenses under subsection (i) of this section, the expense shall be divided between the parents in proportion to their respective adjusted actual incomes. The parent not incurring the expense shall pay that parent's proportionate share to:

(i) the parent making direct payments to the provider of the service; or

(ii) the provider directly, if a court order requires direct payments to the provider.

(5) The amount owed under paragraph (3) of this subsection may not exceed the amount that would be owed under subsection (l) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to extraordinary medical expenses incurred on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 437

(Senate Bill 697)

AN ACT concerning

Family Law – Parentage and Adoption

FOR the purpose of providing that a child conceived by means of assisted reproduction during the marriage of the child's mother with the consent of the mother's spouse is the legitimate child of both spouses for all purposes; providing that the consent of the mother's spouse is presumed; providing that a child conceived by means of assisted reproduction after the death of the mother's spouse and using the genetic material of the mother's spouse is the legitimate child of both spouses under certain circumstances; establishing the circumstances under which a child is the child of an individual who did not give birth to the child; establishing a certain rebuttable presumption regarding the parentage of a child born to parents who have not participated in a marriage ceremony with each other; providing that an individual who is the presumed parent of a child under certain provisions of law shall be considered to be the child's parent for certain purposes, under certain circumstances; establishing rules regarding the rebuttal of a certain presumption of parentage; specifying that the property of an illegitimate person passes in accordance with certain rules except under certain circumstances; specifying the individuals and agencies that may be ordered by a court to conduct a certain investigation in a certain adoption proceeding; establishing certain rules and procedures specific to an independent adoption by an individual who is the spouse of the prospective adoptee's mother at the time of the prospective adoptee's birth or who, together with the prospective adoptee's mother, consented to the conception of the prospective adoptee by means of assisted reproduction in a certain manner; requiring a certain petitioner to submit certain documentation in an adoption proceeding under this Act; prohibiting a court from requiring a certain investigation or hearing in ruling on a petition for adoption under this Act, except under certain circumstances; requiring a court to enter an order for adoption under this Act on making certain findings;

providing that an order for adoption granted under this Act is confirmation of parentage established under certain provisions of law; prohibiting this Act from being construed to require a certain individual to adopt a certain child; providing that certain presumptions of parentage apply in a certain paternity action; requiring unmarried parents to be provided an opportunity to execute a certain affidavit of parentage in a certain manner; altering rules and requirements for a certain affidavit of parentage; specifying that, if a child's mother was married at the time of either the conception or birth or between conception and birth, the name of the mother's spouse shall be entered on the child's birth certificate as the child's other parent; providing that any information in a certain certificate that relates to a parent who did not give birth to a child is prima facie evidence except under certain circumstances; prohibiting this Act from being interpreted to overturn or to alter in any way a certain holding by the Court of Appeals of Maryland; prohibiting this Act from being interpreted to authorize or prohibit a certain agreement; providing for the establishment of the parentage of a child conceived in accordance with a certain agreement that is found to be unenforceable under the laws of the State; defining certain terms; altering certain terms; making certain conforming and stylistic changes; and generally relating to parentage and adoption.

BY repealing
Article – Estates and Trusts
Section 1–201
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Estates and Trusts
Section 1–201, 1–201.1, and 1–208.1
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 1–206, 1–208, and ~~1–208~~ 3–108
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–3B–01, 5–3B–16, 5–3B–17, 5–1001, 5–1005, 5–1027, and 5–1028
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY adding to
Article – Family Law
Section 5–3B–27
Annotated Code of Maryland

(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 4–201, 4–208, 4–211(a), (c), (e), and (h), and 4–223
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

[1–201.

In the absence of express language to the contrary, the rules of construction contained in this subtitle shall be applied in construing all provisions of the estates of decedents law and the terms of a will.**]**

1–201.

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

(B) "ASSISTED REPRODUCTION" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.

(C) "FATHER" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.

(D) "MOTHER" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.

1–201.1.

IN THE ABSENCE OF EXPRESS LANGUAGE TO THE CONTRARY, THE RULES OF CONSTRUCTION CONTAINED IN THIS SUBTITLE SHALL BE APPLIED IN CONSTRUING ALL PROVISIONS OF THE ESTATES OF DECEDENTS LAW AND THE TERMS OF A WILL.

1–206.

(a) **(1)** A child born or conceived during a marriage is presumed to be the legitimate child of both spouses.

(2) Except as provided in § 1–207 of this subtitle, a child born at any time after **[**his**]** **THE CHILD'S** parents have participated in a marriage ceremony with each other, even if the marriage is invalid, is presumed to be the legitimate child of both parents.

(b) **(1)** A child conceived **[**by artificial insemination of a married woman**]** **BY MEANS OF ASSISTED REPRODUCTION DURING THE MARRIAGE OF THE CHILD'S MOTHER** with the consent of **[**her husband**]** **THE MOTHER'S SPOUSE** is the legitimate child of both **[**of them**]** **SPOUSES** for all purposes.

(2) Consent of the **[**husband**]** **MOTHER'S SPOUSE** is presumed.

(3) A CHILD CONCEIVED BY MEANS OF ASSISTED REPRODUCTION AFTER THE DEATH OF THE MOTHER'S SPOUSE AND USING THE GENETIC MATERIAL OF THE MOTHER'S SPOUSE IS THE LEGITIMATE CHILD OF BOTH SPOUSES IF THE CHILD QUALIFIES AS A CHILD OF THE MOTHER'S SPOUSE UNDER § 1–205(A)(2) OF THIS SUBTITLE.

1–208.

(a) A child born to parents who have not participated in a marriage ceremony with each other **[**shall be considered to be**]** **IS** the child of **[**his**]** **THE CHILD'S** mother.

(b) A child born to parents who have not participated in a marriage ceremony with each other **[**shall be considered to be**]** **IS** the child of **[**his father only if the father**]** ~~**AN INDIVIDUAL**~~ **THE PARENT WHO DID NOT GIVE BIRTH TO THE CHILD IF**:

(1) **[**Has**]** **THE** ~~**INDIVIDUAL**~~ **PARENT HAS** been judicially determined to be the **CHILD'S** father in an action brought under **[**the statutes relating to paternity proceedings**]** **TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE, AND THAT DETERMINATION HAS NOT BEEN MODIFIED OR SET ASIDE**; **OR**

(2) THE ~~**INDIVIDUAL**~~ **PARENT AND THE CHILD'S MOTHER CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED EXPRESS INTENT TO BE THE PARENTS OF THE CHILD, SUBJECT TO THE CONDITIONS UNDER § 1–205(A)(2) OF THIS SUBTITLE IF THE CHILD IS CONCEIVED AFTER THE DEATH OF THE PARENT.**

(C) THERE IS A REBUTTABLE PRESUMPTION THAT A CHILD BORN TO PARENTS WHO HAVE NOT PARTICIPATED IN A MARRIAGE CEREMONY WITH EACH OTHER IS THE CHILD OF AN INDIVIDUAL WHO DID NOT GIVE BIRTH TO THE CHILD IF THE INDIVIDUAL:

[(2)**]** **(1)** Has acknowledged himself **OR HERSELF**, in writing, to be **[**the father**]** **A PARENT OF THE CHILD**;

[(3)**] (2)** Has openly and notoriously recognized the child to be **[**his**] THE INDIVIDUAL'S** child; or

[(4)**] (3)** Has subsequently married the mother and has acknowledged himself **OR HERSELF**, orally or in writing, to be **[**the father**] A PARENT OF THE CHILD**.

1–208.1.

(A) AN INDIVIDUAL WHO IS THE PRESUMED PARENT OF A CHILD UNDER THIS SUBTITLE SHALL BE CONSIDERED TO BE THE CHILD'S PARENT FOR ALL PURPOSES, INCLUDING INHERITANCE, CUSTODY AND VISITATION, SUPPORT OBLIGATIONS, AND CHILD IN NEED OF ASSISTANCE PROCEEDINGS, UNLESS THE PRESUMPTION OF PARENTAGE IS REBUTTED IN ACCORDANCE WITH THIS SECTION.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PRESUMPTION OF PARENTAGE UNDER THIS SUBTITLE MAY BE REBUTTED ONLY IF A COURT OF COMPETENT JURISDICTION DETERMINES IN A WRITTEN ORDER THAT IT IS IN THE BEST INTEREST OF THE CHILD TO RECEIVE AND CONSIDER EVIDENCE THAT COULD REBUT THE PRESUMPTION.

(2) A WRITTEN ORDER THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD TO REBUT A PRESUMPTION OF PARENTAGE:

(I) CONCLUSIVELY ESTABLISHES THAT THE PRESUMED PARENT IS A PARENT OF THE CHILD FOR ALL PURPOSES; AND

(II) MAY BE MODIFIED OR SET ASIDE ONLY ON THE BASIS OF FRAUD, MISTAKE, OR IRREGULARITY.

(C) AN INDIVIDUAL WHO IS THE PUTATIVE FATHER OF A CHILD IN A PROCEEDING UNDER TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE MAY OBTAIN AND USE EVIDENCE OF BLOOD OR GENETIC TESTING IN THE PROCEEDING TO THE EXTENT AUTHORIZED UNDER TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE TO REBUT A PRESUMPTION OF PARENTAGE UNDER § 1–208(C)(1) OR (2) OF THIS SUBTITLE, REGARDLESS OF WHETHER IT IS IN THE BEST INTEREST OF THE CHILD.

(D) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A PRESUMPTION OF PARENTAGE UNDER THIS SUBTITLE MAY BE REBUTTED BY:

(1) EVIDENCE OF BLOOD OR GENETIC TESTING;

(2) TESTIMONY OF THE MOTHER, THE PRESUMED PARENT, OR ANOTHER INDIVIDUAL, THAT THE PRESUMED PARENT DID NOT HAVE ACCESS TO THE MOTHER AT THE TIME OF CONCEPTION; OR

(3) ANY OTHER COMPETENT EVIDENCE THAT THE PRESUMED PARENT IS NOT THE FATHER OF THE CHILD.

3–108.

Property of an illegitimate person passes in accordance with the usual rules of intestate succession, except that the father or his relations can inherit only if the person is treated as the child of the father pursuant to **§ 1–205(A)(2) OR** § 1–208 of this article.

Article – Family Law

5–3B–01.

(a) In this subtitle the following words have the meanings indicated.

(b) **"ASSISTED REPRODUCTION" HAS THE MEANING STATED IN § 5–1001 OF THIS TITLE.**

(C) "Identifying information" means information that reveals the identity or location of an individual.

(D) "MOTHER" HAS THE MEANING STATED IN § 5–1001 OF THIS TITLE.

[(c)**] (E)** (1) "Parent" means an individual who, at any time before a court enters an order for adoption under this subtitle:

(i) meets a criterion in § 5–3B–05(a) of this subtitle; **[**or**]**

(ii) is the mother**; OR**

(III) IS A PARENT OR IS PRESUMED TO BE A PARENT UNDER TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS ARTICLE.

(2) "Parent" does not include an individual whom a court has adjudicated not to be a father or mother.

[(d)**] (F)** "Prospective adoptee" means an individual who is the subject of a petition for adoption under this subtitle.

5–3B–16.

(a) **[**Before**]** **EXCEPT AS PROVIDED IN § 5–3B–27 OF THIS SUBTITLE, BEFORE** ruling on a consensual adoption petition under § 5–3B–20(1) of this subtitle, a court may order **A COURT INVESTIGATOR OR, CHILD PLACEMENT AGENCY~~, OR LOCAL DEPARTMENT~~ TO CONDUCT** any investigation that the court considers necessary.

(b) Before ruling on a nonconsensual adoption petition under §§ 5–3B–20(2) and 5–3B–22 of this subtitle, a court shall order **A COURT INVESTIGATOR OR** an appropriate **[**agency**]** **CHILD PLACEMENT AGENCY ~~OR LOCAL DEPARTMENT~~** to investigate and submit a report that includes summaries of:

(1) the prospective adoptee's emotional ties with and feelings toward the prospective adoptee's parents, the prospective adoptee's siblings, and others who may affect the prospective adoptee's best interests significantly; and

(2) the prospective adoptee's adjustment to:

(i) community;

(ii) home; and

(iii) school.

5–3B–17.

[A**]** **EXCEPT AS PROVIDED IN § 5–3B–27 OF THIS SUBTITLE, A** court shall hold a hearing before entering an order for adoption under this subtitle.

5–3B–27.

(A) (1) THIS SECTION APPLIES ONLY TO AN ADOPTION BY:

(I) AN INDIVIDUAL WHO IS THE SPOUSE OF THE PROSPECTIVE ADOPTEE'S MOTHER AT THE TIME OF THE PROSPECTIVE ADOPTEE'S CONCEPTION OR BIRTH; OR

(II) AN INDIVIDUAL WHO, TOGETHER WITH THE PROSPECTIVE ADOPTEE'S MOTHER, CONSENTED TO THE CONCEPTION OF THE PROSPECTIVE ADOPTEE BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED EXPRESS INTENT OF BEING PARENTS OF THE PROSPECTIVE ADOPTEE.

(2) THIS SECTION DOES NOT APPLY TO A NONCONSENSUAL ADOPTION UNDER § 5–3B–22 OF THIS SUBTITLE.

(B) IN A PROCEEDING UNDER THIS SECTION, THE PETITIONER SHALL FILE, TOGETHER WITH THE PETITION FOR ADOPTION:

(1) (I) FOR AN ADOPTION DESCRIBED IN SUBSECTION (A)(1)(I) OF THIS SECTION, A COPY OF THE PETITIONER'S AND PROSPECTIVE ADOPTEE'S MOTHER'S MARRIAGE CERTIFICATE; OR

(II) FOR AN ADOPTION DESCRIBED IN SUBSECTION (A)(1)(II) OF THIS SECTION, EVIDENCE OF THE PARTIES' SHARED EXPRESS INTENT TO BECOME PARENTS OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION, INCLUDING A COPY OF ANY WRITTEN AGREEMENT CONSENTING TO THE CONCEPTION OF THE PROSPECTIVE ADOPTEE BY MEANS OF ASSISTED REPRODUCTION;

(2) A COPY OF THE PROSPECTIVE ADOPTEE'S BIRTH CERTIFICATE; AND

(3) A STATEMENT EXPLAINING THE CIRCUMSTANCES OF THE PROSPECTIVE ADOPTEE'S CONCEPTION IN DETAIL SUFFICIENT TO IDENTIFY ANY INDIVIDUAL WHO MAY BE ENTITLED TO NOTICE OR WHOSE CONSENT MAY BE REQUIRED UNDER THIS SUBTITLE.

(C) (1) IN RULING ON A PETITION FOR ADOPTION UNDER THIS SECTION, THE COURT MAY NOT REQUIRE AN INVESTIGATION UNDER § 5–3B–16 OF THIS SUBTITLE OR A HEARING UNDER § 5–3B–17 OF THIS SUBTITLE, EXCEPT FOR GOOD CAUSE.

(2) THE COURT MAY HOLD A HEARING TO DETERMINE WHETHER THERE ARE ADDITIONAL INDIVIDUALS WHO MAY BE ENTITLED TO NOTICE OR WHOSE CONSENT MAY BE REQUIRED UNDER THIS SUBTITLE IF THE COURT IS NOT SATISFIED FROM THE PLEADINGS THAT THE APPROPRIATE NOTICE OR CONSENT HAS BEEN PROVIDED.

(D) THE COURT SHALL ENTER AN ORDER FOR ADOPTION UNDER THIS SECTION ON FINDING THAT:

(1) (I) THE PETITIONER WAS MARRIED TO THE PROSPECTIVE ADOPTEE'S MOTHER AT THE TIME OF THE PROSPECTIVE ADOPTEE'S BIRTH; OR

(II) THE PETITIONER AND THE PROSPECTIVE ADOPTEE'S MOTHER CONSENT TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED EXPRESS INTENT TO BE PARENTS OF THE CHILD; ~~AND~~

(2) EACH OF THE PROSPECTIVE ADOPTEE'S LIVING PARENTS, AS DEFINED IN § 5–3B–01 OF THIS SUBTITLE, ~~HAS~~ *AND ANY KNOWN GAMETE DONOR HAVE* CONSENTED TO THE ADOPTION:

(I) IN WRITING; OR

(II) BY FAILURE TO FILE TIMELY NOTICE OF OBJECTION AFTER BEING SERVED WITH A SHOW–CAUSE ORDER IN ACCORDANCE WITH THIS SUBTITLE; AND

(3) THE ADOPTION IS IN THE BEST INTEREST OF THE CHILD.

(E) (1) AN ORDER FOR ADOPTION GRANTED UNDER THIS SECTION IS CONFIRMATION OF PARENTAGE ESTABLISHED UNDER § 1–206(B) OR § 1–208(B)(2) OF THE ESTATES AND TRUSTS ARTICLE.

(2) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN INDIVIDUAL WHO IS A PARENT OF A CHILD UNDER ~~§ 1–206(B)~~ § 1–206 OR ~~§ 1–208(B)(2)~~ § 1–208 OF THE ESTATES AND ~~TRUST~~ *TRUSTS* ARTICLE TO ADOPT THE CHILD.

(3) UNLESS A PROSPECTIVE ADOPTEE'S LIVING PARENT CONSENTS TO THE TERMINATION OF THE PARENT'S PARENTAL DUTIES, OBLIGATIONS, OR RIGHTS, AN ORDER FOR ADOPTION GRANTED UNDER THIS SECTION DOES NOT TERMINATE THE PARENTAL DUTIES, OBLIGATIONS, OR RIGHTS.

5–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Administration" means the Child Support Administration of the Department.

(C) "ALLEGED FATHER" MEANS AN INDIVIDUAL WHO IS ALLEGED, BY HIMSELF OR BY ANOTHER PARTY, TO BE THE FATHER OF A CHILD IN A PROCEEDING UNDER THIS SUBTITLE.

(D) (1) "ASSISTED REPRODUCTION" MEANS A METHOD OF CAUSING PREGNANCY OTHER THAN SEXUAL INTERCOURSE.

(2) "ASSISTED REPRODUCTION" INCLUDES:

(I) INTRAUTERINE OR INTRACERVICAL INSEMINATION;

(II) DONATION OF GAMETES;

(III) DONATION OF EMBRYOS;

(IV) IN–VITRO FERTILIZATION AND TRANSFER OF EMBRYOS; AND

(V) INTRACYTOPLASMIC SPERM INJECTION.

[(c)**]** **(E)** "Complaint" means a bill or petition in equity filed in a paternity proceeding.

(F) (1) "FATHER" MEANS AN INDIVIDUAL, REGARDLESS OF GENDER, WHOSE SPERM FERTILIZES AN OVUM, RESULTING IN THE BIRTH OF A CHILD.

(2) "FATHER" DOES NOT INCLUDE A GAMETE DONOR, UNLESS:

(I) THE GAMETE DONOR AND THE CHILD'S MOTHER AGREE IN WRITING THAT THE GAMETE DONOR WILL BE A PARENT OF THE CHILD; OR

(II) AT THE TIME OF THE CHILD'S CONCEPTION, THE GAMETE DONOR IS MARRIED TO THE CHILD'S MOTHER.

(G) (1) "GAMETE DONOR" MEANS AN INDIVIDUAL WHO PROVIDES, WITH OR WITHOUT CONSIDERATION, SPERM OR AN OVUM INTENDED FOR USE IN ASSISTED REPRODUCTION.

(2) "GAMETE DONOR" DOES NOT INCLUDE THE MOTHER OF A CHILD CONCEIVED BY MEANS OF ASSISTED REPRODUCTION USING THE MOTHER'S OVUM.

(H) "MOTHER" MEANS AN INDIVIDUAL, REGARDLESS OF GENDER, WHO GIVES BIRTH TO A CHILD UNLESS PARENTAGE IS OTHERWISE ESTABLISHED.

(I) "PUTATIVE FATHER" MEANS:

(1) AN ALLEGED FATHER OF A CHILD WHO HAS NO PARENT OR PRESUMED PARENT UNDER TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS ARTICLE, OTHER THAN THE CHILD'S MOTHER; OR

(2) AN ALLEGED FATHER WHO IS PRESUMED TO BE THE PARENT OF A CHILD UNDER § 1–208(C)(1) OR (2) OF THE ESTATES AND TRUSTS ARTICLE.

5–1005.

(a) An equity court may determine the legitimacy of a child pursuant to **[**§ 1–208**]** **TITLE 1, SUBTITLE 2** of the Estates and Trusts Article.

(b) This section does not limit paternity proceedings under this subtitle except after the legitimation of a child under this section.

5–1027.

(a) At the trial, the burden is on the complainant to establish by a preponderance of the evidence that the alleged father is the father of the child.

(b) Both the mother and the alleged father are competent to testify at the trial.

[(c) (1) There is a rebuttable presumption that the child is the legitimate child of the man to whom its mother was married at the time of conception.

(2) The presumption set forth in this subsection may be rebutted by the testimony of a person other than the mother or her husband.

(3) If the court determines that the presumption set forth in this subsection has been rebutted by testimony of a person other than the mother or her husband, it is not necessary to establish nonaccess of the husband to rebut the presumption set forth in this subsection.

(4) If the court determines that the presumption set forth in this subsection has been rebutted by testimony of a person other than the mother or her husband, both the mother and her husband are competent to testify as to the nonaccess of the husband at the time of conception.**]**

(C) THE PROVISIONS OF TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS ARTICLE REGARDING PRESUMPTIONS OF PARENTAGE APPLY IN AN ACTION UNDER THIS SUBTITLE.

(d) The alleged father may not be compelled to give evidence at the trial.

5–1028.

(a) **[**An unmarried father and mother**]** **UNMARRIED PARENTS** shall be provided an opportunity to execute an affidavit of parentage in the manner provided under § 4–208 of the Health – General Article.

(b) The affidavit shall be completed on a standardized form developed by the Department.

(c) (1) The completed affidavit of parentage form shall contain:

(i) in ten point boldface type a statement that the affidavit is a legal document and constitutes a legal finding of **[**paternity**]** **PARENTAGE**;

(ii) the full name and the place and date of birth of the child;

(iii) the full name of the attesting **[**father of**]** **PARENT WHO DID NOT GIVE BIRTH TO** the child;

(iv) the full name of the attesting mother of the child;

(v) the signatures of the **[**father and the mother**]** **PARENTS** of the child attesting, under penalty of perjury, that the information provided on the affidavit is true and correct;

(vi) a statement by the mother consenting to the assertion of **[**paternity**]** **PARENTAGE** and acknowledging that **[**her**]:**

1. THE MOTHER'S cosignatory is the only possible father **OF THE CHILD; OR**

2. THE MOTHER AND THE MOTHER'S COSIGNATORY CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED INTENT TO BE THE PARENTS OF THE CHILD;

(vii) a statement by the **[**father**]** **INDIVIDUAL WHO DID NOT GIVE BIRTH TO THE CHILD** that **[**he**]:**

1. THE INDIVIDUAL is the **[**natural**]** father of the child**; OR**

2. THE INDIVIDUAL AND THE CHILD'S MOTHER CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED INTENT TO BE THE PARENTS OF THE CHILD; and

(viii) the Social Security numbers provided by each of the parents.

(2) Before completing an affidavit of parentage form, the unmarried **[**mother and the father**]** **PARENTS** shall be advised orally and in writing of the legal consequences of executing the affidavit and of the benefit of seeking legal counsel.

(d) (1) An executed affidavit of parentage constitutes a legal finding of **[**paternity**]** **PARENTAGE**, subject to the right of any signatory to rescind the affidavit:

(i) in writing within 60 days after execution of the affidavit; or

(ii) in a judicial proceeding relating to the child:

1. in which the signatory is a party; and

2. that occurs before the expiration of the 60–day period.

(2) (i) After the expiration of the 60–day period, an executed affidavit of parentage may be challenged in court only on the basis of fraud, duress, or material mistake of fact.

(ii) The burden of proof shall be on the challenger to show fraud, duress, or material mistake of fact.

(iii) The legal responsibilities of any signatory arising from the affidavit, including child support obligations, may not be suspended during the challenge, except for good cause shown.

(e) The Administration shall prepare written information to be furnished to unmarried mothers under § 4–208 of the Health – General Article concerning the benefits of having the **[**paternity**]** **PARENTAGE** of their children established, including the availability of child support enforcement services.

(f) The Department shall make the standardized affidavit forms available to all hospitals in the State.

(g) The Secretary, in consultation with the Maryland Department of Health and the Maryland Hospital Association, shall adopt regulations governing the provisions of this section and § 4–208 of the Health – General Article.

Article – Health – General

4–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Attending clinician" means the physician, nurse midwife, or direct–entry midwife in charge of a birth outside an institution.

(c) "Attending physician" means the physician in charge of the patient's care for the illness or condition which resulted in death.

(d) "County registrar" means the registrar of vital records for a county.

(e) (1) "Dead body" means:

(i) A dead human body; or

(ii) Parts or bones of a human body if, from their condition, an individual reasonably may conclude that death has occurred.

(2) "Dead body" does not include an amputated part.

(f) "Direct–entry midwife" means an individual licensed to practice direct–entry midwifery under Title 8, Subtitle 6C of the Health Occupations Article.

(g) **"FATHER" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.**

(H) "Fetal death" means death of a product of human conception, before its complete expulsion or extraction from the mother, regardless of the duration of the pregnancy, as indicated by the fact that, after the expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as heart beat, pulsation of the umbilical cord, or definite movement of voluntary muscle.

[(h)**] (I)** "File" means to present for registration any certificate, report, or other record including records transmitted by approved electronic media, including facsimile, of birth, death, fetal death, adoption, marriage, or divorce for which this subtitle provides and to have the Secretary accept the record.

[(i)**] (J)** "Filing date" means the date a vital record is accepted for registration by the Secretary.

[(j)**] (K)** "Final disposition" means the burial, cremation, or other final disposition of a body or fetus.

[(k)**] (L)** "Institution" means any public or private establishment:

(1) To which individuals are committed by law; or

(2) That provides to 2 or more unrelated individuals:

(i) Any inpatient or outpatient medical, surgical, or diagnostic care or treatment; or

(ii) Any nursing, custodial, or domiciliary care.

[(l)**] (M)** "Licensed health care practitioner" means:

(1) An individual who is:

(i) A physician licensed under Title 14 of the Health Occupations Article;

(ii) A psychologist licensed under Title 18 of the Health Occupations Article;

(iii) A registered nurse licensed and certified to practice as a nurse practitioner, nurse psychotherapist, or clinical nurse specialist under Title 8 of the Health Occupations Article;

(iv) A licensed certified social worker–clinical licensed under Title 19 of the Health Occupations Article; or

(2) An individual who:

(i) Is licensed to practice a profession listed in item (1) of this subsection in another state; and

(ii) Meets the requirements under the Health Occupations Article to qualify for a license to practice the profession in this State.

[(m)**] (N)** "Live birth" means the complete expulsion or extraction of a product of human conception from the mother, regardless of the period of gestation, if, after the expulsion or extraction, it breathes or shows any other evidence of life, such as heart beat, pulsation of the umbilical cord, or definite movement of voluntary muscle, whether or not the umbilical cord is cut or the placenta is attached.

(O) "MOTHER" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.

[(n)**] (P)** "Mortician" means a funeral director, mortician, or other person who is authorized to make final disposition of a body.

[(o)**] (Q)** "Nurse midwife" means an individual certified to practice as a nurse midwife under Title 8 of the Health Occupations Article.

[(p)**] (R)** "Physician" means a person authorized or licensed to practice medicine or osteopathy pursuant to the laws of this State.

[(q)**] (S)** "Physician assistant" means an individual who is licensed under Title 15 of the Health Occupations Article to practice medicine with physician supervision.

[(r)**] (T)** "Registration" means acceptance by the Secretary and incorporation in the records of the Department of any certificate, report, or other record of birth, death, fetal death, adoption, marriage, divorce, or dissolution or annulment of marriage for which this subtitle provides.

[(s)**] (U)** "Vital record" means a certificate or report of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, adoption, or adjudication of paternity that is required by law to be filed with the Secretary.

[(t)**] (V)** "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, and reports related to any of these certificates and reports.

4–208.

(a) (1) Within 5 calendar days after a birth occurs in an institution, or en route to the institution, or outside an institution with an attending clinician, the administrative head of the institution or a designee of the administrative head, or the attending clinician or a designee of the attending clinician, shall:

(i) Prepare, on the form that the Secretary provides, a certificate of birth;

(ii) Secure each signature that is required on the certificate; and

(iii) File the certificate.

(2) The attending physician, physician assistant, nurse practitioner, nurse midwife, or attending clinician shall provide the date of birth and medical information that are required on the certificate within 5 calendar days after the birth.

(3) The results of the universal hearing screening of newborns shall be incorporated into the supplemental information required by the Department to be submitted as a part of the birth event.

(4) **[**On the birth of a child to an unmarried woman**] WHEN AN INDIVIDUAL WHO IS NOT MARRIED GIVES BIRTH TO A CHILD** in an institution or outside an institution with an attending clinician, the administrative head of the institution or the designee of the administrative head, or the attending clinician or the designee of the attending clinician, shall:

(i) Provide an opportunity for the child's **[**mother and the father**] PARENTS** to complete a standardized affidavit of parentage recognizing parentage of the child on the standardized form provided by the Department of Human Services under § 5–1028 of the Family Law Article;

(ii) Furnish to the mother written information prepared by the Child Support Administration concerning the benefits of having the **[**paternity**] PARENTAGE** of **[**her**] THE** child established, including the availability of child support enforcement services; and

(iii) Forward the completed affidavit to the Maryland Department of Health, Division of Vital Records. The Maryland Department of Health, Division of Vital Records shall make the affidavits available to the parents, guardian of the child, or a child support enforcement agency upon request.

(5) An institution, the administrative head of the institution, the designee of the administrative head of an institution, an employee of an institution, the attending clinician, and the designee of the attending clinician may not be held liable in any cause of action arising out of the establishment of **[**paternity**]** **PARENTAGE**.

(6) If the child's mother was not married at the time of either conception or birth or between conception and birth, the name of the **[**father**]** **CHILD'S OTHER PARENT** may not be entered on the certificate without an affidavit of **[**paternity**]** **PARENTAGE** as authorized by § 5–1028 of the Family Law Article signed by the mother and the person to be named on the certificate as the **[**father**]** **OTHER PARENT**.

(7) IF THE CHILD'S MOTHER WAS MARRIED AT THE TIME OF EITHER THE CONCEPTION OR BIRTH OR BETWEEN CONCEPTION AND BIRTH, THE NAME OF THE MOTHER'S SPOUSE SHALL BE ENTERED ON THE CERTIFICATE AS THE CHILD'S OTHER PARENT.

(8) In any case in which **[**paternity**]** **PARENTAGE** of a child is determined by a court of competent jurisdiction, the name of the **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

[(8)**]** **(9)** If the **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** is not named on the certificate of birth, no other information about **[**the father**]** **THAT PARENT** shall be entered on the certificate.

(b) Within 5 calendar days after a birth occurs outside an institution without an attending clinician, the birth shall be verified by the Secretary and a certificate of birth shall be prepared, on the form that the Secretary provides, and filed by one of the following, in the indicated order of priority:

(1) The attending individual.

(2) In the absence of an attending individual, **[**the father or mother**]** **EITHER PARENT OF THE CHILD**.

(3) In the absence **[**of the father and the**]** **OR** inability of **[**the mother**]** **EITHER PARENT**, the individual in charge of the premises where the birth occurred.

(c) **(1)** When a birth occurs on a common carrier within the United States and the child is first removed from the carrier in this State, the birth shall be registered in this State, and the place where the child is first removed shall be considered the place of birth.

[(d)**]** **(2)** When a birth occurs on a common carrier while in international waters, air space, or in a foreign country and the child is first removed from the carrier in this

State, the birth shall be registered in this State but the certificate shall show the actual place of birth insofar as can be determined.

[(e)**]** **(3)** The certificate shall be filed within 5 calendar days after the child is removed from the carrier.

[(f)**]** **(D)** (1) Each parent shall provide his or her own Social Security number on the form provided by the Secretary under this section.

(2) (i) If the **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** is not available to provide **[**his**]** **THE PARENT'S** Social Security number on the form provided under paragraph (1) of this subsection, the **[**father**]** **PARENT** shall provide **[**his**]** **THE PARENT'S** Social Security number on a form provided by the Secretary for this purpose.

(ii) The form provided under this paragraph shall:

1. State that the form is for the purpose of providing the Social Security numbers of parents, to be included on the portion of the form that remains in the official birth record;

2. Contain a specific reference to this subtitle; and

3. State that the **[**father's**]** **PARENT'S** Social Security number shall be provided under penalty of perjury.

(3) The Social Security number as provided by each parent shall be recorded on the portion of the form provided by the Secretary which remains in the official birth record.

(4) The Social Security numbers of the parents may not appear on the portion of the birth certificate issued as proof of birth.

(5) (i) The Secretary shall permit disclosure of the Social Security numbers of the parents only to the Child Support Administration of the Department of Human Services.

(ii) The Child Support Administration may use the Social Security numbers of the parents to:

1. Locate a parent;

2. Establish **[**paternity**]** **PARENTAGE**; and

3. Establish and enforce a child support order under Title 10, Subtitle 1 of the Family Law Article.

[(g)**] (E)** If, under subsection **[**(f)(1)**] (D)(1)** of this section, the **[**father's**]** Social Security number **OF THE PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** is not entered on the form provided by the Secretary:

(1) Upon adjudication of **[**paternity**] PARENTAGE**, the court shall order the **[**father**] PARENT** to provide **[**his**] THE PARENT'S** Social Security number to the clerk of court; and

(2) The clerk of court shall send the **[**father's**] PARENT'S** Social Security number to the Secretary, as provided under § 4–211(f) of this subtitle.

4–211.

(a) Except as provided in subsection (d) of this section, the Secretary shall make a new certificate of birth for an individual if the Department receives satisfactory proof that:

(1) The individual was born in this State; and

(2) Regardless of the location, one of the following has occurred:

(i) The previously unwed parents of the individual have married each other after the birth of the individual;

(ii) A court of competent jurisdiction has entered an order as to the parentage, legitimation, or adoption of the individual; or

(iii) If a **[**father**] PARENT WHO DID NOT GIVE BIRTH TO THE INDIVIDUAL** is not named on an earlier certificate of birth:

1. The **[**father of**] PARENT WHO DID NOT GIVE BIRTH TO** the individual has acknowledged himself **OR HERSELF** by affidavit to be **[**the father**] A PARENT OF THE INDIVIDUAL**; and

2. The mother of the individual has consented by affidavit to the acknowledgment.

(c) Except as provided in subsection (d) of this section, the Secretary may make a new certificate of birth for an individual who was born outside the United States if one of the following occurred in this State:

(1) The previously unwed parents of the individual have married each other after the birth of the individual;

(2) A court of competent jurisdiction in this State has entered an order as to parentage or legitimation; or

(3) The **[**father of**]** **PARENT WHO DID NOT GIVE BIRTH TO** the individual acknowledged himself **OR HERSELF** by affidavit to be **[**the father**]** **A PARENT OF THE INDIVIDUAL** and the mother of the individual has consented by affidavit to the acknowledgment.

(e) A new certificate of birth shall be prepared on the following basis:

(1) The individual shall be treated as having at birth the status that later is acquired or established and of which proof is submitted.

(2) **(I)** If the parents of the individual were not married and **[**paternity**]** **PARENTAGE** is established by legal proceedings, the name of the **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE INDIVIDUAL** shall be inserted.

(II) The legal proceeding should request and report to the Secretary that the surname of the subject of the record be changed from that shown on the original certificate, if a change is desired.

(3) If the individual is adopted, the name of the individual shall be that set by the decree of adoption, and the adoptive parents shall be recorded as the parents of the individual.

(4) The new certificate of birth shall contain wording that requires each parent shown on the new certificate to indicate his or her own Social Security number.

(h) Each clerk of court shall send to the Secretary, on the form that the Secretary provides, a report of:

(1) Each decree of adoption;

(2) Each adjudication of **[**paternity**]** **PARENTAGE**, including the **[**father's**]** **PARENT'S** Social Security number; and

(3) Each revocation or amendment of any decree of adoption or adjudication of paternity that the court enters.

4–223.

(a) Except as otherwise provided in this section, if a certificate of birth, death, or fetal death is filed within 1 year after the event, the original or a certified copy of the certificate is prima facie evidence of the facts stated in it.

(b) (1) **[**Any**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY** information in the certificate that relates to **[**the father of**]** **A PARENT WHO DID NOT GIVE BIRTH TO** a child is prima facie evidence **[**only if the alleged father is the husband of the mother**]**.

(2) If the **[**alleged father is not the husband of the mother and paternity is contested**]** **PARENTAGE OF THE CHILD IS CONTESTED, AND THE PARENT WHO DID NOT GIVE BIRTH TO THE CHILD IS A PUTATIVE FATHER AS DEFINED IN § 5–1001 OF THE FAMILY LAW ARTICLE**, the information that relates to the **[**father of a child**]** **PUTATIVE FATHER** is not evidence in any proceeding adverse to the interests of the **[**alleged**]** **PUTATIVE** father or **[**his**]** **THE PUTATIVE FATHER'S** heirs, next of kin, devisees, legatees, or other successors in interest.

(c) If a certificate or record is filed more than 1 year after the event or is amended, the court or official before whom the certificate or record is offered as evidence shall determine its evidentiary value.

SECTION 2. AND BE IF FURTHER ENACTED, That this Act may not be interpreted to overturn or to alter in any way the decision by the Court of Appeals of Maryland in In re: Roberto d.B., 399 Md. 267 (2007).

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) This Act may not be interpreted to authorize or prohibit an agreement between two or more parties wherein the parties agree that:

(1) one party will become pregnant by means of assisted reproduction;

(2) the other party or parties are intended to be the parents of the child conceived by means of assisted reproduction; and

(3) the party who gives birth to the child will not be a parent of the child.

(b) If an agreement described in subsection (a) of this section is found to be unenforceable under the laws of this State, the parentage of any child conceived in accordance with the agreement shall be established as provided in Title 1, Subtitle 2 of the Estates and Trusts Article.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *June* 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 438

(House Bill 519)

AN ACT concerning

Family Law – Parentage and Adoption

FOR the purpose of providing that a child conceived by means of assisted reproduction during the marriage of the child's mother with the consent of the mother's spouse is the legitimate child of both spouses for all purposes; providing that the consent of the mother's spouse is presumed; providing that a child conceived by means of assisted reproduction after the death of the mother's spouse and using the genetic material of the mother's spouse is the legitimate child of both spouses under certain circumstances; establishing the circumstances under which a child is the child of an individual who did not give birth to the child; establishing a certain rebuttable presumption regarding the parentage of a child born to parents who have not participated in a marriage ceremony with each other; providing that an individual who is the presumed parent of a child under certain provisions of law shall be considered to be the child's parent for certain purposes, under certain circumstances; establishing rules regarding the rebuttal of a certain presumption of parentage; specifying that the property of an illegitimate person passes in accordance with certain rules except under certain circumstances; specifying the individuals and agencies that may be ordered by a court to conduct a certain investigation in a certain adoption proceeding; establishing certain rules and procedures specific to an independent adoption by an individual who is the spouse of the prospective adoptee's mother at the time of the prospective adoptee's birth or who, together with the prospective adoptee's mother, consented to the conception of the prospective adoptee by means of assisted reproduction in a certain manner; requiring a certain petitioner to submit certain documentation in an adoption proceeding under this Act; prohibiting a court from requiring a certain investigation or hearing in ruling on a petition for adoption under this Act, except under certain circumstances; requiring a court to enter an order for adoption under this Act on making certain findings; providing that an order for adoption granted under this Act is confirmation of parentage established under certain provisions of law; prohibiting this Act from being construed to require a certain individual to adopt a certain child; providing that certain presumptions of parentage apply in a certain paternity action; requiring unmarried parents to be provided an opportunity to execute a certain affidavit of parentage in a certain manner; altering rules and requirements for a certain affidavit of parentage; specifying that, if a child's mother was married at the time of either the conception or birth or between conception and birth, the name of the mother's spouse shall be entered on the child's birth certificate as the child's other parent; providing that any information in a certain certificate that relates to a parent who did not give birth to a child is prima facie evidence except under certain circumstances; prohibiting this Act from being interpreted to overturn or to alter in any way a certain holding by the Court of Appeals of Maryland; prohibiting this Act from being interpreted to authorize or prohibit a certain agreement; providing for

the establishment of the parentage of a child conceived in accordance with a certain agreement that is found to be unenforceable under the laws of the State; defining certain terms; altering certain terms; making certain conforming and stylistic changes; and generally relating to parentage and adoption.

BY repealing
Article – Estates and Trusts
Section 1–201
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Estates and Trusts
Section 1–201, 1–201.1, and 1–208.1
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 1–206, 1–208, and ~~1–208~~ 3–108
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–3B–01, 5–3B–16, 5–3B–17, 5–1001, 5–1005, 5–1027, and 5–1028
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY adding to
Article – Family Law
Section 5–3B–27
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 4–201, 4–208, 4–211(a), (c), (e), and (h), and 4–223
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

[1–201.

In the absence of express language to the contrary, the rules of construction contained in this subtitle shall be applied in construing all provisions of the estates of decedents law and the terms of a will.**]**

1–201.

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

(B) "ASSISTED REPRODUCTION" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.

(C) "FATHER" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.

(D) "MOTHER" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.

1–201.1.

IN THE ABSENCE OF EXPRESS LANGUAGE TO THE CONTRARY, THE RULES OF CONSTRUCTION CONTAINED IN THIS SUBTITLE SHALL BE APPLIED IN CONSTRUING ALL PROVISIONS OF THE ESTATES OF DECEDENTS LAW AND THE TERMS OF A WILL.

1–206.

(a) **(1)** A child born or conceived during a marriage is presumed to be the legitimate child of both spouses.

(2) Except as provided in § 1–207 of this subtitle, a child born at any time after **[**his**]** **THE CHILD'S** parents have participated in a marriage ceremony with each other, even if the marriage is invalid, is presumed to be the legitimate child of both parents.

(b) **(1)** A child conceived **[**by artificial insemination of a married woman**]** **BY MEANS OF ASSISTED REPRODUCTION DURING THE MARRIAGE OF THE CHILD'S MOTHER** with the consent of **[**her husband**]** **THE MOTHER'S SPOUSE** is the legitimate child of both **[**of them**]** **SPOUSES** for all purposes.

(2) Consent of the **[**husband**]** **MOTHER'S SPOUSE** is presumed.

(3) A CHILD CONCEIVED BY MEANS OF ASSISTED REPRODUCTION AFTER THE DEATH OF THE MOTHER'S SPOUSE AND USING THE GENETIC MATERIAL OF THE MOTHER'S SPOUSE IS THE LEGITIMATE CHILD OF BOTH SPOUSES IF THE

CHILD QUALIFIES AS A CHILD OF THE MOTHER'S SPOUSE UNDER § 1–205(A)(2) OF THIS SUBTITLE.

1–208.

(a) A child born to parents who have not participated in a marriage ceremony with each other **[**shall be considered to be**]** **IS** the child of **[**his**]** **THE CHILD'S** mother.

(b) A child born to parents who have not participated in a marriage ceremony with each other **[**shall be considered to be**]** **IS** the child of **[**his father only if the father**]** ~~**AN INDIVIDUAL**~~ **THE PARENT WHO DID NOT GIVE BIRTH TO THE CHILD IF**:

(1) **[**Has**]** **THE** ~~**INDIVIDUAL**~~ **PARENT HAS** been judicially determined to be the **CHILD'S** father in an action brought under **[**the statutes relating to paternity proceedings**]** **TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE, AND THAT DETERMINATION HAS NOT BEEN MODIFIED OR SET ASIDE**; **OR**

(2) THE ~~**INDIVIDUAL**~~ **PARENT AND THE CHILD'S MOTHER CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED EXPRESS INTENT TO BE THE PARENTS OF THE CHILD, SUBJECT TO THE CONDITIONS UNDER § 1–205(A)(2) OF THIS SUBTITLE IF THE CHILD IS CONCEIVED AFTER THE DEATH OF THE PARENT.**

(C) THERE IS A REBUTTABLE PRESUMPTION THAT A CHILD BORN TO PARENTS WHO HAVE NOT PARTICIPATED IN A MARRIAGE CEREMONY WITH EACH OTHER IS THE CHILD OF AN INDIVIDUAL WHO DID NOT GIVE BIRTH TO THE CHILD IF THE INDIVIDUAL:

[(2)**]** **(1)** Has acknowledged himself **OR HERSELF**, in writing, to be **[**the father**]** **A PARENT OF THE CHILD**;

[(3)**]** **(2)** Has openly and notoriously recognized the child to be **[**his**]** **THE INDIVIDUAL'S** child; or

[(4)**]** **(3)** Has subsequently married the mother and has acknowledged himself **OR HERSELF**, orally or in writing, to be **[**the father**]** **A PARENT OF THE CHILD**.

1–208.1.

(A) AN INDIVIDUAL WHO IS THE PRESUMED PARENT OF A CHILD UNDER THIS SUBTITLE SHALL BE CONSIDERED TO BE THE CHILD'S PARENT FOR ALL PURPOSES, INCLUDING INHERITANCE, CUSTODY AND VISITATION, SUPPORT OBLIGATIONS, AND CHILD IN NEED OF ASSISTANCE PROCEEDINGS, UNLESS THE PRESUMPTION OF PARENTAGE IS REBUTTED IN ACCORDANCE WITH THIS SECTION.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PRESUMPTION OF PARENTAGE UNDER THIS SUBTITLE MAY BE REBUTTED ONLY IF A COURT OF COMPETENT JURISDICTION DETERMINES IN A WRITTEN ORDER THAT IT IS IN THE BEST INTEREST OF THE CHILD TO RECEIVE AND CONSIDER EVIDENCE THAT COULD REBUT THE PRESUMPTION.

(2) A WRITTEN ORDER THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD TO REBUT A PRESUMPTION OF PARENTAGE:

(I) CONCLUSIVELY ESTABLISHES THAT THE PRESUMED PARENT IS A PARENT OF THE CHILD FOR ALL PURPOSES; AND

(II) MAY BE MODIFIED OR SET ASIDE ONLY ON THE BASIS OF FRAUD, MISTAKE, OR IRREGULARITY.

(C) AN INDIVIDUAL WHO IS THE PUTATIVE FATHER OF A CHILD IN A PROCEEDING UNDER TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE MAY OBTAIN AND USE EVIDENCE OF BLOOD OR GENETIC TESTING IN THE PROCEEDING TO THE EXTENT AUTHORIZED UNDER TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE TO REBUT A PRESUMPTION OF PARENTAGE UNDER § 1–208(C)(1) OR (2) OF THIS SUBTITLE, REGARDLESS OF WHETHER IT IS IN THE BEST INTEREST OF THE CHILD.

(D) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A PRESUMPTION OF PARENTAGE UNDER THIS SUBTITLE MAY BE REBUTTED BY:

(1) EVIDENCE OF BLOOD OR GENETIC TESTING;

(2) TESTIMONY OF THE MOTHER, THE PRESUMED PARENT, OR ANOTHER INDIVIDUAL, THAT THE PRESUMED PARENT DID NOT HAVE ACCESS TO THE MOTHER AT THE TIME OF CONCEPTION; OR

(3) ANY OTHER COMPETENT EVIDENCE THAT THE PRESUMED PARENT IS NOT THE FATHER OF THE CHILD.

3–108.

Property of an illegitimate person passes in accordance with the usual rules of intestate succession, except that the father or his relations can inherit only if the person is treated as the child of the father pursuant to **§ 1–205(A)(2) OR** § 1–208 of this article.

Article – Family Law

5–3B–01.

(a) In this subtitle the following words have the meanings indicated.

(b) **"ASSISTED REPRODUCTION" HAS THE MEANING STATED IN § 5–1001 OF THIS TITLE.**

(C) "Identifying information" means information that reveals the identity or location of an individual.

(D) "MOTHER" HAS THE MEANING STATED IN § 5–1001 OF THIS TITLE.

[(c)**] (E)** (1) "Parent" means an individual who, at any time before a court enters an order for adoption under this subtitle:

(i) meets a criterion in § 5–3B–05(a) of this subtitle; **[**or**]**

(ii) is the mother**; OR**

(III) IS A PARENT OR IS PRESUMED TO BE A PARENT UNDER TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS ARTICLE.

(2) "Parent" does not include an individual whom a court has adjudicated not to be a father or mother.

[(d)**] (F)** "Prospective adoptee" means an individual who is the subject of a petition for adoption under this subtitle.

5–3B–16.

(a) **[**Before**] EXCEPT AS PROVIDED IN § 5–3B–27 OF THIS SUBTITLE, BEFORE** ruling on a consensual adoption petition under § 5–3B–20(1) of this subtitle, a court may order **A COURT INVESTIGATOR OR, CHILD PLACEMENT AGENCY~~, OR LOCAL DEPARTMENT~~ TO CONDUCT** any investigation that the court considers necessary.

(b) Before ruling on a nonconsensual adoption petition under §§ 5–3B–20(2) and 5–3B–22 of this subtitle, a court shall order **A COURT INVESTIGATOR OR** an appropriate **[**agency**] CHILD PLACEMENT AGENCY ~~OR LOCAL DEPARTMENT~~** to investigate and submit a report that includes summaries of:

(1) the prospective adoptee's emotional ties with and feelings toward the prospective adoptee's parents, the prospective adoptee's siblings, and others who may affect the prospective adoptee's best interests significantly; and

(2) the prospective adoptee's adjustment to:

(i) community;

(ii) home; and

(iii) school.

5–3B–17.

[A**]** **EXCEPT AS PROVIDED IN § 5–3B–27 OF THIS SUBTITLE, A** court shall hold a hearing before entering an order for adoption under this subtitle.

5–3B–27.

(A) (1) THIS SECTION APPLIES ONLY TO AN ADOPTION BY:

(I) AN INDIVIDUAL WHO IS THE SPOUSE OF THE PROSPECTIVE ADOPTEE'S MOTHER AT THE TIME OF THE PROSPECTIVE ADOPTEE'S CONCEPTION OR BIRTH; OR

(II) AN INDIVIDUAL WHO, TOGETHER WITH THE PROSPECTIVE ADOPTEE'S MOTHER, CONSENTED TO THE CONCEPTION OF THE PROSPECTIVE ADOPTEE BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED EXPRESS INTENT OF BEING PARENTS OF THE PROSPECTIVE ADOPTEE.

(2) THIS SECTION DOES NOT APPLY TO A NONCONSENSUAL ADOPTION UNDER § 5–3B–22 OF THIS SUBTITLE.

(B) IN A PROCEEDING UNDER THIS SECTION, THE PETITIONER SHALL FILE, TOGETHER WITH THE PETITION FOR ADOPTION:

(1) (I) FOR AN ADOPTION DESCRIBED IN SUBSECTION (A)(1)(I) OF THIS SECTION, A COPY OF THE PETITIONER'S AND PROSPECTIVE ADOPTEE'S MOTHER'S MARRIAGE CERTIFICATE; OR

(II) FOR AN ADOPTION DESCRIBED IN SUBSECTION (A)(1)(II) OF THIS SECTION, EVIDENCE OF THE PARTIES' SHARED EXPRESS INTENT TO BECOME PARENTS OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION, INCLUDING A COPY OF ANY WRITTEN AGREEMENT CONSENTING TO THE CONCEPTION OF THE PROSPECTIVE ADOPTEE BY MEANS OF ASSISTED REPRODUCTION;

(2) A COPY OF THE PROSPECTIVE ADOPTEE'S BIRTH CERTIFICATE; AND

(3) A STATEMENT EXPLAINING THE CIRCUMSTANCES OF THE PROSPECTIVE ADOPTEE'S CONCEPTION IN DETAIL SUFFICIENT TO IDENTIFY ANY

INDIVIDUAL WHO MAY BE ENTITLED TO NOTICE OR WHOSE CONSENT MAY BE REQUIRED UNDER THIS SUBTITLE.

(C) (1) IN RULING ON A PETITION FOR ADOPTION UNDER THIS SECTION, THE COURT MAY NOT REQUIRE AN INVESTIGATION UNDER § 5–3B–16 OF THIS SUBTITLE OR A HEARING UNDER § 5–3B–17 OF THIS SUBTITLE, EXCEPT FOR GOOD CAUSE.

(2) THE COURT MAY HOLD A HEARING TO DETERMINE WHETHER THERE ARE ADDITIONAL INDIVIDUALS WHO MAY BE ENTITLED TO NOTICE OR WHOSE CONSENT MAY BE REQUIRED UNDER THIS SUBTITLE IF THE COURT IS NOT SATISFIED FROM THE PLEADINGS THAT THE APPROPRIATE NOTICE OR CONSENT HAS BEEN PROVIDED.

(D) THE COURT SHALL ENTER AN ORDER FOR ADOPTION UNDER THIS SECTION ON FINDING THAT:

(1) (I) THE PETITIONER WAS MARRIED TO THE PROSPECTIVE ADOPTEE'S MOTHER AT THE TIME OF THE PROSPECTIVE ADOPTEE'S BIRTH; OR

(II) THE PETITIONER AND THE PROSPECTIVE ADOPTEE'S MOTHER CONSENT TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED EXPRESS INTENT TO BE PARENTS OF THE CHILD; ~~AND~~

(2) EACH OF THE PROSPECTIVE ADOPTEE'S LIVING PARENTS, AS DEFINED IN § 5–3B–01 OF THIS SUBTITLE, ~~HAS~~ AND ANY KNOWN GAMETE DONOR HAVE CONSENTED TO THE ADOPTION:

(I) IN WRITING; OR

(II) BY FAILURE TO FILE TIMELY NOTICE OF OBJECTION AFTER BEING SERVED WITH A SHOW–CAUSE ORDER IN ACCORDANCE WITH THIS SUBTITLE; AND

(3) THE ADOPTION IS IN THE BEST INTEREST OF THE CHILD.

(E) (1) AN ORDER FOR ADOPTION GRANTED UNDER THIS SECTION IS CONFIRMATION OF PARENTAGE ESTABLISHED UNDER § 1–206(B) OR § 1–208(B)(2) OF THE ESTATES AND TRUSTS ARTICLE.

(2) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN INDIVIDUAL WHO IS A PARENT OF A CHILD UNDER ~~§ 1–206(B)~~ § 1–206 OR §

~~1–208(B)(2)~~ **§ 1–208 OF THE ESTATES AND ~~TRUST~~ *TRUSTS* ARTICLE TO ADOPT THE CHILD.**

(3) UNLESS A PROSPECTIVE ADOPTEE'S LIVING PARENT CONSENTS TO THE TERMINATION OF THE PARENT'S PARENTAL DUTIES, OBLIGATIONS, OR RIGHTS, AN ORDER FOR ADOPTION GRANTED UNDER THIS SECTION DOES NOT TERMINATE THE PARENTAL DUTIES, OBLIGATIONS, OR RIGHTS.

5–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Administration" means the Child Support Administration of the Department.

(C) "ALLEGED FATHER" MEANS AN INDIVIDUAL WHO IS ALLEGED, BY HIMSELF OR BY ANOTHER PARTY, TO BE THE FATHER OF A CHILD IN A PROCEEDING UNDER THIS SUBTITLE.

(D) (1) "ASSISTED REPRODUCTION" MEANS A METHOD OF CAUSING PREGNANCY OTHER THAN SEXUAL INTERCOURSE.

(2) "ASSISTED REPRODUCTION" INCLUDES:

(I) INTRAUTERINE OR INTRACERVICAL INSEMINATION;

(II) DONATION OF GAMETES;

(III) DONATION OF EMBRYOS;

(IV) IN–VITRO FERTILIZATION AND TRANSFER OF EMBRYOS; AND

(V) INTRACYTOPLASMIC SPERM INJECTION.

[(c)**]** **(E)** "Complaint" means a bill or petition in equity filed in a paternity proceeding.

(F) (1) "FATHER" MEANS AN INDIVIDUAL, REGARDLESS OF GENDER, WHOSE SPERM FERTILIZES AN OVUM, RESULTING IN THE BIRTH OF A CHILD.

(2) "FATHER" DOES NOT INCLUDE A GAMETE DONOR, UNLESS:

(I) THE GAMETE DONOR AND THE CHILD'S MOTHER AGREE IN WRITING THAT THE GAMETE DONOR WILL BE A PARENT OF THE CHILD; OR

(II) AT THE TIME OF THE CHILD'S CONCEPTION, THE GAMETE DONOR IS MARRIED TO THE CHILD'S MOTHER.

(G) (1) "GAMETE DONOR" MEANS AN INDIVIDUAL WHO PROVIDES, WITH OR WITHOUT CONSIDERATION, SPERM OR AN OVUM INTENDED FOR USE IN ASSISTED REPRODUCTION.

(2) "GAMETE DONOR" DOES NOT INCLUDE THE MOTHER OF A CHILD CONCEIVED BY MEANS OF ASSISTED REPRODUCTION USING THE MOTHER'S OVUM.

(H) "MOTHER" MEANS AN INDIVIDUAL, REGARDLESS OF GENDER, WHO GIVES BIRTH TO A CHILD UNLESS PARENTAGE IS OTHERWISE ESTABLISHED.

(I) "PUTATIVE FATHER" MEANS:

(1) AN ALLEGED FATHER OF A CHILD WHO HAS NO PARENT OR PRESUMED PARENT UNDER TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS ARTICLE, OTHER THAN THE CHILD'S MOTHER; OR

(2) AN ALLEGED FATHER WHO IS PRESUMED TO BE THE PARENT OF A CHILD UNDER § 1–208(C)(1) OR (2) OF THE ESTATES AND TRUSTS ARTICLE.

5–1005.

(a) An equity court may determine the legitimacy of a child pursuant to **[**§ 1–208**]** **TITLE 1, SUBTITLE 2** of the Estates and Trusts Article.

(b) This section does not limit paternity proceedings under this subtitle except after the legitimation of a child under this section.

5–1027.

(a) At the trial, the burden is on the complainant to establish by a preponderance of the evidence that the alleged father is the father of the child.

(b) Both the mother and the alleged father are competent to testify at the trial.

[(c) (1) There is a rebuttable presumption that the child is the legitimate child of the man to whom its mother was married at the time of conception.

(2) The presumption set forth in this subsection may be rebutted by the testimony of a person other than the mother or her husband.

(3) If the court determines that the presumption set forth in this subsection has been rebutted by testimony of a person other than the mother or her husband, it is not

necessary to establish nonaccess of the husband to rebut the presumption set forth in this subsection.

(4) If the court determines that the presumption set forth in this subsection has been rebutted by testimony of a person other than the mother or her husband, both the mother and her husband are competent to testify as to the nonaccess of the husband at the time of conception.**]**

(C) THE PROVISIONS OF TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS ARTICLE REGARDING PRESUMPTIONS OF PARENTAGE APPLY IN AN ACTION UNDER THIS SUBTITLE.

(d) The alleged father may not be compelled to give evidence at the trial.

5–1028.

(a) **[**An unmarried father and mother**]** **UNMARRIED PARENTS** shall be provided an opportunity to execute an affidavit of parentage in the manner provided under § 4–208 of the Health – General Article.

(b) The affidavit shall be completed on a standardized form developed by the Department.

(c) (1) The completed affidavit of parentage form shall contain:

(i) in ten point boldface type a statement that the affidavit is a legal document and constitutes a legal finding of **[**paternity**]** **PARENTAGE**;

(ii) the full name and the place and date of birth of the child;

(iii) the full name of the attesting **[**father of**]** **PARENT WHO DID NOT GIVE BIRTH TO** the child;

(iv) the full name of the attesting mother of the child;

(v) the signatures of the **[**father and the mother**]** **PARENTS** of the child attesting, under penalty of perjury, that the information provided on the affidavit is true and correct;

(vi) a statement by the mother consenting to the assertion of **[**paternity**]** **PARENTAGE** and acknowledging that **[**her**]:**

1. **THE MOTHER'S** cosignatory is the only possible father **OF THE CHILD; OR**

2. THE MOTHER AND THE MOTHER'S COSIGNATORY CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED INTENT TO BE THE PARENTS OF THE CHILD;

(vii) a statement by the **[**father**]** **INDIVIDUAL WHO DID NOT GIVE BIRTH TO THE CHILD** that **[**he**]:**

1. THE INDIVIDUAL is the **[**natural**]** father of the child**; OR**

2. THE INDIVIDUAL AND THE CHILD'S MOTHER CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED INTENT TO BE THE PARENTS OF THE CHILD; and

(viii) the Social Security numbers provided by each of the parents.

(2) Before completing an affidavit of parentage form, the unmarried **[**mother and the father**]** **PARENTS** shall be advised orally and in writing of the legal consequences of executing the affidavit and of the benefit of seeking legal counsel.

(d) (1) An executed affidavit of parentage constitutes a legal finding of **[**paternity**]** **PARENTAGE**, subject to the right of any signatory to rescind the affidavit:

(i) in writing within 60 days after execution of the affidavit; or

(ii) in a judicial proceeding relating to the child:

1. in which the signatory is a party; and

2. that occurs before the expiration of the 60–day period.

(2) (i) After the expiration of the 60–day period, an executed affidavit of parentage may be challenged in court only on the basis of fraud, duress, or material mistake of fact.

(ii) The burden of proof shall be on the challenger to show fraud, duress, or material mistake of fact.

(iii) The legal responsibilities of any signatory arising from the affidavit, including child support obligations, may not be suspended during the challenge, except for good cause shown.

(e) The Administration shall prepare written information to be furnished to unmarried mothers under § 4–208 of the Health – General Article concerning the benefits of having the **[**paternity**]** **PARENTAGE** of their children established, including the availability of child support enforcement services.

(f) The Department shall make the standardized affidavit forms available to all hospitals in the State.

(g) The Secretary, in consultation with the Maryland Department of Health and the Maryland Hospital Association, shall adopt regulations governing the provisions of this section and § 4–208 of the Health – General Article.

Article – Health – General

4–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Attending clinician" means the physician, nurse midwife, or direct–entry midwife in charge of a birth outside an institution.

(c) "Attending physician" means the physician in charge of the patient's care for the illness or condition which resulted in death.

(d) "County registrar" means the registrar of vital records for a county.

(e) (1) "Dead body" means:

(i) A dead human body; or

(ii) Parts or bones of a human body if, from their condition, an individual reasonably may conclude that death has occurred.

(2) "Dead body" does not include an amputated part.

(f) "Direct–entry midwife" means an individual licensed to practice direct–entry midwifery under Title 8, Subtitle 6C of the Health Occupations Article.

(g) **"FATHER" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.**

(H) "Fetal death" means death of a product of human conception, before its complete expulsion or extraction from the mother, regardless of the duration of the pregnancy, as indicated by the fact that, after the expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as heart beat, pulsation of the umbilical cord, or definite movement of voluntary muscle.

[(h)**] (I)** "File" means to present for registration any certificate, report, or other record including records transmitted by approved electronic media, including facsimile, of birth, death, fetal death, adoption, marriage, or divorce for which this subtitle provides and to have the Secretary accept the record.

[(i)**] (J)** "Filing date" means the date a vital record is accepted for registration by the Secretary.

[(j)**] (K)** "Final disposition" means the burial, cremation, or other final disposition of a body or fetus.

[(k)**] (L)** "Institution" means any public or private establishment:

(1) To which individuals are committed by law; or

(2) That provides to 2 or more unrelated individuals:

(i) Any inpatient or outpatient medical, surgical, or diagnostic care or treatment; or

(ii) Any nursing, custodial, or domiciliary care.

[(l)**] (M)** "Licensed health care practitioner" means:

(1) An individual who is:

(i) A physician licensed under Title 14 of the Health Occupations Article;

(ii) A psychologist licensed under Title 18 of the Health Occupations Article;

(iii) A registered nurse licensed and certified to practice as a nurse practitioner, nurse psychotherapist, or clinical nurse specialist under Title 8 of the Health Occupations Article;

(iv) A licensed certified social worker–clinical licensed under Title 19 of the Health Occupations Article; or

(2) An individual who:

(i) Is licensed to practice a profession listed in item (1) of this subsection in another state; and

(ii) Meets the requirements under the Health Occupations Article to qualify for a license to practice the profession in this State.

[(m)**] (N)** "Live birth" means the complete expulsion or extraction of a product of human conception from the mother, regardless of the period of gestation, if, after the expulsion or extraction, it breathes or shows any other evidence of life, such as heart beat,

pulsation of the umbilical cord, or definite movement of voluntary muscle, whether or not the umbilical cord is cut or the placenta is attached.

(O) "MOTHER" HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW ARTICLE.

[(n)**] (P)** "Mortician" means a funeral director, mortician, or other person who is authorized to make final disposition of a body.

[(o)**] (Q)** "Nurse midwife" means an individual certified to practice as a nurse midwife under Title 8 of the Health Occupations Article.

[(p)**] (R)** "Physician" means a person authorized or licensed to practice medicine or osteopathy pursuant to the laws of this State.

[(q)**] (S)** "Physician assistant" means an individual who is licensed under Title 15 of the Health Occupations Article to practice medicine with physician supervision.

[(r)**] (T)** "Registration" means acceptance by the Secretary and incorporation in the records of the Department of any certificate, report, or other record of birth, death, fetal death, adoption, marriage, divorce, or dissolution or annulment of marriage for which this subtitle provides.

[(s)**] (U)** "Vital record" means a certificate or report of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, adoption, or adjudication of paternity that is required by law to be filed with the Secretary.

[(t)**] (V)** "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, and reports related to any of these certificates and reports.

4–208.

(a) (1) Within 5 calendar days after a birth occurs in an institution, or en route to the institution, or outside an institution with an attending clinician, the administrative head of the institution or a designee of the administrative head, or the attending clinician or a designee of the attending clinician, shall:

(i) Prepare, on the form that the Secretary provides, a certificate of birth;

(ii) Secure each signature that is required on the certificate; and

(iii) File the certificate.

(2) The attending physician, physician assistant, nurse practitioner, nurse midwife, or attending clinician shall provide the date of birth and medical information that are required on the certificate within 5 calendar days after the birth.

(3) The results of the universal hearing screening of newborns shall be incorporated into the supplemental information required by the Department to be submitted as a part of the birth event.

(4) **[**On the birth of a child to an unmarried woman**]** **WHEN AN INDIVIDUAL WHO IS NOT MARRIED GIVES BIRTH TO A CHILD** in an institution or outside an institution with an attending clinician, the administrative head of the institution or the designee of the administrative head, or the attending clinician or the designee of the attending clinician, shall:

(i) Provide an opportunity for the child's **[**mother and the father**]** **PARENTS** to complete a standardized affidavit of parentage recognizing parentage of the child on the standardized form provided by the Department of Human Services under § 5–1028 of the Family Law Article;

(ii) Furnish to the mother written information prepared by the Child Support Administration concerning the benefits of having the **[**paternity**]** **PARENTAGE** of **[**her**]** **THE** child established, including the availability of child support enforcement services; and

(iii) Forward the completed affidavit to the Maryland Department of Health, Division of Vital Records. The Maryland Department of Health, Division of Vital Records shall make the affidavits available to the parents, guardian of the child, or a child support enforcement agency upon request.

(5) An institution, the administrative head of the institution, the designee of the administrative head of an institution, an employee of an institution, the attending clinician, and the designee of the attending clinician may not be held liable in any cause of action arising out of the establishment of **[**paternity**]** **PARENTAGE**.

(6) If the child's mother was not married at the time of either conception or birth or between conception and birth, the name of the **[**father**]** **CHILD'S OTHER PARENT** may not be entered on the certificate without an affidavit of **[**paternity**]** **PARENTAGE** as authorized by § 5–1028 of the Family Law Article signed by the mother and the person to be named on the certificate as the **[**father**]** **OTHER PARENT**.

(7) **IF THE CHILD'S MOTHER WAS MARRIED AT THE TIME OF EITHER THE CONCEPTION OR BIRTH OR BETWEEN CONCEPTION AND BIRTH, THE NAME OF THE MOTHER'S SPOUSE SHALL BE ENTERED ON THE CERTIFICATE AS THE CHILD'S OTHER PARENT.**

(8) In any case in which **[**paternity**]** **PARENTAGE** of a child is determined by a court of competent jurisdiction, the name of the **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

[(8)**]** **(9)** If the **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** is not named on the certificate of birth, no other information about **[**the father**]** **THAT PARENT** shall be entered on the certificate.

(b) Within 5 calendar days after a birth occurs outside an institution without an attending clinician, the birth shall be verified by the Secretary and a certificate of birth shall be prepared, on the form that the Secretary provides, and filed by one of the following, in the indicated order of priority:

(1) The attending individual.

(2) In the absence of an attending individual, **[**the father or mother**]** **EITHER PARENT OF THE CHILD**.

(3) In the absence **[**of the father and the**]** **OR** inability of **[**the mother**]** **EITHER PARENT**, the individual in charge of the premises where the birth occurred.

(c) **(1)** When a birth occurs on a common carrier within the United States and the child is first removed from the carrier in this State, the birth shall be registered in this State, and the place where the child is first removed shall be considered the place of birth.

[(d)**]** **(2)** When a birth occurs on a common carrier while in international waters, air space, or in a foreign country and the child is first removed from the carrier in this State, the birth shall be registered in this State but the certificate shall show the actual place of birth insofar as can be determined.

[(e)**]** **(3)** The certificate shall be filed within 5 calendar days after the child is removed from the carrier.

[(f)**]** **(D)** (1) Each parent shall provide his or her own Social Security number on the form provided by the Secretary under this section.

(2) (i) If the **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** is not available to provide **[**his**]** **THE PARENT'S** Social Security number on the form provided under paragraph (1) of this subsection, the **[**father**]** **PARENT** shall provide **[**his**]** **THE PARENT'S** Social Security number on a form provided by the Secretary for this purpose.

(ii) The form provided under this paragraph shall:

1. State that the form is for the purpose of providing the Social Security numbers of parents, to be included on the portion of the form that remains in the official birth record;

2. Contain a specific reference to this subtitle; and

3. State that the **[**father's**]** **PARENT'S** Social Security number shall be provided under penalty of perjury.

(3) The Social Security number as provided by each parent shall be recorded on the portion of the form provided by the Secretary which remains in the official birth record.

(4) The Social Security numbers of the parents may not appear on the portion of the birth certificate issued as proof of birth.

(5) (i) The Secretary shall permit disclosure of the Social Security numbers of the parents only to the Child Support Administration of the Department of Human Services.

(ii) The Child Support Administration may use the Social Security numbers of the parents to:

1. Locate a parent;

2. Establish **[**paternity**]** **PARENTAGE**; and

3. Establish and enforce a child support order under Title 10, Subtitle 1 of the Family Law Article.

[(g)**]** **(E)** If, under subsection **[**(f)(1)**]** **(D)(1)** of this section, the **[**father's**]** Social Security number **OF THE PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** is not entered on the form provided by the Secretary:

(1) Upon adjudication of **[**paternity**]** **PARENTAGE**, the court shall order the **[**father**]** **PARENT** to provide **[**his**]** **THE PARENT'S** Social Security number to the clerk of court; and

(2) The clerk of court shall send the **[**father's**]** **PARENT'S** Social Security number to the Secretary, as provided under § 4–211(f) of this subtitle.

4–211.

(a) Except as provided in subsection (d) of this section, the Secretary shall make a new certificate of birth for an individual if the Department receives satisfactory proof that:

(1) The individual was born in this State; and

(2) Regardless of the location, one of the following has occurred:

(i) The previously unwed parents of the individual have married each other after the birth of the individual;

(ii) A court of competent jurisdiction has entered an order as to the parentage, legitimation, or adoption of the individual; or

(iii) If a **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE INDIVIDUAL** is not named on an earlier certificate of birth:

1. The **[**father of**]** **PARENT WHO DID NOT GIVE BIRTH TO** the individual has acknowledged himself **OR HERSELF** by affidavit to be **[**the father**]** **A PARENT OF THE INDIVIDUAL**; and

2. The mother of the individual has consented by affidavit to the acknowledgment.

(c) Except as provided in subsection (d) of this section, the Secretary may make a new certificate of birth for an individual who was born outside the United States if one of the following occurred in this State:

(1) The previously unwed parents of the individual have married each other after the birth of the individual;

(2) A court of competent jurisdiction in this State has entered an order as to parentage or legitimation; or

(3) The **[**father of**]** **PARENT WHO DID NOT GIVE BIRTH TO** the individual acknowledged himself **OR HERSELF** by affidavit to be **[**the father**]** **A PARENT OF THE INDIVIDUAL** and the mother of the individual has consented by affidavit to the acknowledgment.

(e) A new certificate of birth shall be prepared on the following basis:

(1) The individual shall be treated as having at birth the status that later is acquired or established and of which proof is submitted.

(2) **(I)** If the parents of the individual were not married and **[**paternity**]** **PARENTAGE** is established by legal proceedings, the name of the **[**father**]** **PARENT WHO DID NOT GIVE BIRTH TO THE INDIVIDUAL** shall be inserted.

(II) The legal proceeding should request and report to the Secretary that the surname of the subject of the record be changed from that shown on the original certificate, if a change is desired.

(3) If the individual is adopted, the name of the individual shall be that set by the decree of adoption, and the adoptive parents shall be recorded as the parents of the individual.

(4) The new certificate of birth shall contain wording that requires each parent shown on the new certificate to indicate his or her own Social Security number.

(h) Each clerk of court shall send to the Secretary, on the form that the Secretary provides, a report of:

(1) Each decree of adoption;

(2) Each adjudication of **[**paternity**]** **PARENTAGE**, including the **[**father's**]** **PARENT'S** Social Security number; and

(3) Each revocation or amendment of any decree of adoption or adjudication of paternity that the court enters.

4–223.

(a) Except as otherwise provided in this section, if a certificate of birth, death, or fetal death is filed within 1 year after the event, the original or a certified copy of the certificate is prima facie evidence of the facts stated in it.

(b) (1) **[**Any**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY** information in the certificate that relates to **[**the father of**]** **A PARENT WHO DID NOT GIVE BIRTH TO** a child is prima facie evidence **[**only if the alleged father is the husband of the mother**]**.

(2) If the **[**alleged father is not the husband of the mother and paternity is contested**]** **PARENTAGE OF THE CHILD IS CONTESTED, AND THE PARENT WHO DID NOT GIVE BIRTH TO THE CHILD IS A PUTATIVE FATHER AS DEFINED IN § 5–1001 OF THE FAMILY LAW ARTICLE**, the information that relates to the **[**father of a child**]** **PUTATIVE FATHER** is not evidence in any proceeding adverse to the interests of the **[**alleged**]** **PUTATIVE** father or **[**his**]** **THE PUTATIVE FATHER'S** heirs, next of kin, devisees, legatees, or other successors in interest.

(c) If a certificate or record is filed more than 1 year after the event or is amended, the court or official before whom the certificate or record is offered as evidence shall determine its evidentiary value.

SECTION 2. AND BE IF FURTHER ENACTED, That this Act may not be interpreted to overturn or to alter in any way the decision by the Court of Appeals of Maryland in In re: Roberto d.B., 399 Md. 267 (2007).

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) This Act may not be interpreted to authorize or prohibit an agreement between two or more parties wherein the parties agree that:

(1) one party will become pregnant by means of assisted reproduction;

(2) the other party or parties are intended to be the parents of the child conceived by means of assisted reproduction; and

(3) the party who gives birth to the child will not be a parent of the child.

(b) If an agreement described in subsection (a) of this section is found to be unenforceable under the laws of this State, the parentage of any child conceived in accordance with the agreement shall be established as provided in Title 1, Subtitle 2 of the Estates and Trusts Article.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *June* 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 439

(House Bill 560)

AN ACT concerning

Transportation – State Highway Administration – Traffic Calming Devices

FOR the purpose of requiring the State Highway Administration ~~to develop certain statewide standards for the construction and maintenance of traffic calming devices; requiring the Administration to publish a manual providing the statewide standards for the construction and maintenance of traffic calming devices~~, in consultation with appropriate county and municipal authorities, to compile certain best practices for siting, constructing, and maintaining traffic calming devices; requiring the Administration to coordinate and act as a clearinghouse for certain best practices for traffic calming devices and, based on the best practices, publish and periodically update certain information on best practices for traffic calming devices; requiring the information on best practices to include certain cost estimates; requiring the Administration to provide ~~engineering services~~ information on best practices for the

~~development~~ siting, construction, and maintenance of traffic calming devices if requested by a county or municipality; defining a certain term; and generally relating to traffic calming devices.

BY adding to
Article – Transportation
Section 8–637
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Transportation

8–637.

(A) (1) IN THIS SECTION, "TRAFFIC CALMING DEVICE" MEANS A PHYSICAL HIGHWAY MEASURE USED TO REDUCE VEHICLE SPEED AND INCREASE SAFETY FOR BICYCLISTS, MOTORISTS, AND PEDESTRIANS.

(2) "TRAFFIC CALMING DEVICE" INCLUDES:

(I) A SPEED BUMP;

(II) A RAISED CROSSWALK;

(III) A TRAFFIC CIRCLE; AND

(IV) A NARROWED ROAD.

(B) (1) THE ADMINISTRATION, IN CONSULTATION WITH APPROPRIATE COUNTY AND MUNICIPAL AUTHORITIES, SHALL ~~DEVELOP AND ADOPT STATEWIDE~~ COMPILE ~~STANDARDS FOR THE CONSTRUCTION AND MAINTENANCE OF TRAFFIC CALMING DEVICES, INCLUDING STANDARDS ADDRESSING~~ BEST PRACTICES FOR SITING, CONSTRUCTING, AND MAINTAINING TRAFFIC CALMING DEVICES THAT ADDRESS:

(I) THE ENGINEERING AND DESIGN OF TRAFFIC CALMING DEVICES; AND

(II) THE COSTS AND BENEFITS OF VARIOUS METHODS OF TRAFFIC CALMING.

(2) THE ADMINISTRATION SHALL ~~PUBLISH A MANUAL PROVIDING STATEWIDE STANDARDS~~:

(I) COORDINATE AND ACT AS A CLEARINGHOUSE FOR BEST PRACTICES FOR SITING, CONSTRUCTING, AND MAINTAINING TRAFFIC CALMING DEVICES; AND

(II) BASED ON THE BEST PRACTICES, PUBLISH AND PERIODICALLY UPDATE INFORMATION ABOUT BEST PRACTICES FOR THE ~~CONSTRUCTION~~ SITING, CONSTRUCTION, AND MAINTENANCE OF TRAFFIC CALMING DEVICES.

(3) THE ~~MANUAL~~ INFORMATION ON BEST PRACTICES REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL INCLUDE THE ESTIMATED COSTS OF CONSTRUCTION ~~OF~~ FOR EACH TRAFFIC CALMING DEVICE.

(C) ~~(1)~~ ON THE REQUEST OF A COUNTY OR MUNICIPALITY, THE ADMINISTRATION SHALL PROVIDE ~~ENGINEERING SERVICES~~ INFORMATION ON BEST PRACTICES FOR THE ~~DEVELOPMENT~~ SITING, CONSTRUCTION, AND MAINTENANCE OF TRAFFIC CALMING DEVICES.

~~(2) ANY SERVICE PROVIDED BY THE ADMINISTRATION TO A COUNTY UNDER THIS SUBSECTION SHALL BE PROVIDED AT COST OR LOWER.~~

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

Approved by the Governor, May 13, 2019.

Chapter 440

(House Bill 124)

AN ACT concerning

Tanning Devices – Use by Minors

FOR the purpose of repealing the exemption authorizing a parent or legal guardian of certain minors to provide certain written consent for the minor to use a tanning device; requiring owners, employees, and operators of tanning facilities to ensure that a certain notice is posted in a certain manner in the facility; requiring the Maryland Department of Health to develop and make available to each tanning facility a notice that includes certain information; providing that this Act does not

apply to the use of phototherapy devices by a ~~physician~~ certain health care practitioner or by order of a ~~physician~~ certain health care practitioner; providing that a certain provision of this Act may not be construed to authorize a ~~physician to prescribe to~~ prescription to be written for a minor for the use of a tanning device; defining a certain term; and generally relating to the use of tanning devices by minors.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 20–106
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

20–106.

(a) (1) In this section the following words have the meanings indicated.

(2) "PHOTOTHERAPY DEVICE" MEANS ANY EQUIPMENT THAT EMITS ULTRAVIOLET RADIATION AND IS USED IN THE DIAGNOSIS OR TREATMENT OF DISEASE OR INJURY.

[(2)**] (3)** "Tanning device" means any equipment that emits radiation used for tanning of the skin, including sunlamps, tanning booths, or tanning beds.

[(3)**] (4)** "Tanning facility" means any place where a tanning device is used for a fee, membership dues, or other compensation.

(B) (1) THIS SECTION DOES NOT APPLY TO THE USE OF ANY PHOTOTHERAPY DEVICE BY A ~~PHYSICIAN~~ HEALTH CARE PRACTITIONER ACTING WITHIN THE SCOPE OF THE LICENSE OF THE HEALTH CARE PRACTITIONER OR BY ORDER OF A ~~PHYSICIAN~~ HEALTH CARE PRACTITIONER ACTING WITHIN THE SCOPE OF THE LICENSE OF THE HEALTH CARE PRACTITIONER.

(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO AUTHORIZE A ~~PHYSICIAN TO PRESCRIBE TO A MINOR~~ PRESCRIPTION TO BE WRITTEN FOR A MINOR FOR THE USE OF A TANNING DEVICE.

[(b)**] (C)** An owner, employee, or operator of a tanning facility may not allow a minor under the age of 18 years to use a tanning device **[**unless the minor's parent or legal guardian provides written consent on the premises of the tanning facility and in the presence of an owner, employee, or operator of the tanning facility**]**.

[(c)**] (D)** The owner, employee, or operator of a tanning facility shall **[**require**]:**

(1) REQUIRE appropriate documentation to verify the age of an individual before allowing the individual access to a tanning device**; AND**

(2) ENSURE THAT THE NOTICE DEVELOPED UNDER SUBSECTION (E) OF THIS SECTION IS POSTED IN A CONSPICUOUS PLACE IN THE TANNING FACILITY.

(E) THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE TO EACH TANNING FACILITY A NOTICE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) THAT IT IS UNLAWFUL FOR A TANNING FACILITY OWNER, EMPLOYEE, OR OPERATOR TO ALLOW A MINOR TO USE ANY TANNING DEVICE;

(2) THAT A TANNING FACILITY OWNER, EMPLOYEE, OR OPERATOR THAT VIOLATES ONE OR MORE PROVISIONS OF THIS SECTION MAY BE SUBJECT TO A CIVIL PENALTY;

(3) THAT AN INDIVIDUAL MAY REPORT A VIOLATION OF ONE OR MORE PROVISIONS OF THIS SECTION TO THE LOCAL LAW ENFORCEMENT AGENCY; AND

(4) THE HEALTH RISKS ASSOCIATED WITH TANNING, INCLUDING SKIN CANCER, PREMATURE SKIN AGING, INJURIES INCLUDING BURNS, AND ADVERSE REACTIONS WHEN COMBINED WITH CERTAIN MEDICATIONS, FOODS, AND COSMETICS.

[(d)**] (F)** (1) The Secretary may impose on a person who violates this section:

(i) For a first violation, a civil penalty not to exceed $250;

(ii) For a second violation, a civil penalty not to exceed $500; and

(iii) For each subsequent violation, a civil penalty not to exceed $1,000.

(2) The Secretary may adopt regulations to implement and carry out this section.

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

Approved by the Governor, May 13, 2019.

Chapter 441

(Senate Bill 299)

AN ACT concerning

Tanning Devices – Use by Minors

FOR the purpose of repealing the exemption authorizing a parent or legal guardian of certain minors to provide certain written consent for the minor to use a tanning device; requiring owners, employees, and operators of tanning facilities to ensure that a certain notice is posted in a certain manner in the facility; requiring the Maryland Department of Health to develop and make available to each tanning facility a notice that includes certain information; providing that this Act does not apply to the use of phototherapy devices by a ~~physician~~ certain health care practitioner or by order of a ~~physician~~ certain health care practitioner; providing that a certain provision of this Act may not be construed to authorize a ~~physician to prescribe to~~ prescription to be written for a minor for the use of a tanning device; defining a certain term; and generally relating to the use of tanning devices by minors.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 20–106
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

20–106.

(a) (1) In this section the following words have the meanings indicated.

(2) "PHOTOTHERAPY DEVICE" MEANS ANY EQUIPMENT THAT EMITS ULTRAVIOLET RADIATION AND IS USED IN THE DIAGNOSIS OR TREATMENT OF DISEASE OR INJURY.

[(2)**] (3)** "Tanning device" means any equipment that emits radiation used for tanning of the skin, including sunlamps, tanning booths, or tanning beds.

[(3)**] (4)** "Tanning facility" means any place where a tanning device is used for a fee, membership dues, or other compensation.

(B) (1) THIS SECTION DOES NOT APPLY TO THE USE OF ANY PHOTOTHERAPY DEVICE BY A ~~PHYSICIAN~~ HEALTH CARE PRACTITIONER ACTING WITHIN THE SCOPE OF THE LICENSE OF THE HEALTH CARE PRACTITIONER OR BY ORDER OF A ~~PHYSICIAN~~ HEALTH CARE PRACTITIONER ACTING WITHIN THE SCOPE OF THE LICENSE OF THE HEALTH CARE PRACTITIONER.

(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO AUTHORIZE A ~~PHYSICIAN TO PRESCRIBE TO A MINOR~~ PRESCRIPTION TO BE WRITTEN FOR A MINOR FOR THE USE OF A TANNING DEVICE.

[(b)**] (C)** An owner, employee, or operator of a tanning facility may not allow a minor under the age of 18 years to use a tanning device **[**unless the minor's parent or legal guardian provides written consent on the premises of the tanning facility and in the presence of an owner, employee, or operator of the tanning facility**]**.

[(c)**] (D)** The owner, employee, or operator of a tanning facility shall **[**require**]:**

(1) REQUIRE appropriate documentation to verify the age of an individual before allowing the individual access to a tanning device**; AND**

(2) ENSURE THAT THE NOTICE DEVELOPED UNDER SUBSECTION (E) OF THIS SECTION IS POSTED IN A CONSPICUOUS PLACE IN THE TANNING FACILITY.

(E) THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE TO EACH TANNING FACILITY A NOTICE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) THAT IT IS UNLAWFUL FOR A TANNING FACILITY OWNER, EMPLOYEE, OR OPERATOR TO ALLOW A MINOR TO USE ANY TANNING DEVICE;

(2) THAT A TANNING FACILITY OWNER, EMPLOYEE, OR OPERATOR THAT VIOLATES ONE OR MORE PROVISIONS OF THIS SECTION MAY BE SUBJECT TO A CIVIL PENALTY;

(3) THAT AN INDIVIDUAL MAY REPORT A VIOLATION OF ONE OR MORE PROVISIONS OF THIS SECTION TO THE LOCAL LAW ENFORCEMENT AGENCY; AND

(4) THE HEALTH RISKS ASSOCIATED WITH TANNING, INCLUDING SKIN CANCER, PREMATURE SKIN AGING, INJURIES INCLUDING BURNS, AND ADVERSE REACTIONS WHEN COMBINED WITH CERTAIN MEDICATIONS, FOODS, AND COSMETICS.

[(d)**] (F)** (1) The Secretary may impose on a person who violates this section:

(i) For a first violation, a civil penalty not to exceed $250;

(ii) For a second violation, a civil penalty not to exceed $500; and

(iii) For each subsequent violation, a civil penalty not to exceed $1,000.

(2) The Secretary may adopt regulations to implement and carry out this section.

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

Approved by the Governor, May 13, 2019.

Chapter 442

(House Bill 1427)

AN ACT concerning

Sea Level Rise Inundation and Coastal Flooding – Construction, Adaptation, and Mitigation

FOR the purpose of altering the application of certain design and siting criteria established by the Coast Smart Council, in consultation with the Department of Natural Resources and the Department of Transportation, to apply only to certain State and local capital projects; altering the date beginning on which certain projects are required to comply with certain design and siting criteria; requiring the Department of Planning, in consultation with the Department of Natural Resources and the Department of the Environment, on or before a certain date, to develop and publish guidelines to assist local jurisdictions in the collection of data to establish certain nuisance flooding baselines; extending the date by which a certain local jurisdiction must develop a plan to address certain nuisance flooding; declaring the intent of the General Assembly; requiring the Department of Budget and Management, the Department of General Services, and the Department of Natural Resources to review and incorporate certain criteria established by the Council into certain instructions and policies; and generally relating to sea level rise inundation and coastal flooding.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 3–1001(a) and (c)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–1006(a), 3–1009, and 3–1018
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Natural Resources

3–1001.

(a) In this subtitle the following words have the meanings indicated.

(c) "Council" means the Coast Smart Council.

3–1006.

(a) The Council shall:

(1) Study and provide analysis regarding standards and factors relevant to the establishment of Coast Smart siting criteria and design criteria;

(2) Develop siting and design criteria to establish and implement Coast Smart practices and requirements;

(3) Develop eligibility criteria, standards, and procedures for applying for and obtaining a waiver from compliance with the Coast Smart requirements; and

(4) Establish procedures for evaluating Coast Smart waiver applications that include the consideration of proposed **CAPITAL** projects with regard to:

(i) The anticipated need to prepare for, respond to, and recover from extreme weather events, sea level rise inundation, coastal flooding, storm surges, and shoreline erosion; and

(ii) The need to prevent danger to life and property and to avoid environmental, socio–economic, and economic harm.

3–1009.

(a) (1) This section applies to State and local **CAPITAL** projects for which at least 50% of the project costs are funded with State funds.

(2) This section does not apply to a **[**public work contract of**]** **CAPITAL PROJECT THAT COSTS** less than $500,000.

(b) (1) Beginning July 1, **[**2019**]** **2020**, if a State or local **CAPITAL** project includes the construction of a structure or highway facility, the structure or highway facility shall be constructed in compliance with siting and design criteria established under subsection (c) of this section.

(2) Beginning July 1, **[**2019**]** **2020**, if a State or local **CAPITAL** project includes the reconstruction of a structure with substantial damage, the structure shall be reconstructed in compliance with siting and design criteria established under subsection (c) of this section.

(c) (1) The Council, in consultation with the Department and the Department of Transportation, shall establish Coast Smart siting and design criteria to address sea level rise inundation and coastal flood impacts on State and local **CAPITAL** projects.

(2) The criteria adopted under this subsection shall include:

(i) Guidelines and any other directives applicable to the preliminary planning and construction of a proposed **CAPITAL** project;

(ii) A requirement that a structure be designed and constructed or reconstructed in a manner to withstand the storm surge from a storm that registers as a category 2 on the Saffir–Simpson hurricane wind scale, including a requirement for structures to be constructed or reconstructed at a minimum elevation above the projected storm surge; and

(iii) Provisions establishing a process to allow a unit of State or local government to obtain a waiver from complying with the requirements of subsection (b) of this section.

3–1018.

(a) **ON OR BEFORE OCTOBER 1, 2019, THE DEPARTMENT OF PLANNING, IN CONSULTATION WITH THE DEPARTMENT AND THE DEPARTMENT OF THE ENVIRONMENT, SHALL DEVELOP AND PUBLISH GUIDELINES TO ASSIST LOCAL JURISDICTIONS IN THE COLLECTION OF DATA TO ESTABLISH NUISANCE FLOODING BASELINES.**

(B) (1) On or before **[**July 1, 2019**]** **OCTOBER 1, 2020**, a local jurisdiction that experiences nuisance flooding shall develop a plan to address nuisance flooding.

(2) A local jurisdiction shall update the plan required under paragraph (1) of this subsection at least once every 5 years.

(3) A local jurisdiction shall publish the plans required under this subsection on the local jurisdiction's website.

[(b)**] (C)** A local jurisdiction that develops a plan to address nuisance flooding shall submit a copy of the nuisance flooding plan to the Department of Planning.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, until the Coast Smart Council has adopted revised siting and design criteria in accordance with the provisions of Section 1 of this Act:

(1) units of State government that propose capital projects for a new State structure or the reconstruction of a substantially damaged State structure shall comply with the siting and design criteria in the Coast Smart Construction Program adopted by the Coast Smart Council in June 2015; and

(2) local capital projects and highway facilities are not subject to the siting and design criteria in the Coast Smart Construction Program adopted by the Coast Smart Council in June 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Budget and Management, the Department of General Services, and the Department of Natural Resources shall review and incorporate criteria established by the Coast Smart Council under the provisions of this Act into the appropriate instructions and policies.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 443

(House Bill 238)

AN ACT concerning

Education – Removal of County Superintendents – Procedures

FOR the purpose of requiring the State Superintendent of Schools to provide a county superintendent of schools with certain information if the State Superintendent intends to remove the county superintendent; authorizing a county board of education to ~~file a complaint with the State Superintendent of Schools requesting the removal of~~ remove a county superintendent ~~of schools~~ in a certain manner; *authorizing a county superintendent to appeal a certain decision by the State Superintendent to the State Board of Education; authorizing a county superintendent to appeal a certain decision by the county board to the State Board;* ~~specifying the manner in which a county board may file a certain complaint; requiring the State Superintendent to make a decision to remove or retain a county superintendent~~

~~within a certain period of time; requiring the State Superintendent to provide a county board with a written explanation of a certain decision; altering the period of time within which a county superintendent may request a hearing after being removed; establishing a period of time during which the State Superintendent may hold a certain hearing under certain circumstances; authorizing a county superintendent to request arbitration under certain circumstances;~~ ~~authorizing the county superintendent to appeal a certain decision to the State Board of Education or an arbitrator;~~ ~~specifying the procedures for arbitration; assigning responsibility for certain costs; providing that an arbitrator's decision and award is final and binding on the parties, subject to review by a circuit court;~~ ~~authorizing the county superintendent or, under certain circumstances, the county board to appeal a certain decision to the State Board of Education;~~ making stylistic changes; and generally relating to the procedures for removing a county superintendent of schools.

BY repealing and reenacting, with amendments,
Article – Education
Section 4–201
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

4–201.

(a) (1) This section does not apply to Baltimore City.

(2) Subsections (b), (c), (d), and (f) of this section do not apply in Prince George's County.

(b) (1) The term of a county superintendent is 4 years beginning on July 1. A county superintendent continues to serve until a successor is appointed and qualifies.

(2) By February 1 of the year in which a term ends, the county superintendent shall notify the county board whether the superintendent is a candidate for reappointment.

(3) In the year in which a term begins, the county board shall appoint a county superintendent between February 1 and June 30. However, if the county board decides to reappoint the incumbent superintendent, the county board shall take final action at a public meeting no later than March 1 of that year.

(4) If a county board is unable to appoint a county superintendent by July 1 of a year in which a term begins, the provisions of subsection (d) of this section apply.

(c) (1) An individual may not be appointed as county superintendent unless the individual:

(i) Is eligible to be issued a certificate for the office by the State Superintendent;

(ii) Has graduated from an accredited college or university; and

(iii) Has completed 2 years of graduate work at an accredited college or university, including public school administration, supervision, and methods of teaching.

(2) The appointment of a county superintendent is not valid unless approved in writing by the State Superintendent.

(3) If the State Superintendent disapproves an appointment, **[**he**]** **THE STATE SUPERINTENDENT** shall give **[**his**]** **THE** reasons for disapproval in writing to the county board.

(d) If a vacancy occurs in the office of county superintendent, the county board shall appoint an interim county superintendent who serves until July 1 after **[**his**]** **THE INTERIM COUNTY SUPERINTENDENT'S** appointment.

(e) (1) **[**The**]** **SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE** State Superintendent **OR A COUNTY BOARD** may remove a county superintendent for:

(i) Immorality;

(ii) Misconduct in office;

(iii) Insubordination;

(iv) Incompetency; or

(v) Willful neglect of duty.

~~**(2) (I) A COUNTY BOARD MAY FILE A COMPLAINT WITH THE STATE SUPERINTENDENT REQUESTING THE REMOVAL OF THE COUNTY SUPERINTENDENT UNDER THIS SUBSECTION.**~~

~~**(II) IN FILING A COMPLAINT UNDER THIS PARAGRAPH, THE COUNTY BOARD SHALL PROVIDE, IN A MANNER PRESCRIBED BY THE STATE SUPERINTENDENT:**~~

~~**1. THE REASON FOR REMOVAL, CHOSEN FROM ONE OR MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION; AND**~~

~~**2. DOCUMENTATION SUPPORTING THE CASE FOR REMOVAL.**~~

~~**(III) WITHIN 90 DAYS OF RECEIVING A COMPLAINT UNDER THIS PARAGRAPH, THE STATE SUPERINTENDENT SHALL MAKE A DECISION TO REMOVE OR RETAIN THE COUNTY SUPERINTENDENT.**~~

~~**(IV) THE STATE SUPERINTENDENT SHALL PROVIDE THE COUNTY BOARD WITH A WRITTEN EXPLANATION OF THE REASON FOR THE STATE SUPERINTENDENT'S DECISION.**~~

~~**[**(2)**]** **(3)** Before removing a county superintendent, the State Superintendent shall send the county superintendent a copy of the charges against the county superintendent and give the county superintendent an opportunity within **[**10**]** **30** days to request**[**a**]:**~~

~~**(I)** **A** hearing **BEFORE THE STATE SUPERINTENDENT; OR**~~

~~**(II)** **A HEARING BEFORE AN ARBITRATOR IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION**~~

(I) **THE STATE SUPERINTENDENT MAY REMOVE A COUNTY SUPERINTENDENT UNDER THIS SUBSECTION IF THE STATE SUPERINTENDENT PROVIDES THE COUNTY SUPERINTENDENT WITH:**

~~**(I)**~~ ***1.*** **THE REASON FOR REMOVAL, CHOSEN FROM ONE OR MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION;**

~~**(II)**~~ ***2.*** **DOCUMENTATION SUPPORTING THE CASE FOR REMOVAL; AND**

~~**(III)**~~ ***3.*** **THE OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS BEFORE THE STATE SUPERINTENDENT IN ACCORDANCE WITH THIS SUBSECTION**.

(II) THE COUNTY SUPERINTENDENT MAY APPEAL THE DECISION OF THE STATE SUPERINTENDENT TO THE STATE BOARD.

~~**[**~~(3)~~**]** **(4)** If the county superintendent requests a hearing **BEFORE THE STATE SUPERINTENDENT** within the ~~**[**~~10–day~~**]** **30–DAY** period:

(i) The State Superintendent promptly shall hold a hearing~~**[**~~, but a hearing may not be set within 10~~**]** THAT SHALL BE SET:~~

~~1. NOT EARLIER THAN 11~~ days after the State Superintendent sends the county superintendent a notice of the hearing~~; AND~~

~~2. IF THE DECISION FOR REMOVAL ORIGINATED FROM A COMPLAINT UNDER PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 90 DAYS OF RECEIVING A COMPLAINT FROM THE COUNTY BOARD~~; and

(ii) The county superintendent shall have an opportunity to be heard publicly before the State Superintendent in the county superintendent's own defense, in person or by counsel.

(4) *(I)* A COUNTY BOARD MAY REMOVE A COUNTY SUPERINTENDENT UNDER THIS SUBSECTION IF THE COUNTY BOARD PROVIDES THE COUNTY SUPERINTENDENT WITH:

~~(I)~~ *1.* THE REASON FOR REMOVAL, CHOSEN FROM ONE OR MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION;

~~(II)~~ *2.* DOCUMENTATION SUPPORTING THE CASE FOR REMOVAL; AND

~~(III)~~ *3.* THE OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS BEFORE THE COUNTY BOARD IN ACCORDANCE WITH THIS SUBSECTION.

(II) THE COUNTY SUPERINTENDENT MAY APPEAL THE DECISION OF THE COUNTY BOARD TO THE STATE BOARD.

~~(5) IF A COUNTY SUPERINTENDENT REQUESTS A HEARING BEFORE THE COUNTY BOARD WITHIN THE 10–DAY PERIOD:~~

~~(I) THE COUNTY BOARD PROMPTLY SHALL HOLD A HEARING, BUT A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE COUNTY BOARD SENDS THE COUNTY SUPERINTENDENT A NOTICE OF THE HEARING; AND~~

~~(II) THE COUNTY SUPERINTENDENT SHALL HAVE AN OPPORTUNITY TO BE HEARD PUBLICLY BEFORE THE COUNTY BOARD IN THE COUNTY SUPERINTENDENT'S OWN DEFENSE, IN PERSON OR BY COUNSEL.~~

~~(6) THE COUNTY SUPERINTENDENT MAY APPEAL FROM THE DECISION OF THE STATE SUPERINTENDENT OR THE COUNTY BOARD TO:~~

~~(I) THE STATE BOARD; OR~~

~~(II) AN ARBITRATOR IN ACCORDANCE WITH PARAGRAPH (7) OF THIS SUBSECTION.~~

~~(5)~~ (7) ~~(I) IF THE COUNTY SUPERINTENDENT REQUESTS A HEARING BEFORE AN ARBITRATOR WITHIN THE 30-DAY PERIOD, THE HEARING APPEALS FROM THE DECISION OF THE STATE SUPERINTENDENT OR THE COUNTY BOARD TO AN ARBITRATOR, THE HEARING BEFORE THE ARBITRATOR SHALL BE CONDUCTED IN ACCORDANCE WITH THIS PARAGRAPH.~~

~~(II) 1. AN ARBITRATOR SHALL BE SELECTED AS PROVIDED IN THIS SUBPARAGRAPH.~~

~~2. IF THE STATE SUPERINTENDENT OR COUNTY BOARD AND THE COUNTY SUPERINTENDENT AGREE ON AN ARBITRATOR, THE ARBITRATOR SHALL BE CHOSEN BY MUTUAL AGREEMENT OF THE PARTIES.~~

~~3. IF THE STATE SUPERINTENDENT OR COUNTY BOARD AND THE COUNTY SUPERINTENDENT CANNOT AGREE ON AN ARBITRATOR:~~

~~A. THE STATE SUPERINTENDENT OR COUNTY BOARD SHALL REQUEST FROM THE AMERICAN ARBITRATION ASSOCIATION A LIST OF THE ARBITRATORS THAT ARE AVAILABLE TO HEAR THIS TYPE OF DISPUTE AND MAKE A DECISION IN A TIMELY MANNER; AND~~

~~B. THE PARTIES ALTERNATELY SHALL STRIKE ARBITRATORS FROM THE LIST.~~

~~(III) A STENOGRAPHIC RECORD SHALL BE MADE OF THE PROCEEDINGS BEFORE THE ARBITRATOR.~~

~~(IV) 1. THE ARBITRATOR SHALL DETERMINE WHETHER THE STATE SUPERINTENDENT OR COUNTY BOARD HAS SUFFICIENT CAUSE FOR REMOVAL OF THE COUNTY SUPERINTENDENT.~~

~~2. A LESSER PENALTY THAN REMOVAL MAY BE IMPOSED BY THE ARBITRATOR ONLY TO THE EXTENT THAT EITHER PARTY PROPOSES THE LESSER PENALTY IN THE PROCEEDING.~~

~~(V) 1. THE STATE SUPERINTENDENT OR COUNTY BOARD AND THE COUNTY SUPERINTENDENT SHALL PAY THEIR OWN RESPECTIVE COSTS AND EXPENSES ASSOCIATED WITH ANY WITNESS OR EVIDENCE PRODUCED BY THE RESPECTIVE PARTIES.~~

~~2. IF THE ARBITRATOR DETERMINES THAT THE STATE SUPERINTENDENT OR COUNTY BOARD HAD SUFFICIENT CAUSE TO REMOVE THE COUNTY SUPERINTENDENT, THE COUNTY SUPERINTENDENT SHALL PAY THE FEES AND EXPENSES INCURRED OR CHARGED BY THE ARBITRATOR AND THE ADMINISTRATIVE FEES, IF ANY, OF THE AMERICAN ARBITRATION ASSOCIATION.~~

~~3. IF THE ARBITRATOR DETERMINES THAT THE STATE SUPERINTENDENT OR COUNTY BOARD DID NOT HAVE SUFFICIENT CAUSE TO REMOVE THE COUNTY SUPERINTENDENT, THE STATE SUPERINTENDENT OR COUNTY BOARD SHALL PAY THE FEES AND EXPENSES INCURRED OR CHARGED BY THE ARBITRATOR AND THE ADMINISTRATIVE FEES, IF ANY, OF THE AMERICAN ARBITRATION ASSOCIATION.~~

~~(VI) 1. THE DECISION AND AWARD BY THE ARBITRATOR ARE FINAL AND BINDING ON THE PARTIES.~~

~~2. AN INDIVIDUAL A PARTY MAY REQUEST JUDICIAL REVIEW BY A CIRCUIT COURT, WHICH SHALL BE GOVERNED BY THE MARYLAND UNIFORM ARBITRATION ACT.~~

~~(6) THE COUNTY SUPERINTENDENT OR, IN CASES ORIGINATING FROM A COMPLAINT OF THE COUNTY BOARD UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY BOARD MAY APPEAL THE DECISION OF THE STATE SUPERINTENDENT TO THE STATE BOARD.~~

(f) On notification of pending criminal charges against a county superintendent as provided under § 4–206 of this subtitle, the county board may suspend the county superintendent with pay until the final disposition of the criminal charges.

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

Approved by the Governor, May 13, 2019.

Chapter 444

(House Bill 47)

AN ACT concerning

State Department of Education and Maryland Department of Health – Maryland School–Based Health Center Standards – Revision

FOR the purpose of requiring the State Department of Education and the Maryland Department of Health to revise certain standards regarding Maryland school–based health centers; and generally relating to standards for school–based health centers.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, on or before August 1, 2019, the State Department of Education and the Maryland Department of Health shall revise the Maryland School–Based Health Center Standards to:

(1) repeal requirements for:

(i) a school–based health center to have a medical director who is a physician; and

(ii) a physician consultant to be available to the staff of the school–based health center to discuss clinical issues as needed; and

(2) authorize a physician licensed under Title 14 of the Health Occupations Article, or a nurse practitioner licensed under Title 8 of the Health Occupations Article, to serve as a clinical director or a clinical consultant of a school–based health center.

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

Approved by the Governor, May 13, 2019.

Chapter 445

(House Bill 924)

AN ACT concerning

State Board of Physicians – Registered Cardiovascular Invasive Specialists

FOR the purpose of authorizing a licensed physician, under certain circumstances and in accordance with certain regulations, to delegate certain duties to a registered cardiovascular invasive specialist assisting in the physician's performance of a fluoroscopy; establishing that the hospital in which a certain laboratory is located and the physician delegating the acts are responsible for ensuring that certain requirements are met; authorizing the State Board of Physicians to impose a certain civil penalty for each instance of a hospital's failure to comply with certain requirements; defining "registered cardiovascular invasive specialist"; requiring the Maryland Health Care Commission to conduct a certain review, work with the Maryland Hospital Association to gather certain information, and submit its findings to the Governor and the General Assembly on or before a certain date; providing for

the termination of certain provisions of this Act; and generally relating to registered cardiovascular invasive specialists.

BY renumbering
Article – Health Occupations
Section 14–101(p)
to be Section 14–101(q)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health Occupations
Section 14–101(p)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–306
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 14–101(p) of Article – Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 14–101(q).

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health Occupations

14–101.

(P) "REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST" MEANS AN INDIVIDUAL WHO IS CREDENTIALED BY CARDIOVASCULAR CREDENTIALING INTERNATIONAL OR ANOTHER CREDENTIALING BODY APPROVED BY THE BOARD TO ASSIST IN CARDIAC CATHETERIZATION PROCEDURES UNDER THE DIRECT, IN–PERSON SUPERVISION OF A LICENSED PHYSICIAN.

14–306.

(a) To the extent permitted by the rules, regulations, and orders of the Board, an individual to whom duties are delegated by a licensed physician may perform those duties without a license as provided in this section.

(b) The individuals to whom duties may be delegated under this section include

any individual authorized to practice any other health occupation regulated under this article or § 13–516 of the Education Article.

(c) The Board shall adopt rules and regulations to delineate the scope of this section. Before it adopts any rule or regulation under this section, the Board shall invite and consider proposals from any individual or health group that could be affected by the rule or regulation.

(d) (1) If a duty that is to be delegated under this section is a part of the practice of a health occupation that is regulated under this article by another board, any rule or regulation concerning that duty shall be adopted jointly by the Board of Physicians and the board that regulates the other health occupation.

(2) If the two boards cannot agree on a proposed rule or regulation, the proposal shall be submitted to the Secretary for a final decision.

(e) Except as otherwise provided in this section, an individual may perform X–ray duties without a license only if the duties:

(1) Do not include:

(i) Computerized or noncomputerized tomography;

(ii) Fluoroscopy;

(iii) Invasive radiology;

(iv) Mammography;

(v) Nuclear medicine;

(vi) Radiation therapy; or

(vii) Xerography;

(2) Are limited to X–ray procedures of the:

(i) Chest, anterior–posterior and lateral;

(ii) Spine, anterior–posterior and lateral; or

(iii) Extremities, anterior–posterior and lateral, not including the head; and

(3) Are performed:

(i) By an individual who is not employed primarily to perform

X–ray duties;

(ii) In the medical office of the physician who delegates the duties; and

(iii) 1. By an individual who, before October 1, 2002, has:

A. Taken a course consisting of at least 30 hours of training in performing X–ray procedures approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; and

B. Successfully passed an examination based on that course that has been approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; or

2. By a licensed physician assistant who has completed a course that includes anterior–posterior and lateral radiographic studies of extremities on at least 20 separate patients under the direct supervision of the delegating physician or radiologist using a mini C–arm or similar low–level radiation machine to perform nonfluoroscopic X–ray procedures, if the duties:

A. Include only the X–ray procedures described in paragraph (2)(iii) of this subsection; and

B. Are performed pursuant to a Board–approved delegation agreement that includes a request to perform advanced duties under § 15–302(c)(2) of this article.

(F) (1) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD, A LICENSED PHYSICIAN MAY DELEGATE DUTIES TO A REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST ASSISTING IN THE PHYSICIAN'S PERFORMANCE OF FLUOROSCOPY IF:

(I) THE DELEGATED DUTIES ARE LIMITED TO A CARDIAC CATHETERIZATION PROCEDURE PERFORMED IN A HOSPITAL CARDIAC CATHETERIZATION LABORATORY;

(II) THE PHYSICIAN IS PHYSICALLY PRESENT AND PERSONALLY DIRECTS EACH ACT PERFORMED BY THE REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST;

(III) THE REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST HAS COMPLETED THE TRAINING AND EDUCATION AND HAS THE EXPERIENCE REQUIRED BY REGULATIONS ADOPTED BY THE BOARD; AND

(IV) THE HOSPITAL IN WHICH THE CARDIAC CATHETERIZATION LABORATORY IS LOCATED HAS VERIFIED AND DOCUMENTED THAT THE REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST HAS COMPLETED THE TRAINING AND EDUCATION AND HAS THE EXPERIENCE REQUIRED BY REGULATIONS ADOPTED BY THE BOARD.

(2) THE HOSPITAL IN WHICH THE CARDIAC CATHETERIZATION LABORATORY IS LOCATED AND THE PHYSICIAN DELEGATING DUTIES TO A REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST UNDER THIS SUBSECTION ARE RESPONSIBLE FOR ENSURING THAT ALL REQUIREMENTS OF THIS SUBSECTION ARE MET FOR EACH PROCEDURE.

(3) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO $5,000 FOR EACH INSTANCE OF A HOSPITAL'S FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Health Care Commission shall:

(1) conduct a review of hospital cardiac catheterization laboratories in the State that includes:

(i) the number and nature of radiation injuries that have occurred in a hospital cardiac catheterization laboratory in the period from October 1, 2016, through September 1, 2022, both inclusive;

(ii) the number and nature of instances in which the State Board of Physicians has imposed a civil penalty on a hospital under § 14–306(f)(3) of the Health Occupations Article since October 1, 2019; and

(iii) working with the Maryland Hospital Association to gather information on the number of registered cardiovascular invasive specialists employed by hospitals and the number of vacant positions for technicians in hospital cardiac catheterization laboratories; and

(2) on or before October 1, 2023, submit its findings to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019. It shall remain effective for a period of 5 years and, at the end of September 30, 2024, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2019.

Chapter 446

(House Bill 228)

AN ACT concerning

State Board of Nursing – Criminal History Records Checks – ~~Certified Nursing Assistants and Certified Medication Technicians~~ Revised Statement

FOR the purpose of ~~requiring certain applicants for certification as a medication technician by the State Board of Nursing to submit to a certain criminal history records check;~~ requiring the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to provide a revised criminal history record to the Board under certain circumstances; ~~requiring the Board to require a certain criminal history records check for certain applicants for certification and for certain former certified medication technicians who file for reinstatement; requiring the Board to require certain certified medication technicians to obtain a certain criminal history records check as a condition of a certain certificate renewal; providing for the application of this Act;~~ and generally relating to criminal history records checks for ~~certified~~ nurses and nursing assistants ~~and certified medication technicians~~.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–303~~, 8–6A–05(e), 8–6A–07(h), and 8–6A–08(k)(1)~~
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

8–303.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(d) **[**(1) Beginning January 1, 2015, the Board shall establish a rap back program through which the Central Repository reports all new and additional criminal history information to the Board for an applicant who has been fingerprinted in accordance with the requirements of this section.**]**

(1) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD A REVISED PRINTED STATEMENT OF THE INDIVIDUAL'S STATE CRIMINAL HISTORY RECORD.

(2) The Board shall notify each applicant that:

(i) The applicant's fingerprints will be retained by the Central Repository; and

(ii) All new and additional criminal information will be reported to the Board.

(3) The Board may enter into an agreement with the Central Repository and the Federal Bureau of Investigation to carry out this subsection.

(e) If an applicant has made two or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(f) Information obtained from the Central Repository under this section shall be:

(1) Confidential and may not be redisseminated; and

(2) Used only for the licensing purpose authorized by this title.

(g) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

~~8–6A–05.~~

~~(c) (1) An applicant for a certificate shall:~~

~~(i) Submit an application to the Board on the form that the Board requires;~~

~~(ii) Provide evidence, as required by the Board, of successful completion of:~~

~~1. An approved nursing assistant training program;~~

~~2. An approved course in medication administration; or~~

~~3. A portion of an approved nursing education program that the Board determines meets the requirements of a nursing assistant training program or medication administration course;~~

~~(iii) Pay to the Board an application fee set by the Board;~~

~~(iv) Be of good moral character;~~

~~(v) Be at least 16 years old to apply for certification as a nursing assistant;~~ **[**~~and~~**]**

~~(vi) Be at least 18 years old to apply for certification as a medication technician~~**[**~~.~~**]**~~; AND~~

[~~(2)~~**]** ~~**(VII)**~~ **[**~~Subject to paragraph (1) of this subsection, an applicant for certification as a certified nursing assistant shall submit~~**] SUBMIT** ~~to the Board:~~

[~~(i)~~**]** ~~**1.**~~ ~~A criminal history records check in accordance with § 8–303 of this title and § 8–6A–08(k) of this subtitle; and~~

[~~(ii)~~**]** ~~**2.**~~ ~~On the form required by the Board, written, verified evidence that the requirement of item~~ **[**~~(i)~~**] 1** ~~of this~~ **[**~~paragraph~~**] ITEM** ~~is being met or has been met.~~

[~~(3)~~**] (2)** ~~An applicant for certification as a certified medicine aide, in addition to the requirements under paragraph (1) of this subsection, shall submit an additional application to that effect to the Board on the form that the Board requires.~~

[~~(4)~~**] (3)** ~~An applicant for a certificate may not:~~

~~(i) Have committed any act or omission that would be grounds for discipline or denial of certification under this subtitle; and~~

~~(ii) Have a record of abuse, negligence, misappropriation of a resident's property, or any disciplinary action taken or pending in any other state or territory of the United States against the certification of the nursing assistant or medication technician in the state or territory.~~

~~8–6A–07.~~

~~(h) (1)~~ **~~THE BOARD SHALL REQUIRE A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8–303 OF THIS TITLE FOR EVERY INITIAL APPLICANT FOR CERTIFICATION AS:~~**

~~(I) A CERTIFIED NURSING ASSISTANT; AND~~

~~(II) BEGINNING JANUARY 1, 2020, A CERTIFIED MEDICATION TECHNICIAN.~~

~~(2)~~ ~~On receipt of the criminal history record information of an applicant for certification~~ **~~[~~**~~as a certified nursing assistant~~**~~]~~** ~~forwarded to the Board in accordance with § 8–303 of this title, in determining whether to grant a certificate, the Board shall consider:~~

~~(i) The age at which the crime was committed;~~

~~(ii) The circumstances surrounding the crime;~~

~~(iii) The length of time that has passed since the crime;~~

~~(iv) Subsequent work history;~~

~~(v) Employment and character references; and~~

~~(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.~~

~~[~~~~(2)~~**~~]~~** **~~(3)~~** ~~The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.~~

~~8–6A–08.~~

~~(k) (1) (i) The Board shall require criminal history records checks in accordance with § 8–303 of this title on:~~

~~1. Selected applicants for certification [as a certified nursing assistant] who renew their certificates every 2 years as determined by regulations adopted by the Board; and~~

~~2. Each former certified nursing assistant **OR CERTIFIED MEDICATION TECHNICIAN** who files for reinstatement under subsection (g) of this section after failing to renew the certificate for a period of 1 year or more.~~

~~(ii) An additional criminal history records check shall be performed every 12 years thereafter.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Nursing shall require each certified medication technician who is certified before the effective date of this Act to obtain a criminal history records check in accordance with § 8–303 of the Health Occupations Article as a condition of certificate renewal for the first renewal that occurs on or after the effective date of this Act.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to require any certified medication technician or applicant for certification as a medication technician to obtain a criminal history records check before the effective date of this Act.~~

SECTION ~~4.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 447

(Senate Bill 134)

AN ACT concerning

State Board of Nursing – Criminal History Records Checks – ~~Certified Nursing Assistants and Certified Medication Technicians~~ Revised Statement

FOR the purpose of ~~requiring certain applicants for certification as a medication technician by the State Board of Nursing to submit to a certain criminal history records check;~~ requiring the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to provide a revised criminal history record to the Board under certain circumstances; ~~requiring the Board to require a certain criminal history records check for certain applicants for certification and for certain former certified medication technicians who file for reinstatement; requiring the Board to require certain certified medication technicians to obtain a certain criminal history records check as a condition of a~~

~~certain certificate renewal; providing for the application of this Act;~~ and generally relating to criminal history records checks for ~~certified~~ nurses and nursing assistants ~~and certified medication technicians~~.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–303~~, 8–6A–05(e), 8–6A–07(h), and 8–6A–08(k)(1)~~
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

8–303.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(d) **[**(1) Beginning January 1, 2015, the Board shall establish a rap back program through which the Central Repository reports all new and additional criminal history information to the Board for an applicant who has been fingerprinted in accordance with the requirements of this section.**]**

(1) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD A

REVISED PRINTED STATEMENT OF THE INDIVIDUAL'S STATE CRIMINAL HISTORY RECORD.

(2) The Board shall notify each applicant that:

(i) The applicant's fingerprints will be retained by the Central Repository; and

(ii) All new and additional criminal information will be reported to the Board.

(3) The Board may enter into an agreement with the Central Repository and the Federal Bureau of Investigation to carry out this subsection.

(e) If an applicant has made two or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(f) Information obtained from the Central Repository under this section shall be:

(1) Confidential and may not be redisseminated; and

(2) Used only for the licensing purpose authorized by this title.

(g) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

~~8–6A–05.~~

~~(e) (1) An applicant for a certificate shall:~~

~~(i) Submit an application to the Board on the form that the Board requires;~~

~~(ii) Provide evidence, as required by the Board, of successful completion of:~~

~~1. An approved nursing assistant training program;~~

~~2. An approved course in medication administration; or~~

~~3. A portion of an approved nursing education program that the Board determines meets the requirements of a nursing assistant training program or medication administration course;~~

~~(iii) Pay to the Board an application fee set by the Board;~~

~~(iv) Be of good moral character;~~

~~(v) Be at least 16 years old to apply for certification as a nursing assistant;~~ **[**~~and~~**]**

~~(vi) Be at least 18 years old to apply for certification as a medication technician~~**[**~~.~~**]**~~; AND~~

[~~(2)~~**]** **(VII)** **[**~~Subject to paragraph (1) of this subsection, an applicant for certification as a certified nursing assistant shall submit~~**]** **SUBMIT** to the Board:

[~~(i)~~**]** **1.** ~~A criminal history records check in accordance with § 8–303 of this title and § 8–6A–08(k) of this subtitle; and~~

[~~(ii)~~**]** **2.** ~~On the form required by the Board, written, verified evidence that the requirement of item~~ **[**~~(i)~~**] 1** ~~of this~~ **[**~~paragraph~~**]** **ITEM** ~~is being met or has been met.~~

[~~(3)~~**] (2)** ~~An applicant for certification as a certified medicine aide, in addition to the requirements under paragraph (1) of this subsection, shall submit an additional application to that effect to the Board on the form that the Board requires.~~

[~~(4)~~**] (3)** ~~An applicant for a certificate may not:~~

~~(i) Have committed any act or omission that would be grounds for discipline or denial of certification under this subtitle; and~~

~~(ii) Have a record of abuse, negligence, misappropriation of a resident's property, or any disciplinary action taken or pending in any other state or territory of the United States against the certification of the nursing assistant or medication technician in the state or territory.~~

~~8–6A–07.~~

~~(h) (1)~~ **THE BOARD SHALL REQUIRE A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8–303 OF THIS TITLE FOR EVERY INITIAL APPLICANT FOR CERTIFICATION AS:**

(I) A CERTIFIED NURSING ASSISTANT; AND

(II) BEGINNING JANUARY 1, 2020, A CERTIFIED MEDICATION TECHNICIAN.

~~**(2)** On receipt of the criminal history record information of an applicant for certification **[**as a certified nursing assistant**]** forwarded to the Board in accordance with § 8–303 of this title, in determining whether to grant a certificate, the Board shall consider:~~

~~(i) The age at which the crime was committed;~~

~~(ii) The circumstances surrounding the crime;~~

~~(iii) The length of time that has passed since the crime;~~

~~(iv) Subsequent work history;~~

~~(v) Employment and character references; and~~

~~(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.~~

~~**[**(2)**]** **(3)** The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.~~

~~8–6A–08.~~

~~(k) (1) (i) The Board shall require criminal history records checks in accordance with § 8–303 of this title on:~~

~~1. Selected applicants for certification **[**as a certified nursing assistant**]** who renew their certificates every 2 years as determined by regulations adopted by the Board; and~~

~~2. Each former certified nursing assistant **OR CERTIFIED MEDICATION TECHNICIAN** who files for reinstatement under subsection (g) of this section after failing to renew the certificate for a period of 1 year or more.~~

~~(ii) An additional criminal history records check shall be performed every 12 years thereafter.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Nursing shall require each certified medication technician who is certified before the effective date of this Act to obtain a criminal history records check in accordance with § 8–303 of the Health Occupations Article as a condition of certificate renewal for the first renewal that occurs on or after the effective date of this Act.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to require any certified medication technician or applicant for certification as a medication technician to obtain a criminal history records check before the effective date of this Act.~~

SECTION ~~4.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 448

(House Bill 796)

AN ACT concerning

Public Health – Maternal Mortality Review Program – Establishment of Local Teams

FOR the purpose of authorizing the establishment of certain maternal mortality review teams in each county; requiring the local health officer to convene the local team under certain circumstances; providing that a local team may include certain representatives; ~~requiring~~ authorizing local teams to include certain members; requiring each local team to elect a chair; establishing the purpose and duties of local teams; authorizing the Department to release certain information at the discretion of the Secretary of Health; authorizing the Secretary to release certain data and findings to certain entities under certain circumstances; requiring, rather than authorizing, the Secretary to provide copies of certain death certificates to the Program; requiring the Secretary to provide the Program with certain information and records under certain circumstances; requiring that ~~the Maternal Mortality Review Program to provide~~ a local team be provided access to certain information and records under certain circumstances; providing that certain meetings are closed and certain meetings are open, subject to certain provisions of law; prohibiting the disclosure of certain information during a certain public meeting; providing that certain information and records are confidential and exempt from disclosure under a certain provision of law and may be disclosed only for a certain purpose; providing that certain compilations of data are public records and certain reports are public information; prohibiting certain individuals from disclosing certain information; providing that certain individuals may not be subject to certain questioning in certain proceedings; providing that certain ~~information, documents, and records~~ proceedings, records, and files are not subject to subpoena, discovery, or introduction into evidence in certain proceedings; ~~establishing certain penalties;~~ establishing a certain penalty; making technical and conforming changes; defining ~~a~~ certain ~~term~~ terms; and generally relating to the Maryland Mortality Review Program and the establishment of local maternal mortality review teams.

BY renumbering
Article – Health – General
Section 13–1207 and 13–1208, respectively

to be Section 13–1212 and 13–1213, respectively
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–1201 and 13–1204
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health – General
Section 13–1207 through 13–1211
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 13–1207 and 13–1208, respectively, of Article – Health – General of the Annotated Code of Maryland be renumbered to be Section(s) 13–1212 and 13–1213, respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

13–1201.

(a) In this subtitle the following words have the meanings indicated.

(B) "DATA USE AGREEMENT" MEANS AN AGREEMENT BETWEEN THE DEPARTMENT AND A NATIONAL, STATE, OR LOCAL AGENCY OR PROGRAM THAT ESTABLISHES THE TERMS AND CONDITIONS FOR THE CONFIDENTIAL SUBMISSION, COLLECTION, STORAGE, ANALYSIS, REPORTING, AGGREGATION, AND DISSEMINATION OF DE–IDENTIFIED DATA OBTAINED FROM THE MATERNAL MORTALITY REVIEW PROGRAM.

~~(b)~~ **(C)** "Faculty" means the Medical and Chirurgical Faculty in the State.

~~(C)~~ **(D) "LOCAL TEAM" MEANS THE MULTIDISCIPLINARY AND MULTIAGENCY MATERNAL MORTALITY REVIEW TEAM ESTABLISHED FOR A COUNTY.**

[(c)**]** ~~(D)~~ **(E)** "Maternal ~~child health~~ **MORTALITY REVIEW** committee" means the maternal ~~child health~~ **MORTALITY REVIEW** committee of the Faculty that is a medical review committee, as defined under § 1–401 of the Health Occupations Article.

[(d)**]** ~~**(E)**~~ **(F)** "Maternal death" means the death of a woman during pregnancy or within 1 year after the woman ceases to be pregnant.

13–1204.

(a) The Secretary may contract with the Faculty to administer the Maternal Mortality Review Program.

(b) In consultation with the maternal **[**child health**]** **MORTALITY REVIEW** committee of a faculty, the Secretary shall develop a system to:

(1) Identify maternal death cases;

(2) Review medical records and other relevant data;

(3) Contact family members and other affected or involved persons to collect additional relevant data;

(4) Consult with relevant experts to evaluate the records and data collected;

(5) Make determinations regarding the preventability of maternal deaths;

(6) Develop recommendations for the prevention of maternal deaths; and

(7) Disseminate findings and recommendations to policy makers, health care providers, health care facilities, and the general public.

(C) ON THE APPROVAL OF THE SECRETARY AND WITH A SIGNED DATA USE AGREEMENT, THE DEPARTMENT MAY RELEASE DE–IDENTIFIED DATA AND FINDINGS TO THE CENTERS FOR DISEASE CONTROL AND PREVENTION, LOCAL MATERNAL MORTALITY REVIEW TEAMS, AND OTHER ENTITIES AT THE DISCRETION OF THE SECRETARY.

[(c)**]** **(D)** In accordance with § 4–221 of this article and notwithstanding § 4–224 of this article, the Secretary **[**may**]** **SHALL** provide the Program with **[**a copy of the death certificate of any woman whose death is suspected to have been a maternal death**]:**

(1) INFORMATION ON MATERNAL DEATH CASES WHEN THE RECORDS BECOME AVAILABLE, INCLUDING A COPY OF THE DEATH CERTIFICATE; AND

(2) MEDICAL INFORMATION FROM THE BIRTH OR FETAL DEATH RECORD FOR ANY PREGNANCY THAT OCCURRED WITHIN 1 YEAR BEFORE THE DEATH OF THE WOMAN, EXCLUDING SOCIAL SECURITY NUMBERS, ADDRESSES, AND NAMES OF THE INFANTS.

(E) ON THE REQUEST OF THE SECRETARY, THE PROGRAM SHALL BE PROVIDED ACCESS, TO THE EXTENT ALLOWED BY LAW, TO ALL INFORMATION AND RECORDS MAINTAINED BY A STATE OR LOCAL GOVERNMENT AGENCY, LAW ENFORCEMENT INVESTIGATIVE INFORMATION, MEDICAL EXAMINER INVESTIGATIVE INFORMATION, PAROLE AND PROBATION INFORMATION AND RECORDS, AND INFORMATION AND RECORDS OF A SOCIAL SERVICES AGENCY THAT PROVIDED SERVICES TO A WOMAN WHOSE DEATH IS BEING REVIEWED BY THE PROGRAM.

13–1207.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THERE MAY BE A MULTIDISCIPLINARY AND MULTIAGENCY MATERNAL MORTALITY REVIEW TEAM IN EACH COUNTY.

(2) (I) TWO OR MORE COUNTIES MAY AGREE TO ESTABLISH A SINGLE MULTICOUNTY LOCAL TEAM.

(II) A MULTICOUNTY LOCAL TEAM SHALL EXECUTE A MEMORANDUM OF UNDERSTANDING ON MEMBERSHIP, STAFFING, AND OPERATION.

(B) ~~A LOCAL TEAM SHALL INCLUDE THE FOLLOWING MEMBERS, WHEN AVAILABLE:~~

~~(1) THE LOCAL HEALTH OFFICER;~~

~~(2) THE DIRECTOR OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES;~~

~~(3) THE DIRECTOR OF THE COUNTY SUBSTANCE USE TREATMENT PROGRAM;~~

~~(4) THE DIRECTOR OF THE COUNTY MENTAL HEALTH AGENCY OR CORE SERVICE AGENCY;~~

~~(5) AN OBSTETRICIAN–GYNECOLOGIST;~~

~~(6) A DIRECT–ENTRY MIDWIFE;~~

~~(7) A BIRTH DOULA;~~

~~(8) A MEMBER OF THE PUBLIC WITH INTEREST OR EXPERTISE IN THE PREVENTION OF MATERNAL DEATHS, APPOINTED BY THE LOCAL HEALTH OFFICER; AND~~

~~(9) ANY OTHER INDIVIDUAL NECESSARY TO THE WORK OF THE LOCAL TEAM, RECOMMENDED BY THE LOCAL TEAM AND DESIGNATED BY THE LOCAL HEALTH OFFICER.~~

~~(C) THE MEMBERS DESCRIBED UNDER SUBSECTION (B)(1) THROUGH (4) OF THIS SECTION MAY DESIGNATE REPRESENTATIVES FROM THE RESPECTIVE DEPARTMENTS OR OFFICES TO REPRESENT THE MEMBER ON THE LOCAL TEAM.~~

~~(D)~~ **IF A LOCAL TEAM IS ESTABLISHED IN A COUNTY, THE LOCAL TEAM:**

(1) SHALL BE CONVENED BY THE LOCAL HEALTH OFFICER; AND

(2) MAY INCLUDE REPRESENTATIVES FROM OTHER LOCAL AGENCIES AND LOCAL ORGANIZATIONS, LICENSED HEALTH CARE PROVIDERS WITH EXPERTISE IN MATERNAL CHILD HEALTH, AND OTHER INDIVIDUALS NECESSARY TO THE WORK OF THE LOCAL TEAM, RECOMMENDED BY THE LOCAL TEAM, AND DESIGNATED BY THE LOCAL HEALTH OFFICER.

(C) FROM AMONG ITS MEMBERS, EACH LOCAL TEAM SHALL ELECT A CHAIR BY MAJORITY VOTE.

13–1208.

(A) THE PURPOSE OF A LOCAL TEAM IS TO PREVENT MATERNAL DEATHS BY:

(1) PROMOTING COOPERATION AND COORDINATION AMONG AGENCIES INVOLVED IN PREVENTING AND RESPONDING TO MATERNAL DEATHS OR IN PROVIDING SERVICES TO SURVIVING FAMILY MEMBERS;

(2) DEVELOPING AN UNDERSTANDING OF THE CAUSES AND INCIDENCE OF MATERNAL DEATHS IN THE COUNTY;

(3) DEVELOPING PLANS FOR AND RECOMMENDING CHANGES WITHIN THE COMMUNITY, LOCAL INSTITUTIONS, AND AGENCIES THE MEMBERS REPRESENT TO PREVENT MATERNAL DEATHS; AND

(4) ADVISING THE MATERNAL MORTALITY REVIEW PROGRAM ON CHANGES TO LAW, POLICY, OR PRACTICE TO PREVENT MATERNAL DEATHS.

(B) TO ACHIEVE ITS PURPOSE, A LOCAL TEAM SHALL:

(1) IN CONSULTATION WITH THE MATERNAL MORTALITY REVIEW PROGRAM, ESTABLISH AND IMPLEMENT A PROTOCOL FOR THE LOCAL TEAM;

(2) ~~SET AS ITS GOAL THE REVIEW OF MATERNAL DEATHS IN ACCORDANCE WITH NATIONAL STANDARDS;~~

~~(3)~~ MEET AT LEAST ~~QUARTERLY~~ ANNUALLY TO REVIEW THE STATUS OF MATERNAL FATALITY CASES, RECOMMEND ACTIONS TO IMPROVE COORDINATION OF SERVICES IN THE COMMUNITY, AND RECOMMEND ACTIONS WITHIN LOCAL INSTITUTIONS AND MEMBER AGENCIES TO PREVENT MATERNAL DEATHS;

~~(4) COLLECT AND MAINTAIN DATA ON MATERNAL DEATHS;~~

(3) ENTER INTO A DATA USE AGREEMENT WITH THE DEPARTMENT FOR THE RECEIPT OF INFORMATION FROM THE MATERNAL MORTALITY REVIEW PROGRAM NECESSARY TO CARRY OUT THE LOCAL TEAM'S PURPOSE AND DUTIES; AND

~~(5)~~ (4) PROVIDE REPORTS TO THE MATERNAL MORTALITY REVIEW PROGRAM, INCLUDING:

(I) INFORMATION ON, AND LOCAL TEAM DISCUSSIONS RELATED TO, INDIVIDUAL CASES;

(II) ANY RACIAL DISPARITIES OBSERVED DURING CASE REVIEW;

(III) STEPS TAKEN TO IMPROVE COORDINATION OF SERVICES AND INVESTIGATIONS;

(IV) STEPS TAKEN TO IMPLEMENT CHANGES RECOMMENDED BY THE LOCAL TEAM WITHIN MEMBER AGENCIES; AND

(V) RECOMMENDATIONS ON NECESSARY CHANGES TO STATE AND LOCAL LAW, POLICY, AND PRACTICE TO PREVENT MATERNAL DEATHS~~; AND~~.

~~(6) IN CONSULTATION WITH THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS GUIDELINES, DEFINE "SEVERE MATERNAL MORBIDITY".~~

13–1209.

(A) ON REQUEST OF THE CHAIR OF THE LOCAL TEAM AND AS NECESSARY TO CARRY OUT THE LOCAL TEAM'S PURPOSE AND DUTIES, THE ~~MATERNAL MORTALITY REVIEW PROGRAM SHALL IMMEDIATELY PROVIDE TO THE~~ LOCAL TEAM SHALL BE PROVIDED:

(1) ACCESS TO ALL RELEVANT INFORMATION AND RECORDS~~, INCLUDING INFORMATION ON PRENATAL CARE, MAINTAINED BY A HEALTH CARE PROVIDER REGARDING A WOMAN WHOSE DEATH IS BEING REVIEWED BY THE LOCAL TEAM~~ IN ACCORDANCE WITH THE LOCAL TEAM'S DATA USE AGREEMENT WITH THE DEPARTMENT; AND

(2) ACCESS, TO THE EXTENT ALLOWED BY LAW, TO ALL INFORMATION AND RECORDS MAINTAINED BY ANY STATE OR LOCAL GOVERNMENT AGENCY, ~~INCLUDING BIRTH CERTIFICATES,~~ LAW ENFORCEMENT INVESTIGATIVE INFORMATION, MEDICAL EXAMINER INVESTIGATIVE INFORMATION, PAROLE AND PROBATION INFORMATION AND RECORDS, AND INFORMATION AND RECORDS OF A SOCIAL SERVICES AGENCY THAT PROVIDED SERVICES TO:

~~(I)~~ ~~A~~ A WOMAN WHOSE DEATH IS BEING REVIEWED BY THE LOCAL TEAM~~; OR~~

~~(II) THE FAMILY OF A WOMAN DESCRIBED IN ITEM (I) OF THIS PARAGRAPH~~.

13–1210.

(A) A MEETING OF A LOCAL TEAM SHALL BE CLOSED TO THE PUBLIC AND NOT SUBJECT TO TITLE 3 OF THE GENERAL PROVISIONS ARTICLE WHEN A LOCAL TEAM IS DISCUSSING INDIVIDUAL CASES OF MATERNAL DEATHS.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A MEETING OF A LOCAL TEAM SHALL BE OPEN TO THE PUBLIC AND SUBJECT TO TITLE 3 OF THE GENERAL PROVISIONS ARTICLE WHEN THE LOCAL TEAM IS NOT DISCUSSING INDIVIDUAL CASES OF MATERNAL DEATHS.

(C) (1) DURING A PUBLIC MEETING, INFORMATION MAY NOT BE DISCLOSED THAT IDENTIFIES:

(I) A DECEASED WOMAN; OR

(II) A FAMILY MEMBER, GUARDIAN, OR CARETAKER OF A DECEASED WOMAN.

(2) DURING A PUBLIC MEETING, INFORMATION MAY NOT BE DISCLOSED REGARDING THE INVOLVEMENT OF ANY AGENCY WITH:

(I) A DECEASED WOMAN; OR

(II) A FAMILY MEMBER, GUARDIAN, OR CARETAKER OF A DECEASED WOMAN.

(D) THIS SECTION DOES NOT PROHIBIT A LOCAL TEAM FROM REQUESTING THE ATTENDANCE AT A TEAM MEETING OF AN INDIVIDUAL WHO HAS INFORMATION RELEVANT TO THE TEAM'S PERFORMANCE OF ITS PURPOSE AND DUTIES.

(E) A VIOLATION OF THIS SECTION IS A MISDEMEANOR AND IS PUNISHABLE BY A FINE NOT EXCEEDING $500 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH.

13–1211.

~~**(A) ALL INFORMATION AND RECORDS ACQUIRED BY A LOCAL TEAM, IN THE PERFORMANCE OF ITS PURPOSE AND DUTIES UNDER THIS SUBTITLE, ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER THE PUBLIC INFORMATION ACT AND MAY BE DISCLOSED ONLY AS NECESSARY TO CARRY OUT THE TEAM'S DUTIES AND PURPOSES.**~~

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROCEEDINGS, RECORDS, AND FILES OF A LOCAL TEAM ARE CONFIDENTIAL AND PRIVILEGED, AND ARE NOT DISCOVERABLE OR ADMISSIBLE AS EVIDENCE IN ANY CIVIL OR CRIMINAL PROCEEDING.

(B) STATISTICAL COMPILATIONS OF DATA THAT DO NOT CONTAIN ANY INFORMATION THAT WOULD CAUSE THE IDENTIFICATION OF ANY PERSON TO BE ASCERTAINED ARE PUBLIC RECORDS.

(C) REPORTS OF A LOCAL TEAM THAT DO NOT CONTAIN ANY INFORMATION THAT WOULD CAUSE THE IDENTIFICATION OF ANY PERSON TO BE ASCERTAINED ARE PUBLIC INFORMATION.

(D) ~~EXCEPT AS NECESSARY TO CARRY OUT A TEAM'S PURPOSE AND DUTIES, A~~ A MEMBER OF A TEAM AND AN INDIVIDUAL ATTENDING A TEAM MEETING MAY NOT DISCLOSE WHAT TRANSPIRED AT A MEETING THAT IS NOT PUBLIC UNDER § 13–1210 OF THIS SUBTITLE OR ANY INFORMATION THE DISCLOSURE OF WHICH IS PROHIBITED BY THIS SECTION.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MEMBER OF A TEAM, AN INDIVIDUAL ATTENDING A TEAM MEETING, AND AN INDIVIDUAL WHO PRESENTS INFORMATION TO A TEAM MAY NOT BE QUESTIONED IN ANY CIVIL OR CRIMINAL PROCEEDING REGARDING INFORMATION PRESENTED IN OR OPINIONS FORMED AS A RESULT OF A MEETING.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT AN INDIVIDUAL FROM TESTIFYING TO INFORMATION OBTAINED INDEPENDENTLY OF THE TEAM OR THAT IS PUBLIC INFORMATION.

~~**(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, INFORMATION, DOCUMENTS, AND RECORDS OF A LOCAL TEAM ARE NOT SUBJECT TO SUBPOENA, DISCOVERY, OR INTRODUCTION INTO EVIDENCE IN ANY CIVIL OR CRIMINAL PROCEEDING.**~~

~~**(2) INFORMATION, DOCUMENTS, AND RECORDS OTHERWISE AVAILABLE FROM OTHER SOURCES ARE NOT IMMUNE FROM SUBPOENA, DISCOVERY, OR INTRODUCTION INTO EVIDENCE THROUGH THOSE SOURCES SOLELY BECAUSE THE INFORMATION, DOCUMENTS, AND RECORDS WERE PRESENTED DURING PROCEEDINGS OF THE TEAM OR ARE MAINTAINED BY A TEAM.**~~

~~**(G) A VIOLATION OF THIS SECTION IS A MISDEMEANOR AND IS PUNISHABLE BY A FINE NOT EXCEEDING $500 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH.**~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.

Chapter 449

(House Bill 583)

AN ACT concerning

Health – Maternal Mortality Review Program – <u>Recommendations and</u> Reporting Requirement

FOR the purpose of <u>requiring the Maternal Mortality Review Program, in consultation with the Office of Minority Health and Health Disparities, to make recommendations to reduce any disparities in the maternal mortality rate;</u> requiring the Secretary of Health to include in a certain annual report regarding the Maternal Mortality Review Program a section on racial disparities that includes certain information; and generally relating to the Maternal Mortality Review Program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section <u>13–1204 and</u> 13–1207
Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

13–1204.

(a) The Secretary may contract with the Faculty to administer the Maternal Mortality Review Program.

(b) In consultation with the maternal child health committee of a faculty, the Secretary shall develop a system to:

(1) Identify maternal death cases;

(2) Review medical records and other relevant data;

(3) Contact family members and other affected or involved persons to collect additional relevant data;

(4) Consult with relevant experts to evaluate the records and data collected;

(5) Make determinations regarding the preventability of maternal deaths;

(6) Develop recommendations for the prevention of maternal deaths; and

(7) Disseminate findings and recommendations to policy makers, health care providers, health care facilities, and the general public.

(c) In accordance with § 4–221 of this article and notwithstanding § 4–224 of this article, the Secretary may provide the Program with a copy of the death certificate of any woman whose death is suspected to have been a maternal death.

(D) THE MATERNAL MORTALITY REVIEW PROGRAM, IN CONSULTATION WITH THE OFFICE OF MINORITY HEALTH AND HEALTH DISPARITIES, SHALL MAKE RECOMMENDATIONS TO REDUCE ANY DISPARITIES IN THE MATERNAL MORTALITY RATE INCLUDING RECOMMENDATIONS RELATED TO SOCIAL DETERMINANTS OF HEALTH.

13–1207.

(a) On or before December 1 of each year, the Secretary shall submit a report on findings, recommendations, and Program actions to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly.

(b) The Secretary shall include in the report required under subsection (a) of this section **[**a**]:**

(1) A summary of any stakeholder meetings held under § 13–1208 of this subtitle during the immediately preceding 12–month period that includes:

[(1)**] (I)** Stakeholder responses to existing recommendations; and

[(2)**] (II)** Recommendations from stakeholders that address factors contributing to maternal mortality**; AND**

(2) A SECTION ON RACIAL DISPARITIES THAT INCLUDES:

(I) A COMPARISON OF THE MATERNAL MORTALITY RATES OF NON–HISPANIC BLACK AND NON–HISPANIC WHITE WOMEN; ~~AND~~

(II) DATA ON CHANGES IN THE MATERNAL MORTALITY RATE BY RACE AND ETHNICITY;

(III) THE NUMBER OF LIVE BIRTHS BY RACE;

(IV) THE PERCENTAGE OF WOMEN WHO GAVE BIRTH BY RACE;

(V) THE PERCENTAGE OF MATERNAL DEATHS BY RACE AND ETHNICITY;

(VI) THE MATERNAL MORTALITY RATE BY RACE;

(VII) A COMPARISON OF THE LEADING CAUSES OF MATERNAL DEATH BY RACE; AND

(VIII) ANY OTHER INFORMATION THAT THE SECRETARY DETERMINES NECESSARY TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

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

Approved by the Governor, May 13, 2019.

Chapter 450

(Senate Bill 356)

AN ACT concerning

Health – Maternal Mortality Review Program – *Recommendations and* Reporting Requirement

FOR the purpose of *requiring the Maternal Mortality Review Program, in consultation with the Office of Minority Health and Health Disparities, to make recommendations to reduce any disparities in the maternal mortality rate;* requiring the Secretary of Health to include in a certain annual report regarding the Maternal Mortality Review Program a section on racial disparities that includes certain information; and generally relating to the Maternal Mortality Review Program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section *13–1204 and* 13–1207
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

13–1204.

(a) The Secretary may contract with the Faculty to administer the Maternal Mortality Review Program.

(b) In consultation with the maternal child health committee of a faculty, the Secretary shall develop a system to:

(1) Identify maternal death cases;

(2) Review medical records and other relevant data;

(3) Contact family members and other affected or involved persons to collect additional relevant data;

(4) Consult with relevant experts to evaluate the records and data collected;

(5) Make determinations regarding the preventability of maternal deaths;

(6) Develop recommendations for the prevention of maternal deaths; and

(7) Disseminate findings and recommendations to policy makers, health care providers, health care facilities, and the general public.

(c) In accordance with § 4–221 of this article and notwithstanding § 4–224 of this article, the Secretary may provide the Program with a copy of the death certificate of any woman whose death is suspected to have been a maternal death.

(D) THE MATERNAL MORTALITY REVIEW PROGRAM, IN CONSULTATION WITH THE OFFICE OF MINORITY HEALTH AND HEALTH DISPARITIES, SHALL MAKE RECOMMENDATIONS TO REDUCE ANY DISPARITIES IN THE MATERNAL MORTALITY RATE INCLUDING RECOMMENDATIONS RELATED TO SOCIAL DETERMINANTS OF HEALTH.

13–1207.

(a) On or before December 1 of each year, the Secretary shall submit a report on findings, recommendations, and Program actions to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly.

(b) The Secretary shall include in the report required under subsection (a) of this section **[**a**]:**

(1) A summary of any stakeholder meetings held under § 13–1208 of this subtitle during the immediately preceding 12–month period that includes:

[(1)**] (I)** Stakeholder responses to existing recommendations; and

[(2)**] (II)** Recommendations from stakeholders that address factors contributing to maternal mortality**; AND**

(2) A SECTION ON RACIAL DISPARITIES THAT INCLUDES:

(I) A COMPARISON OF THE MATERNAL MORTALITY RATES OF NON–HISPANIC BLACK AND NON–HISPANIC WHITE WOMEN; ~~AND~~

(II) DATA ON CHANGES IN THE MATERNAL MORTALITY RATE BY RACE AND ETHNICITY*;*

(III) THE NUMBER OF LIVE BIRTHS BY RACE;

(IV) THE PERCENTAGE OF WOMEN WHO GAVE BIRTH BY RACE;

(V) THE PERCENTAGE OF MATERNAL DEATHS BY RACE AND ETHNICITY;

(VI) THE MATERNAL MORTALITY RATE BY RACE;

(VII) A COMPARISON OF THE LEADING CAUSES OF MATERNAL DEATH BY RACE; AND

(VIII) ANY OTHER INFORMATION THAT THE SECRETARY DETERMINES NECESSARY TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

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

Approved by the Governor, May 13, 2019.

Chapter 451

(Senate Bill 598)

AN ACT concerning

Maryland Medical Assistance Program – Coverage – Hepatitis C Drugs

FOR the purpose of requiring the Maryland Medical Assistance Program, subject to a certain limitation, to provide coverage for certain drugs for the treatment of hepatitis C, regardless of the fibrosis score; and generally relating to the Maryland Medical Assistance Program and coverage for hepatitis C drugs.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–103(a)(1) and (b)(1), (2)(i), and (5)(i)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–103(a)(2)(xii) and (xiii)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health – General
Section 15–103(a)(2)(xiv)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

15–103.

(a) (1) The Secretary shall administer the Maryland Medical Assistance Program.

(2) The Program:

(xii) Shall provide services in accordance with funding restrictions included in the annual State budget bill; **[**and**]**

(xiii) Beginning on January 1, 2019, may provide, subject to the limitations of the State budget, and as permitted by federal law, dental services for adults whose annual household income is at or below 133 percent of the poverty level**; AND**

(XIV) SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, ~~ANY~~ MEDICALLY APPROPRIATE ~~DRUG~~ DRUGS THAT ~~IS~~ ARE APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF HEPATITIS C, REGARDLESS OF THE FIBROSIS SCORE, AND THAT ~~IS~~ ARE DETERMINED TO BE MEDICALLY NECESSARY ~~BY THE TREATING PHYSICIAN OF THE PROGRAM RECIPIENT~~.

(b) (1) As permitted by federal law or waiver, the Secretary may establish a program under which Program recipients are required to enroll in managed care organizations.

(2) (i) The benefits required by the program developed under paragraph (1) of this subsection shall be adopted by regulation and shall be equivalent to the benefit level required by the Maryland Medical Assistance Program on January 1, 1996.

(5) (i) Except for a service excluded by the Secretary under paragraph (4) of this subsection, each managed care organization shall provide all the benefits required by regulations adopted under paragraph (2) of this subsection.

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

Approved by the Governor, May 13, 2019.