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March 4, 2020

Chair Delores G. Kelley
Maryland Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, Maryland 21401

RE: SUPPORT FOR SB0879: Public Health - Maryland Infant Lifetime Care Trust Funded by HSCRC and Maryland Patient Safety Center Duties

Dear Chair Kelley:

My name is Robert James Walling III. I have been asked to present testimony in support of SB0879 related to the establishment of the Maryland Infant Lifetime Care Trust. I am a Fellow of the Casualty Actuarial Society (FCAS) and a member of the American Academy of Actuaries (MAAA). I am also a Chartered Enterprise Risk Analyst (CERA). I am currently a Principal and Consulting Actuary with Pinnacle Actuarial Resources, Inc. I have served the Casualty Actuarial Society in a number of roles including chairing several professional committees and recently completed my three year term as a member of the CAS Board of Directors. I have also recently been named to the 2019 Captive Review Power 50 most influential professionals in captive insurance for the fourth consecutive year.

My practice has focused on commercial lines ratemaking and product development, captive insurance companies, self-insurance programs, loss reserving, legislative costing, litigation support and regulatory assistance. One area of particular focus has been regulatory work related to medical professional liability insurance including government insurance programs, including patient compensation funds and birth funds. I have served the Virginia Birth Related Neurological Injury Compensation Program in various capacities since 2003. I have served the New York Medical Indemnity Fund since before it was enacted in October of 2011. I have also served patient compensation funds in New Mexico and Wisconsin since 2002 and 2007 respectively. Pinnacle has also served the Florida Birth-Related Neurological Injury Compensation Association (NICA) since 2008.

Support for Maryland Infant Lifetime Care Trust

The first key point I want to make about the proposed Maryland Infant Lifetime Care Trust is that **under the proposed system more benefits, in fact lifetime benefits, are paid than under**

the current system. This is because there is no limitation on the amount of coverage related to the solvency of the insurance company or the limits of coverage purchased by the health care provider. The Virginia birth fund pays over 90% of the funds they receive out in benefits to program participants. The compares to efficiency of 35% in the medical professional liability insurance industry. This difference is dramatic. Commercial medical professional liability insurance only delivers about a third of their total revenues to claimants, whereas a birth fund's frictional costs represent only 10% of total revenues that don't go to paying benefits to participants.

What does this mean in Maryland? Out of all of the current birth fund participants in Virginia, 60 of those families receive more $100,000 in benefits annually. Most of this group are expected to receive more than $10 million in total benefits over their child's lifetime. Neither of the following issues influenced whether the families received benefits or how much of a benefit they will receive:

- the quality of the health insurance of the impacted family
- the insurance coverage available from the healthcare providers and facilities involved

Birth funds substantially increase the fairness and equity for families dealing with birth injuries because eligible families receive the much needed support they deserve for these often severe, lifelong injuries regardless of these factors.

Expected Cost of Maryland Infant Lifetime Care Trust

Enclosed is Pinnacle Actuarial Resource's report providing information on design and funding features of other birth-related neurological injury compensation funds as well as the estimated benefit costs and funding levels developed by the current version of the proposed birth fund legislation in Maryland contained in SB0879. In summary, Pinnacle's analysis of the frequency of covered birth-related neurological injuries in Florida and Virginia suggests that Maryland can expect that between 0.9 and 1.0 claims per 10,000 live births, or a total of about 6.8 qualifying births, occur in Maryland annually. The basis for this actuarially assumed number of eligible births is almost thirty years of experience in the Virginia and Florida birth funds.

The experience of the existing birth funds suggests that the expected present value of lifetime benefits in Maryland would be between $2.87 million and $3.27 million per claim. Based on these assumptions, **the Maryland Infant Lifetime Care Trust would incur accrued benefits costs of between $18.4 million and $23.2 million annually**. Overall operational expenses are estimated at $750,000 annually, and an additional $1 million grant from the Trust is designated for improving maternal and fetal outcomes. Total expected costs for the Maryland Infant Lifetime Care Trust under the current bill are therefore $22.5 million.

The proposed approach to funding the proposed Maryland Infant Lifetime Care Trust is premiums assessed from Maryland hospitals through the Maryland Health Services Cost Review Commission (HSCRC). This approach is responsive to program experience, which helps assure the long-term viability of the Trust. **The legislation represents a reasonable, appropriate and actuarially sound approach to funding the Trust on an accrual basis.**

This funding approach results in an increase to Medicaid funding as a result of higher hospital premiums, but the Trust will remove future medical expenses from the Medicaid system. Based on the Virginia, Florida, and New York birth funds, approximately 60% of expenses paid by the Maryland Infant Lifetime Care Trust will otherwise be paid by Medicaid. **The indicated increase in Medicaid funding of $4.5 million is more than offset by the Trust removing $40.5 million in future medical expenses from Medicaid**.

Virginia Funding Status

Finally, it is important to have an accurate portrayal of the financial condition of the Virginia birth fund. Claims regarding the impaired financial condition of the Virginia program are greatly exaggerated and simply inaccurate. Last year, I performed an analysis of the Virginia birth fund based on data as of December 31, 2018. Pinnacle's report found that **the Virginia birth fund had assets of over $462 million available to pay future benefits** to the estimated 279 participants born on or before December 31, 2018. This compares to expected future benefits and administrative expenses of about $539 million, resulting in a forecasted deficit of $76.8 million. However, this does not consider future assessment income or the possibility of better than expected investment returns which the Virginia program often experiences. In short, **the Virginia program is as financially strong as it has been in years and capable of paying benefits to participants for many years into the future.**

I, Robert J. Walling III, FCAS, MAAA, CERA am a member in good standing of the American Academy of Actuaries and meet its qualification standards to render this actuarial opinion. If you have any questions, comments, or if you require anything further, please call me at 309.807.2320.

Sincerely,

Robert J. Walling III, FCAS, MAAA, CERA
Principal & Consulting Actuary
Pinnacle Actuarial Resources, Inc.

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February 26, 2020

Alliance for Lifetime Infant Care
c/o Ryan O'Doherty
Mercy Health Services
Director of External Affairs and Strategic Communications
[Delivered via email to RODohert@mdmercy.com]

Dear Mr. O'Doherty:

Enclosed is Pinnacle Actuarial Resource's (Pinnacle's) report to the Alliance for Lifetime Infant Care and other interested parties providing information on design and funding features of other birth-related neurological injury compensation funds (birth funds) as well as the estimated benefit costs and funding levels developed by the current version of the proposed birth fund legislation in Maryland contained in SB0879.

I, Robert J. Walling III, FCAS, MAAA, CERA am a member in good standing of the American Academy of Actuaries and meet its qualification standards to render this actuarial opinion.

If you have any questions, comments, or if you require anything further please call me at 309.807.2320.

Sincerely,

Robert J. Walling III, FCAS, MAAA, CERA
Principal and Consulting Actuary

Report on the Maryland SB0879

and the Feasibility, Design and Funding of

The Maryland Infant Lifetime Care Trust

February 2020

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Commitment Beyond Numbers

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Purpose & Scope

Pinnacle Actuarial Resources, Inc. (Pinnacle) has been retained by the Alliance for Lifetime Infant Care and other interested parties to provide an overview of the important design features of a potential birth-related neurological injury compensation fund (birth fund) in Maryland. In addition, Pinnacle has also been tasked with developing an estimate of expected annual benefits obligations of the final version of the proposed Maryland Infant Lifetime Care Trust legislation as contained in Maryland SB0879 and the expected revenue produced to fund these benefits. Pinnacle has relied heavily on available information regarding existing birth funds in Virginia and Florida, and to a lesser extent New York.

Executive Summary

There are several key elements about the design of a birth fund that can be determined by examining similar programs in Virginia and Florida. These include:

- Carefully defined benefits and eligibility requirements are an important feature of birth funds. Changes as simple as changing the phrase "physical and mental" to "physical or mental" can result in differences in benefits of millions of dollars.
- Formation as a segregated trust account, rather than a state agency, is the preferred organizational form.
- Birth funds are typically governed by a Board of Directors with representation by the various stakeholders including participating physicians, hospitals, non-participating physicians, liability insurers, and public citizens.
- Involvement of relevant state agencies, medical associations and medical schools can bring existing skills and expertise and ensure the development of strong program fundamental processes.
- An executive director, hired by the Board of Directors, and supporting staff are recommended to manage the day-to-day operations of a birth fund. Certain services requiring technical expertise, such as investment, legal and actuarial work, should be outsourced.
- Appropriate financial controls are imperative to the soundness of a birth fund.
- The proposed final legislation contains additional legislative features including requirements regarding the actuarial soundness of the unpaid benefits reserves and premium levels that

appear to strengthen the financial soundness of the proposed Maryland Infant Lifetime Care Trust.

- The proposed use of the existing Maryland Hospital Services Cost Review Commission (HSCRC or the Commission) to collect the premiums of the proposed Maryland Infant Lifetime Care Trust should prove to be an efficient and easy to implement administrative approach.

Pinnacle's analysis of the frequency of covered birth-related neurological injuries in Florida and Virginia suggests that Maryland can expect that between 0.9 and 1.0 claims per 10,000 live births, or a total of about 6.8 qualifying births, occur in Maryland annually. The experience of the existing birth funds suggests that the expected present value of lifetime benefits in Maryland as currently proposed would be between $2.87 million and $3.27 million per claim. Based on these assumptions, a Maryland birth fund would incur accrued benefits costs of between $18.4 million and $23.2 million annually. Overall operational expenses were estimated at $750,000 annually. In addition, the current bill proposes $1.0 million per year as a grant designated for improving maternal and fetal outcomes in the state. Total expected costs for the Infant Lifetime Care Trust under the current bill are therefore $22.5 million.

The proposed approach to funding the proposed Maryland Infant Lifetime Care Trust are premiums assessed from Maryland hospitals through the Maryland Hospital Services Cost Review Commission. Under the legislation, the HSCRC would be authorized to assess and collect premiums by establishing regulations to assess an annual premium on hospitals to fully account for the annual actuarial funding need of the birth injury fund based on an annual certified report. This approach has been used historically to fund other programs as well. In the following table, we show a few of these assessments and their size to the prior overall HSCRC revenue[1]:

[1] Table data provided by Mercy Health Services staff

Assessment	Payment	% of Revenue
Medicaid Expansion	193,914,773	1.07%
HSCRC User Fees	15,000,000	0.08%
Medicaid Deficit	309,000,000	1.70%
Maryland Health Care Commission	5,679,756	0.03%
Nurse Support Program 1	17,472,274	0.10%
Nurse Support Program 2	17,186,577	0.09%
Maryland Patient Safety Center	369,056	0.00%
Total Assessments	558,622,435	3.07%
Total Assessments with Markup	614,484,679	3.38%
Total Revenue	18,200,000,000	
Maryland Infant Lifetime Care Trust	24,728,530	0.14%

In comparison, the total cost of the Maryland Infant Lifetime Care Trust (including a 10% markup for nonpayment) would be only 0.14% of total revenue or 2.6% of obstetrics related revenue (see Exhibit 3, Page 1).

The HSCRC would be granted statutory authority to establish a hospital premium methodology that accounts for: geographic differences among hospitals, differences in historical birth-related claims experience among hospitals, and differences between hospitals that provide obstetrical care and those that do not. This represents a reasonable, appropriate and actuarially sound approach to funding the fund on an accrual basis. This approach should also help the proposed Maryland Infant Lifetime Care Trust avoid some of the pitfalls the Virginia birth fund has experienced in the past.

Birth Fund Background

General

It may be useful to define birth funds in general terms before describing specific features and options. Birth funds are a specialized form of patient compensation funds (PCFs). Patient compensation funds are medical malpractice government insurance programs, created by state law, designed to increase professional liability coverage availability and/or affordability primarily by providing coverage for a specific type of injury or an excess layer of coverage. In the case of birth funds, both the type of injury (birth-related neurological injuries) and the benefits are very precisely defined. To date, there are three birth funds (in Florida, New York and Virginia). There is also the National Vaccine Injury Compensation Program (VICP). VICP is a national program for individuals found to be injured by

certain vaccines. VICP has many of the same design features and benefits of a birth fund, but covers a different type of medical incident.

Three of these funds, other than New York's, were formed in the 1980's in response to severe crisis conditions in the healthcare industry and specifically medical professional liability. The most severe of these conditions related to birth-related neurological injuries which have very high claim severities, often in the tens of millions of dollars. The large claim severities and highly emotional nature of the claims presented significant challenges to the tort system. Similarly, the high claim costs also led directly to very high medical professional liability insurance premiums for hospitals and OB/GYNs. These costs were high enough that access to available and affordable healthcare became a material issue. The essential nature of obstetrics services makes the access to birth-related care particularly important. The New York program was established in late 2011 based on similar concerns as well as the additional incentive of removing future medical expenses for injured infants out of the Medicaid system. Currently Maryland is facing a similar crisis in the wake of a recent birth-related injury award totaling over $200 million.

We will focus on the Virginia and Florida programs as they are most similar to the type of program being considered in Maryland.

Benefits Provided

The nature of the coverage and benefits of the Florida and Virginia birth funds are somewhat similar to those proposed in Maryland. They provide unlimited and broad medical and economic benefits to qualifying program participants. The economic benefits are quite extensive and commonly extend beyond medical care (physicians, hospital, on-site nursing care, physical therapy, prescription drugs and medical equipment) to include housing and transportation accommodations, legal expenses and lost wages. There is no deductible or any other limitation of benefits. However, collateral sources such as health insurance and other sources of benefits, including state and federal health insurance programs, can provide primary compensation before the birth funds in some cases. In Virginia, the birth fund purchases health insurance for participants to deliver some of their benefits. These unlimited benefits do not include non-economic damages.

The general theory of the birth fund mechanisms is that all stakeholders in the medical professional liability system benefit from the fund. Injured infants and their families benefit by receiving much broader, unlimited benefits than they would receive in the tort system. Families benefit by receiving the guarantee of unlimited future medical payments instead of relying on a lump sum or periodic payments. Physicians and hospitals also benefit by often having lower overall insurance costs. Medical professional liability insurers benefit by not having to bear the risk and volatility associated with these

very low frequency/high severity claims. This often leads to greater availability and affordability of coverage and increased competition in the medical professional liability insurance sector.

In addition, a birth injury fund facilitates better cooperation between healthcare providers and patients and their families by allowing them to focus on developing and implementing treatment plans, rather than worrying about potential liability.

Virginia Birth-Related Neurological Injury Compensation Program

The Virginia Birth-Related Neurological Injury Compensation Program (VABRNICP or the Program) was created in 1987 to provide the exclusive remedy for covered birth-related neurological injuries in Virginia. Injury must have resulted from oxygen deprivation or mechanical injury during labor, delivery, or immediately post-delivery. The injury must result in both physical and mental impairment. Participation is voluntary for physicians, registered nurses, midwives and hospitals. A ten-year statute of limitations applies to all claims for Program benefits.

The Virginia Workers' Compensation Commission is the exclusive venue for hearings to determine whether a claimant will be admitted to the Program. The Virginia Office of the Attorney General supports the Program by providing requested legal services.

The process for filing a claim is as follows:

- The claimant submits a petition containing a specific list of required information and documentation.
- The Virginia Department of Health Professions, Board of Medicine and Department of Health all investigate the claim.
- The Program responds to the claim petition.
- The Virginia Workers' Compensation Commission holds a hearing to determine
    - whether the injury claimed is a birth-related neurological injury (based on the opinion of a panel of three qualified and impartial physicians with pertinent expertise and a plan developed by the deans of three medical schools in the state),
    - whether the obstetrical services were delivered by a participating physician
    - whether the birth occurred in a participating hospital, and
    - how much compensation is awardable.
- Subject to an appeals process for rehearings within a specified time frame, the findings of the Commission are conclusive and binding.

Benefits provided include:

- Unlimited actual, necessary medical expenses including physicians, nursing, hospital, rehabilitation and therapy, prescription medications, medical equipment and appliances and related travel expenses. This includes certain housing and transportation expenses.
- Loss of earnings from the age of 18 to age 65 based on 50% of the average weekly wage in the Commonwealth for workers in the private, non-farm sector.
- Reasonable attorney fees and other expenses associated with the application for admittance.
- As previously mentioned, several collateral sources offset Program benefits costs.

The birth fund legislation in Virginia also explicitly states several expenses that are not covered.

The Program is governed by a nine-member board of directors. The board is appointed by the Governor with six citizen representatives and one representative each of participating physicians, participating hospitals, and liability insurers. The board's powers are clearly delineated in the Program's enabling legislation. Day to day operations are managed by an Executive Director hired by the Board. The executive director is supported by additional staff as needed.

The Program is funded through the Virginia Birth-Related Neurological Injury Compensation Fund (the Fund), which is organized as a segregated account trust fund. The assets of the Fund are administered by the board of directors of the Program. The Board has retained investment advisors to manage the Program's assets.

The Program uses a variety of funding approaches and is intended to provide accrual based funding. First, participating physicians are required to pay a premium. The current assessment is $6,200. In addition, all licensed physicians, including non-OB/GYNs, that do not participate in the Program are required to pay a fee of $300 annually as a condition of being licensed in Virginia. Hospitals pay a premium of $55 per live birth to participate, subject to a maximum of $200,000 in premiums annually. A number of exclusions to the premiums apply for physicians with extenuating circumstances. Finally, if and only if the Program is determined to be actuarially unsound, a premium of up to 0.25% of all "net direct premiums written" by liability insurers in Virginia may be charged. These premiums of liability insurers have been charged at the maximum amount for many years. All changes in premium levels require legislative action.

Medical professional liability insurers in the Commonwealth of Virginia are <u>required</u> by law to provide a discount for hospitals and healthcare providers that participate in the Program. These discounts typically range from 15% to 20% of otherwise indicated premiums.

An annual audit by a certified public accountant selected by the board is a required element of the Program's financial controls. In addition, a biennial actuarial study on the financial soundness of the program and recommended premium rates is required. The actuarial study is funded and directed by the Virginia State Corporation Commission.

The current financial condition of the Program has been a subject of much discussion. The Fund currently shows an unfunded deficit on an accrual basis of approximately $76.8 million as of December 31, 2018. This deficit has grown substantially in recent years as the Fund's liabilities have shifted due to a 2018 court judgment. Previous deficits were the result of two historical issues. First, the Program initially significantly underestimated the life expectancy for Program participants. Essentially, the participants are living longer than expected. Over the last decade, the Program has steadily revised their life expectancies. This led to material adverse development of the unpaid benefits liability of the Fund which has resulted in previous revenues being inadequate to fund the ultimate benefits liabilities. Second, the requirements regarding revisions to Program premium levels made it extremely difficult to react to the higher expected loss estimates. However, it must be noted that on a cash flow basis the Fund appears to have the ability to pay benefits going forward for many years and holds sufficient assets to meet all expected future benefit obligations for current participants. The benefits paying ability and solvency of the Program will not be a concern for several decades and a variety of stakeholders are working diligently to further continue reducing and ultimately eliminate the Fund deficit.

Florida Birth-Related Neurological Injury Compensation Association (NICA)

The Florida Birth-Related Neurological Injury Compensation Association (NICA) was created in 1988 to provide an exclusive no-fault remedy for birth-related neurological injury claims in Florida. Injury must be a brain or spinal cord injury caused by oxygen deprivation or mechanical injury during labor, delivery, or immediately post-delivery. The injury must result in both physical and mental impairment. Florida also has a requirement that the weight at birth must exceed 2,500 grams, 2,000 for multiple gestations. The Plan also does not apply to genetic or congenital abnormalities. Participation is voluntary for physicians.

The Florida Division of Administrative Hearings is the exclusive venue for hearings to determine whether a claimant will be admitted to NICA.

The process for filing a claim is as follows:

- The claimant submits a petition containing a specific list of required information and documentation. (The required information is quite similar to Virginia's.)

- The Florida Division of Medical Quality Assurance and the Florida Agency for Health Care Administration both investigate the claim.
- NICA responds to the claim petition.
- The administrative law judge holds a hearing to determine:
    - whether the injury claimed is a birth-related neurological injury,
    - whether the obstetrical services were delivered by a participating physician
    - how much compensation is awardable.

The applicable statute of limitations for a birth-related neurological injury shall be tolled by the filing of a claim with NICA and the time that the claim to NICA is pending shall not be computed as part of the period within which a civil action may be brought. In addition, a claim must be made to NICA within five years of the birth.

Benefits provided include:

- Unlimited actual, necessary medical expenses including:
    - Medical
    - Hospital
    - Rehabilitation/therapy/training
    - Family or professional residential or custodial care
    - Prescription medications
    - Special equipment or facilities
    - Related travel expenses.
- Reasonable attorney fees and other expenses associated with the application for admittance.

The NICA legislation also explicitly states several expenses that are not covered and notes that collateral sources may offset NICA benefits.

The Program is governed by a five-member board of directors. The board is appointed by NICA's Chief Financial Officer. The board will be composed of one citizen representative, one representative of participating physicians, one hospital representative, one representative of liability insurers, and one representative of non-participating physicians. The board's powers are clearly delineated in the Program's enabling legislation. Day to day operations are managed by an executive team, including the Chief Financial Officer hired by the Board. The executive team is supported by additional staff as needed.

NICA is organized as a non-governmental association whose assets are treated as a segregated association fund. NICA is “not a state agency, board, or commission”, but may use the state seal.

NICA uses a variety of funding approaches intended to provide for benefits on an accrual basis. First, participating physicians are required to pay a premium of $6,200. In addition, all licensed physicians, including non-OB/GYNs, that do not participate in the Program are required to pay a fee of $300 annually as a condition of being licensed in Florida. Hospitals pay a premium of $55 per live birth. A number of exclusions to the premiums apply for physicians with extenuating circumstances. Finally, if and only if the above premiums are “insufficient to maintain the plan on an actuarially sound basis” two additional revenue sources are available. The first of these is a transfer of $20 million from the Insurance Regulatory Trust Fund. Further, a premium of up to 0.25% of all “net direct premiums written” by casualty insurers in Florida may be assessed. These insurers are also explicitly permitted to recoup these premiums via surcharges in future policy premiums. In addition, “if the Office of Insurance Regulation finds that the plan cannot be maintained on an actuarially sound basis…the office shall increase the premiums … on a proportional basis as needed.”

An annual audit by a certified public accountant selected by the board is required to be provided to the Office of Insurance Regulation. An annual actuarial study on the financial soundness of the program is also conducted. NICA also has a unique additional protection in their enabling legislation. It states that “in the event that the total of all current (claims) estimates equals 80% of the funds on hand and the funds that will become available to the association within the next 12 months from all sources…, the association shall not accept any new claims without express authority from the Legislature.”
NICA is currently in excellent financial condition, having avoided some of the problems experienced by the Virginia Program.

New York Medical Indemnity Fund (MIF)

“The Medical Indemnity Fund ("Fund") was established by Chapter 69 of the 2011 Session Laws of the State of New York. The Fund is designed to pay all future costs necessary to meet the health care needs of plaintiffs in medical malpractice actions who have received either court-approved settlements or judgments deeming the plaintiffs' neurological impairments to be birth-related.” More specifically, a “birth-related neurological injury” is “an injury to the brain or spinal cord as the result of a deprivation of oxygen or mechanical injury that occurred in the course of labor, delivery or resuscitation, or by the provision or non-provision of other medical services during the delivery admission.” The law in New York currently states that these injuries need to have “rendered the infant with a permanent and substantial motor impairment or with a developmental disability.” This change from requiring both physical and mental injuries to one or the other or both is a subtle but very important difference from Virginia and Florida. As a result, participation rates in New York are currently about five times the rates

in the other states as a large number of participants that would not be eligible in either other state are being accepted into the MIF. Another major difference between the MIF and the Florida and Virginia birth funds is that claims are still pursued through the tort system and the determination of birth fund coverage is made by the judge responsible for the case.

Benefits provided by the Fund include:

- Medical, Dental, Surgical and Hospital Care
- Nursing and Custodial Care
- Prescription and Non-Prescription Drugs
- Rehabilitation Services
- Durable Medical Equipment and Assistive Technology
- Certain Home and Vehicle Modifications
- Other Health Care Costs for Medical Services and Supplies for Participants

The New York State Department of Health (NYS DOH) serves as the current administrator of the Fund. Three different third party administrators (TPA) have been involved in the MIF.

The Fund currently is financed through a budget allocation from the state of New York and is indirectly funded by "a quality contribution … imposed on the inpatient revenue of each general hospital that is received for the provision of inpatient obstetrical patient care services in an amount equal to 1.6% of such revenue, as defined in § 2807-d(3)(a) of the Public Health Law." Participation in the fund is triggered by an application by any party to a medical professional liability claim to have the judgment reflect that the judgment should provide that the portion of the judgment related to benefits covered by the Fund should be paid by the Fund.

Birth Fund Design Features

In evaluating program features for a potential birth fund in Maryland, the lessons learned in Florida and Virginia can be instructive in replicating successes and assist in avoiding repetition of mistakes.

Benefits Provided

The benefits covered by both the Florida and Virginia birth funds are fairly similar with the exception of the wage loss benefit.

An additional feature associated with providing birth fund medical benefits that is worthy of consideration is the use of managed care networks and/or the application of fee schedules to provide medical benefits, particularly nursing care. Significant cost savings may be realized through the use of

these cost controlling mechanisms to provide these benefits. Both the Virginia and Florida programs also coordinate benefits with private insurance and Social Security.

The benefits contained in the final version of the proposed Maryland Infant Lifetime Care Trust legislation as contained in Maryland SB0879 include reasonable expenses of:

- "Actual lifetime expenses for qualifying health care costs, limited to reasonable charges prevailing in the same community for similar treatment of injured individuals when the treatment is paid for by the injured individual" including
  - Medical care provided by physicians, surgeons and other health care providers
  - Hospital
  - Rehabilitative care
  - Nursing, family residential or custodial care
  - Durable medical equipment
  - Assistive technology
  - Medically necessary drugs
- Travel expenses or vehicle modifications that are necessary to meet the participant's health care needs
- Modification of the residential housing environment
- Reasonable expenses associated with "the adjudication of any disputed matters under this subtitle"

The benefits in the legislation are generally in line with the Florida and Virginia funds but exclude any loss of earnings benefit.

In addition, "a heath care cost that a qualified plaintiff's treating physician, physician's assistant, or nurse practitioner determines to be reasonable and necessary is presumed to be a qualifying health care cost unless there is clear and convincing evidence that the cost is not a qualifying health care cost." This provision ultimately gives the determination of benefits into the hands of the participant's health care provider rather than the Fund administrator.

Participation and Eligibility

A key issue in the area of participation and eligibility is whether participation in the birth fund is mandatory or not. Mandatory participation, as the final version of the proposed Maryland Infant Lifetime Care Trust contains, would appear to be a superior design feature. Making participation mandatory for both hospitals and OB/GYNs avoids a common situation in Virginia where either the hospital or the OB/GYN is a participant, but not both. In this scenario, only one of the parties has paid a premium but the child is eligible nonetheless. In this case, mandatory participation would increase

funds, but not add to the expected number of claims. The current Maryland bill proposes a mandatory birth fund. A detailed comparison of the birth fund eligibility criteria between the proposed Maryland legislation and the eligibility of the Florida and Virginia birth funds is attached as Exhibit 4.

Governance

In viewing patient compensation funds in general, two governance approaches are predominant: department of insurance administration and Board of Directors governance. Both birth funds use a board of directors approach, with some form of insurance department oversight. While Virginia authorizes the governor to have authority to appoint members to the Board, the Chief Financial Officer makes the appointments in Florida. The proposed Maryland Infant Lifetime Care Trust would follow form with Virginia and have the Governor make the Board appointments. The representation of the key birth fund stakeholders on the Florida Board (participating physicians, hospitals, non- participating physicians, and casualty insurers) is also quite appealing. The proposed Maryland Infant Lifetime Care Trust proposes a seven member Board comprised of:

- One obstetrician
- One pediatric neurologist
- One representative of the Maryland Hospital Association
- One attorney
- Two citizen representatives
- One expert in disability care

The proposed Maryland Infant Lifetime Care Trust would also be expected to have staff to handle day-to-day operations in a manner similar to the Florida and Virginia funds. Some staffing functions could also be accomplished through third party service providers. The currently proposed Maryland Infant Lifetime Care Trust bill would create the position of Trust Administrator and empower the administrator to administer the fund at the direction of the Board.

Administration

Once the decisions as to the overall governance and administration of the birth fund have been made, a number of specific tactical decisions need to be made about the fund's day-to-day operations. The most significant of these relate to compliance and policy management, billings and collections, claims administration, asset management, and actuarial services.

Services requiring technical expertise, such as legal and actuarial, tend to be outsourced more often than some other services. Virginia's approach of using other state agencies for certain services, such as legal services, may reduce costs and be intuitively appealing. Other PCFs utilize their State Investment

Board to manage investments; however, this raises potential risks which will be discussed later in the report. The use of a dedicated venue for establishing eligibility and participation of claimants is used by both the Florida and Virginia birth funds. It is important to select this venue so as to ensure that they have the requisite expertise and consistently apply the eligibility criteria.

The proposed Maryland Infant Lifetime Care Trust proposes that the Board oversee the investments of the fund, likely in partnership with professional investment managers. The proposed Maryland Infant Lifetime Care Trust also requires the engagement of a qualified actuary to be an advisor on appropriate funding levels and estimating unpaid benefits for the fund. These are both common and generally accepted approaches.

One innovative use of existing governmental agencies and processes in the current legislation is utilizing the existing Maryland Hospital Services Cost Review Commission (Commission) to collect the premiums of the proposed Maryland Infant Lifetime Care Trust. Because the Commission already has the statutory authority to collect certain other hospital assessments and the infrastructure to administer these assessments, utilizing it to also collect Fund premiums should prove an efficient and easy to implement approach.

Control of Funds and Investments

In terms of financial structure, two approaches are common for PCFs generally: a separate trust fund or a state agency. The trust fund approach has the advantage of independence from state government. The state agency approach allows the opportunity for better organizational controls, more access to other state agencies that can provide valuable services, a somewhat different position in claims negotiations, and independence from the influence of special interests.

In our opinion, it is absolutely imperative that birth fund assets be established in such a way that they are kept at arm's length from the funds of the state. Lessons learned in New Hampshire and Wisconsin, where government insurance program funds were taken in an effort to balance state budgets or fund other programs, made this abundantly clear. While the use of state investment managers has some appealing cost savings, it may lead to a co-mingling of funds that is not intended. There are usually controls on the percentage or amounts of funds that can be invested in different types of securities. These types of controls are also prudent for a fund that may hold premiums for decades before benefits are paid. The current Maryland bill addresses this concern.

Financial Oversight

Both birth funds require annual audits and financial reporting. We view this as absolutely essential. In addition, periodic actuarial studies to evaluate the soundness of the birth fund are also very important, especially in the early years of a birth fund. The birth funds use this actuarial review as an opportunity to review indicated premium rates. The New York Medical Indemnity Fund goes so far as to produce quarterly actuarial reports. The final version of the proposed Maryland Infant Lifetime Care Trust legislation requires both annual audits and actuarial reviews.

Other Legislative Features

Based on the experience of the Virginia fund, it appears that requiring a legislative action to achieve changes in premium levels is too restrictive and does not allow a birth fund to react to changing experience trends. The Florida legislation allowing the state's insurance regulators to intervene and increase premiums appears much more flexible and a reasonable measure to ensure program financial soundness. The additional Florida legislative features allowing access to additional state funds, if necessary, as well as the temporary discontinuation of accepting new claimants also appear to have merits. The Virginia legislative feature requiring discounts for participating hospitals and physicians also appears to be a reasonable control to ensure the overall economic soundness of the birth funds. The final version of the Maryland Infant Lifetime Care Trust bill requires the premium levels charged to hospitals in Maryland to be actuarially determined. In addition, the assessments of premiums are required to:

- Reflect geographic differences among hospitals
- Account for differences in historical experience by hospital
- Distinguish between hospitals that provide obstetrical services and those that do not.

This approach should help the proposed Maryland Infant Lifetime Care Trust avoid some of the pitfalls the Virginia birth fund has experienced.

Approaches to Funding

The Florida and Virginia birth funds both rely on some common funding approaches: premiums of participating physicians, non-participating physicians (including non-OB/GYNs) and hospitals. Both funds use an accrual based approach to funding in an effort to avoid large, unfunded, future benefits obligations. They both also have the means to assess liability insurers in the state. The New York Fund, on the other hand, is funded on a fiscal year basis with no accrual for future benefits payments.

Basis of Funding

Benefits are carried by the Virginia and Florida birth funds on an occurrence basis intended to cover all benefits accrued during that period. That is, unpaid benefits liabilities are accrued by the funds when the births occur, not when the petition for participation is made or when a participant is deemed eligible for participation in the birth fund. This would strongly suggest that the premiums paid by participants be developed on the same basis. The New York Medical Indemnity Fund is funded on a cash flow or "pay as you go" basis as a budget allocation from the state budget. This is likely to result in a significant unfunded liability for future benefits payments to current program participants as the MIF adds additional participants in future years. This was demonstrated in legislative costing studies produced by Pinnacle during the 2017 legislative session in New York. The proposed Maryland Infant Lifetime Care Trust legislation appears to be consistent with the approach in Florida and Virginia.

Hospital Premiums

Both the Florida and Virginia funds assess hospitals on a per live birth basis. This appears to be a sound approach. The proposed Maryland Infant Lifetime Care Trust legislation goes one step further and makes hospital assessments the sole funding source. The Virginia feature capping a hospital's annual premium may be a reasonable approach to recognize the important role of women's and infant's hospitals and other centers of excellence for difficult births.

Neither Florida nor Virginia differentiates the premiums of participants according to geographic differences. Some argument could be made that a flat premium fails to recognize differences in both physician revenues and medical professional liability premiums between participants in urban areas (e.g., Miami, Fairfax, VA or Baltimore) and participants in rural areas. The proposed requirement in Maryland that the premium assessment methodology "account for geographic differences" appears both reasonable and actuarially sound.

Health Care Provider Premiums

The impact of birth funds on the total medical professional liability insurance costs of OB/GYNs is an essential consideration of any birth fund. It is actuarially reasonable for future rates to reflect the lower expected losses due to implementation of the Trust. An exhibit showing potential impact to OB/GYN premiums is shown in Exhibit 5. The current OB/GYN rates for four of the leading medical professional liability insurers in the state, Medical Liability Mutual Insurance Society of Maryland, The Doctors Company, ProAssurance, and Medical Protective are shown by territory. There is a significant difference in premium rates by territory for each company. It is our understanding that premium discounts for birth fund participants in other states are commonly at least 10% to 15%. Based on this assumption, the premium savings for participating OB/GYNs would be typically between $10,000 and $20,000. In fact, this range of expected premium savings may be somewhat conservative. This is

based on the fact that the discount provided by the Medical Liability Mutual Insurance Society of Maryland to OB/GYNs that participate in the Virginia Birth Fund is currently 17%.

The Virginia birth fund also charges a lesser assessment to non-participating physicians, including non-OB/GYNs. This revenue generation approach has two desirable characteristics: first, it spreads some portion of the birth fund's costs across a broader premium base (i.e., all licensed healthcare providers in the state), and second, it encourages a higher rate of participation by OB/GYNs. This approach is not part of the current Maryland legislation.

Some PCFs charge premiums as a percentage of underlying insurance premiums. This approach has the desirable feature that the premium is adjusted for the insured's experience to the same extent as the underlying premium has been adjusted explicitly or implicitly for the insured's experience. The potentially undesirable feature of this approach is that comparable providers with different carriers would pay different premiums purely based on their primary carrier's expense loadings or rate adequacy level. This does not appear to be an attractive approach for birth funds.

Insurance Premium Taxes

Virginia's birth fund charges a premium tax of up to 0.25% on all liability premiums in the state. The logic behind the premium taxes on liability insurers is that the removal of birth injuries from the tort system removes a group of catastrophic injuries from the tort system and benefits liability insurers in total. While this logic may apply more fully to some liability coverages than others, it serves to spread the birth fund's costs across a broader segment of the interested parties in the state. It is important to realize that insurers are not only permitted, but expected, to recoup these premium taxes by reflecting their premium taxes in their filed rates. This type of special purpose tax on insurance premiums is quite common in almost every state and is recouped by the expense provision in insurers' rates. It is also noteworthy that the premium taxes can only be assessed when the Virginia birth fund is not "actuarially sound," that is physician and hospital premiums have not been sufficient to fund for all program benefits. This approach is not part of the proposed Maryland Infant Lifetime Care Trust legislation.

Premium Collection

The most common premium collection technique used by PCFs is requiring the primary insurer to collect the funds and serve as a "pass-through" to the PCF or birth fund. This approach to collection is well suited to premiums based on fixed dollar amounts. This approach has the benefit that the number of revenue sources is greatly reduced from having each hospital and provider pay the birth fund directly. Conversely, adding a layer of bureaucracy increases the potential for error. We find the proposed use of the existing Maryland Hospital Services Cost Review Commission to collect the

premiums of the proposed Maryland Infant Lifetime Care Trust to be an appealing and efficient approach.

Expected Funding Need and Benefits of the Maryland Infant Lifetime Care Trust

Expected Funding Need

The first step in developing a financial model of a potential birth fund in Maryland is an estimate of the expected annual benefits such a program would incur. Pinnacle's estimate is contained in attached Exhibit 2. We have assumed that the Maryland birth fund would be designed with similar benefits structures to those of the Virginia and Florida funds. Based on available information from those programs, we estimate that the frequency of qualifying claims would be between 0.9 and 1.0 claims per 10,000 live births. This estimate does not contemplate any impact on the number of participants in the Maryland Infant Lifetime Care Trust due to the changes in the definition of "birth-related neurological injury" in the final version of the legislation. It also does not assume a greater frequency of eligible births in Maryland due to differences in eligibility wording to Florida, that describes "substantial" impairments, or Virginia that describes specific characteristics of an eligible participant. In addition, the difference in the Maryland birth fund (allowing actions to proceed under the tort system) will also not materially change the number of admitted participants annually. A hospital that believes a child is eligible for birth fund benefits will in all likelihood offer birth fund participation as an early settlement offer. It is difficult to envision a scenario where a child that would have been admitted to the program under the originally proposed no-fault approach would somehow not be admitted under the tort approach. Based on this assumption, we estimate that a total of about 6.80 qualifying births occur in Maryland annually.

Similarly, a review of Florida and Virginia benefits payments and unpaid benefits estimates suggests that lifetime claims benefits in Maryland for benefits similar to those in the Virginia and Florida birth funds and adjusted for unique benefits elements in Maryland would have a present value of between $2.87 million and $3.27 million. These present values assume a discount rate of 4%, which provides a reasonable estimate of a conservative investment return for birth fund invested assets. These estimates also make necessary cost of living adjustments to reflect medical, housing, and other cost differences in Maryland. Based on these assumptions, a Maryland birth fund would incur benefits costs of between $18.4 million and $23.2 million annually. This calculation is documented in Exhibit 2.

The next consideration is the means of funding the birth fund's benefit obligations. In the proposed legislation, the HSCRC, in conjunction with a qualified actuary, will develop a hospital premium methodology that accounts for: geographic differences among hospitals, differences in historical birth-

related claims experience among hospitals, differences between hospitals that provide obstetrical care and those that do not. This represents a reasonable, appropriate and actuarially sound approach to funding the fund on an accrual basis. This approach should also help the proposed Maryland Infant Lifetime Care Trust avoid some of the pitfalls the Virginia birth fund has experienced in the past.

This funding mechanism is a valid approach to fully funding the proposed Maryland Infant Lifetime Care Trust's expected benefits.

More detail is provided in the attached exhibits.

Expected Benefits

Funding for the Maryland Infant Lifetime Care Trust initially causes higher costs for Medicaid based on increased reimbursement rates. We estimate that rates for obstetric services would increase by approximately 2.6% (see Exhibit 3, Page 1). However, these costs are more than offset by the Trust removing medical expenses from Medicaid for decades into the future. Based on the Virginia, Florida, and New York birth funds, approximately 60% of expenses paid by the Maryland Infant Lifetime Care Trust would otherwise have been paid by Medicaid. We estimate that the ultimate saving to Medicaid far exceeds the additional costs to the state general fund. Exhibit 3, Page 2 shows the benefit payment streams for Trust participants born in 2020 compared to the initial cost to Medicaid due to the rate increase. Exhibit 3, Page 3 further generalizes this result by looking at five birth years of participants expected to be placed in the Trust.

Distribution & Use

This Report has been prepared in support of the Alliance for Lifetime Infant Care and the other members of the group working to develop this legislation and for their internal use only. It is understood that the Alliance for Lifetime Infant Care may also wish to distribute this report to the various policymakers and stakeholders in the state, potentially including the Governor and the Legislature, as well as the general public via their website. This distribution as well as any further distribution to the makers of public policy and the various stakeholders in the healthcare industry in the State of Maryland is hereby granted.

When this report is distributed, it should be distributed in its entirety. All recipients of this report should be aware that Pinnacle is available to answer any questions regarding the report. These third parties should recognize that the furnishing of this report is not a substitute for their own due diligence and should place no reliance on this report or the data, computations, and interpretations contained herein that would result in the creation of any duty or liability by Pinnacle to the third party.

Pinnacle consents to reference by the Alliance for Lifetime Infant Care to Pinnacle's reports, opinions, advice and firm name in documents released by or at the direction of the Alliance for Lifetime Infant Care concerning our findings.

The exhibits attached in support of our findings are an integral part of this Report. These sections have been prepared so that our actuarial assumptions and judgments are documented. Judgments about the conclusions drawn in this Report should be made only after considering the Report in its entirety. We remain available to answer any questions that may arise regarding this Report. We assume that the user of this Report will seek such explanation on any matter in question.

Our conclusions are predicated on a number of assumptions as to future conditions and events. Those assumptions, which are documented in subsequent sections of this report, must be understood in order to place our conclusions in their appropriate context. In addition, our work is subject to inherent limitations, which are also discussed in this Report.

Reliances & Limitations

We have prepared this Report in conformity with its intended use by persons technically competent in the areas addressed and for the stated purposes only.

Throughout our analysis we have, without audit or verification, relied on historical data and qualitative information provided by the American Medical Association, the Florida Birth-Related Neurological Injury Compensation Association, the Virginia Birth-Related Neurological Injury Compensation Program and other publicly available sources. The accuracy of our results is dependent upon the accuracy and completeness of this underlying data. However, we did review as many elements of this data and information as practical for reasonableness and consistency with our knowledge of the insurance industry. We have not anticipated any extraordinary changes to the legal, social, or economic environment.

Judgments as to conclusions, recommendations, methods, and data contained in this report should be made only after studying the report in its entirety. Furthermore, Pinnacle is available to explain any matter presented herein, and it is assumed that the user of this report will seek such explanation as to any matter in question. It should be understood that the exhibits, graphs, and figures are integral elements of the report.

Pinnacle is expressing no opinion on the appropriateness of the 4% interest rate used in the discounting calculations.

Estimates discounted for the time value of money can be more uncertain than those on an undiscounted basis. In addition to the usual uncertainty in projecting unpaid claims obligations and benefits, discounted estimates are also influenced by:

- Variations in the timing of actual benefit payments versus the rate of payment assumed in discounting estimates to present value
- Variation in the actual investment yield on the assets underlying the liabilities versus the assumed interest rate used in discounting.

While an explicit risk margin may be applied to account for this additional uncertainty, we have not incorporated an explicit risk margin in our analysis.

Pinnacle is not qualified to provide formal legal interpretations of current or proposed state legislation. The elements of this report that require legal interpretation should be recognized as reasonable interpretations of the available statutes, regulations, and administrative rules. State governments and courts are also constantly changing and reinterpreting these statutes.

There is a limitation upon the accuracy of these estimates in that there is inherent uncertainty in any estimate of future claims benefits. This is due to the fact that the ultimate liability for claims is subject to the outcome of events yet to occur, e.g., the likelihood of claimants bringing suit, the size of jury awards, changes in the standards of liability and the attitudes of claimants toward settlement of their claims. We have employed generally accepted actuarial techniques and assumptions that we believe are reasonable and appropriate. Further, the conclusions presented herein are reasonable and appropriate and supported by our analysis, given the information currently available. However, it should be recognized that future loss emergence will likely deviate, perhaps materially, from our estimates.

INDEX OF EXHIBITS

Maryland Infant Lifetime Care Trust

Exhibit 1

Projected Birth Fund Costs and Revenues

		Expected Costs
(1)	Central Expected Benefits Paid	20,730,482
(2)	Operating Expenses	750,000
(3)	Maternal and Fetal Outcomes Grant	1,000,000
(4)	Total Program Costs	22,480,482

Footnotes

(1) From Exhibit 2
(2) Based on review of comparable programs in Florida and Virginia
(3) Grant allocated by legislation to improve maternal and fetal health outcomes
(4) = (1) + (2) + (3)

Maryland Infant Lifetime Care Trust

Exhibit 2

Projected Birth Fund Benefits

	Low	Central	High
(1) Expected Number of Live Births	71,080	71,080	71,080
(2) Expected Frequency of Claimants per 10,000 Live Births	0.90	0.95	1.00
(3) Expected Number of Claimants Admitted to the Program	6.4	6.8	7.1
(4) Expected Average Benefits Paid to Admitted Claimants (Present Value Basis)	2,870,000	3,070,000	3,270,000
(5) Expected Birth Fund Benefits	18,359,964	20,730,482	23,243,160

Footnotes

(1) 2018 live birth data from National Center for Health Statistics (www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68_13-508.pdf)

(2), (4) Based on review of comparable programs in Florida and Virginia

(3) = (1) x (2) / 10,000

(5) = (3) x (4)

Maryland Infant Lifetime Care Trust

Projected Impact to Medicaid

Rate Center	Center Code	Hospital Count	Average Rate	Statewide Volume	Expected Total Charges
(1)	(2)	(3)	(4)	(5)	(6)
Obstetrics Acute	OBS	32	1,221.73	168,211	205,508,430
Neonatal ICU	NEO	16	1,729.50	111,254	192,414,355
Newborn Nursery	NUR	32	723.11	150,694	108,967,914
Premature Nursery	PRE	1	1,239.48	1,129	1,399,894
Labor & Delivery Services	DEL	32	124.59	3,510,572	437,382,133
					945,672,726

(7)	Total Infant Care Trust Annual Cost	22,480,482
(8)	Markup for underpayment (estimated)	1.10
(9)	Hospital Rate Revenue Increase Required	24,728,530
(10)	Percentage of Charges to Medicaid	45%
(11)	Incremental Medicaid Charges	11,127,839
(12)	% of Federal Match	40%
(13)	**Annual Program Cost to State General Fund**	4,451,135
(14)	Rate Increase to Obstetrics Services	2.6%

Footnotes

(1) - (5) Rate Center data from HSCRC FY 2020 rates (obtained from https://hscrc.state.md.us/Pages/hsp_rates2.aspx)
(6) = (4) x (5)
(7) = Exhibit 1, Item 4
(8), (10), (12) Estimates based on publicly available HSCRC data
(9) = (7) x (8)
(11) = (9) x (10)
(13) = (11) x (12)
(14) = (9) / (6) Total

Maryland Infant Lifetime Care Trust

Projected Trust Benefits to Medicaid
Payment Streams for 2020 Birth Year Participants Only

Trust Payments	**2020**	**2021**	**2022**	**2023**	**2024**	**2025 - 2029**	**2030 - 2034**	**2035 - 2039**	**2040 - 2044**	**2045 - 2049**	**2050 - 2054**	**2055 and beyond**
(1) Estimated Trust Benefits	434,549	541,107	573,237	646,979	657,131	3,063,312	2,238,120	2,434,176	2,475,977	2,476,057	2,478,473	22,523,863

Medicaid Cost	**2020**	**2021**	**2022**	**2023**	**2024**	**2025 - 2029**	**2030 - 2034**	**2035 - 2039**	**2040 - 2044**	**2045 - 2049**	**2050 - 2054**	**2055 and beyond**
(2) Program Cost to State General Fund	4,451,135											

Net Benefit Position	**2020**	**2021**	**2022**	**2023**	**2024**	**2025 - 2029**	**2030 - 2034**	**2035 - 2039**	**2040 - 2044**	**2045 - 2049**	**2050 - 2054**	**2055 and beyond**
(3) Projected Benefit to Medicaid	-4,016,586	-3,475,479	-2,902,241	-2,255,262	-1,598,131	1,465,181	3,703,301	6,137,477	8,613,453	11,089,510	13,567,983	36,091,846

Footnotes
(1) Based on Trust analysis central estimate on a nominal basis for expected 6.8 participants born in 2020
Assumes approximately 60% of future payments would otherwise be covered by Medicaid
Payment pattern estimated from Virginia program
(2) Projected Cost to Medicaid estimated on Exhibit 3, Page 1
(3) = (1) - (2)

Maryland Infant Lifetime Care Trust

Exhibit 3

Projected Trust Benefits to Medicaid

Page 3

Payment Streams for 2020 through 2024 Birth Year Participants Only

Trust Payments		**2020**	**2021**	**2022**	**2023**	**2024**	**2025 - 2029**	**2030 - 2034**	**2035 - 2039**	**2040 - 2044**	**2045 - 2049**	**2050 - 2054**	**2055 and beyond**
(1) Estimated Trust Benefits													
	Year 1	434,549	541,107	573,237	646,979	657,131	3,063,312	2,238,120	2,434,176	2,475,977	2,476,057	2,478,473	22,523,863
	Year 2		434,549	541,107	573,237	646,979	3,158,379	2,354,607	2,387,697	2,478,368	2,467,772	2,476,005	23,024,281
	Year 3			434,549	541,107	573,237	3,209,723	2,514,199	2,332,268	2,472,233	2,467,560	2,474,557	23,523,546
	Year 4				434,549	541,107	3,170,593	2,694,969	2,262,659	2,475,453	2,468,556	2,476,878	24,018,217
	Year 5					434,549	3,088,279	2,877,033	2,220,352	2,461,499	2,473,768	2,476,436	24,511,065

Medicaid Cost	**2020**	**2021**	**2022**	**2023**	**2024**	**2025 - 2029**	**2030 - 2034**	**2035 - 2039**	**2040 - 2044**	**2045 - 2049**	**2050 - 2054**	**2055 and beyond**
(2) Program Cost to State General Fund	4,451,135	4,451,135	4,451,135	4,451,135	4,451,135							

Net Benefit Position	**2020**	**2021**	**2022**	**2023**	**2024**	**2025 - 2029**	**2030 - 2034**	**2035 - 2039**	**2040 - 2044**	**2045 - 2049**	**2050 - 2054**	**2055 and beyond**
(3) Projected Benefit to Medicaid	-4,016,586	-7,492,065	-10,394,306	-12,649,568	-14,247,699	1,442,586	14,121,514	25,758,666	38,122,196	50,475,909	62,858,257	180,459,228

Footnotes

(1) Based on Trust analysis central estimate on a nominal basis for expected 6.8 participants per birth year
Assumes approximately 60% of future payments would otherwise be covered by Medicaid
Payment pattern estimated from Virginia program

(2) Projected Cost to Medicaid estimated on Exhibit 3, Page 1

(3) = (1) - (2)

Maryland Infant Lifetime Care Trust

Exhibit 4

Comparison of Birth-Related Neurological Injury Definitions

Maryland Proposed	Florida [s. 766.302(2)]	Virginia (§ 38.2-5001)
"Birth-related neurological injury" means	Identical	Identical
an injury to the brain or spinal cord of a live infant that:	Identical	Omits “live” due to death benefit
is caused by oxygen deprivation or other injury	Replaces “other” with “mechanical”	Replaces “other” with “mechanical”
Omitted entirely	weighing at least 2,500 grams for a single gestation; or in the case on multiple gestation, weighing at least 2,000 grams at birth;	Omitted entirely
that occurred or could have occurred during labor, during delivery, or in the resuscitative period after delivery; and	occurring in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital, which	that occurred in the course of labor or delivery, in a hospital which
renders the infant permanently neurologically and physically impaired.	renders the infant permanently and substantially mentally and physically impaired.	renders the infant permanently motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled.
Additional language not included in Maryland.	Additional language not included in Florida.	In order to constitute a "birth-related neurological injury" within the meaning of this chapter, such disability shall cause the infant to be permanently in need of assistance in all activities of daily living.
<u>Additional Clarifications</u> includes only injuries involving live infants born in a Maryland hospital.	Addressed elsewhere in definition.	Addressed elsewhere in definition.
does not include disability or death caused by genetic or congenital abnormality.	shall not include disability or death caused by genetic or congenital abnormality.	shall not include disability or death caused by genetic or congenital abnormality, degenerative neurological disease, or maternal substance abuse.

*New York not shown due to significant definition difference from other three funds.

Maryland Infant Lifetime Care Trust

Exhibit 5

Projected Obstetrician Medical Professional Liability Insurance Premium Savings

Mature Claims-Made Coverage, $1 Million per Occurrence Limit/$3 Million Aggregate

Company/ Est. Market Share	Territory	Manual Premium	10% Decrease	15% Decrease
Medical Liability Mutual Insurance Society of MD	Baltimore City and County	116,378	11,638	17,457
	Montgomery, Prince Georges, Howard, and Anne Arundel Counties	105,787	10,579	15,868
55%	Remainder of State	93,102	9,310	13,965
The Doctors Company (TDC)	Baltimore City and County	152,989	15,299	22,948
	Montgomery, Prince Georges, Howard, and Anne Arundel Counties	140,391	14,039	21,059
14%	Remainder of State	113,991	11,399	17,099
ProAssurance	Baltimore County	158,317	15,832	23,748
	D.C. Beltway	143,969	14,397	21,595
6%	Remainder of State	127,126	12,713	19,069
Medical Protective (Med Pro)	Baltimore City and County	113,558	11,356	17,034
	Montgomery, Prince Georges, Howard, and Anne Arundel Counties	100,931	10,093	15,140
3%	Remainder of State	84,111	8,411	12,617

Source: Medical Liability Monitor, October 2019, Annual Rate Survey Issue