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**By: The Speaker (Administration)**

Introduced and read first time: January 23, 1996

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 1996

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Automobile Insurance Rate Reduction Act of 1996~~ **Insurance Fraud**

3 FOR the purpose of ~~reducing the cost of automobile insurance~~; prohibiting certain  
4 persons from employing or compensating others for the purpose of soliciting or  
5 attempting to solicit clients for those persons; prohibiting a person from soliciting,  
6 for personal gain, another person to sue or to retain a lawyer; ~~authorizing certain~~  
7 ~~actions against certain insurers under certain circumstances~~ prohibiting a person  
8 from soliciting, for personal gain, another person to seek health care from a health  
9 care practitioner; requiring that the Insurance Fraud Division of the Maryland  
10 Insurance Administration notify certain professional licensing boards or disciplinary  
11 bodies of evidence of insurance fraud or gross overutilization of health care  
12 services; ~~requiring that certain professional licensing boards revoke the license of~~  
13 ~~licensees convicted of insurance fraud~~; ~~authorizing the Insurance Commissioner to~~  
14 ~~determine that certain automobile insurance rates are excessive under certain~~  
15 ~~circumstances~~; ~~requiring certain insurers to verify certain data under certain~~  
16 ~~circumstances~~; ~~permitting certain automobile insurance coverages to be waived~~  
17 ~~under certain circumstances~~; ~~requiring certain insurers to offer certain insurance~~  
18 ~~benefits as managed care benefits~~; ~~authorizing certain insurers to offer certain~~  
19 ~~benefits as managed care benefits~~; ~~clarifying that an insurer paying certain benefits~~  
20 ~~shall be primary to insurers paying certain collateral benefits, and that the insurer~~  
21 ~~paying collateral benefits may collect from the primary insurer under certain~~  
22 ~~circumstances~~; ~~providing that payments and charges for soft tissue injuries may not~~  
23 ~~exceed a certain amount under certain circumstances~~; ~~providing that certain~~  
24 ~~insurers shall contract with peer review organizations for the purpose of reviewing~~  
25 ~~certain claims~~; ~~establishing procedures for the use of peer review organizations~~;  
26 ~~requiring that certain payments of automobile insurance benefits shall be reduced~~  
27 ~~by the amount of certain collateral benefits under certain circumstances~~; ~~requiring~~  
28 ~~evidence of physical contact before benefits for uninsured motorist coverage under~~

1 an automobile insurance policy may be paid; limiting written communications by  
2 lawyers to perspective clients under certain circumstances; requiring the Health  
3 Care Access and Cost Commission to develop a payment system for soft tissue  
4 injuries by a certain date; requiring the Health Care Access and Cost Commission to  
5 adopt regulations establishing practice parameters for soft tissue injuries by a  
6 certain date; providing for the use of the payment system and practice parameters  
7 by automobile insurers; limiting the right of a person operating a vehicle without  
8 insurance to recover certain losses under certain circumstances; authorizing an  
9 insurer to cancel and rescind an insurance policy or to deny first party benefits, to  
10 an insured who has made certain misrepresentations in the application for  
11 automobile insurance under certain circumstances; establishing a pilot program for  
12 an accident reporting unit in Baltimore City; defining certain terms; and generally  
13 relating to efforts to reduce the costs of and reform automobile insurance insurance  
14 fraud.

15 BY repealing and reenacting, with amendments,  
16 Article 48A - Insurance Code  
17 Section ~~230A~~, 233(f) and (g); and ~~233AC~~, ~~243L~~, ~~244D~~, 538, 539, 540, 541, and 543  
18 Annotated Code of Maryland  
19 (1994 Replacement Volume and 1995 Supplement)

20 ~~BY repealing and reenacting, without amendments,~~  
21 ~~Article 48A - Insurance Code~~  
22 ~~Section 244H, 244 I, 542, 544, and 545~~  
23 ~~Annotated Code of Maryland~~  
24 ~~(1994 Replacement Volume and 1995 Supplement)~~

25 ~~BY adding to~~  
26 ~~Article 48A - Insurance Code~~  
27 ~~Section 374A and 541A~~  
28 ~~Annotated Code of Maryland~~  
29 ~~(1994 Replacement Volume and 1995 Supplement)~~

30 ~~BY adding to~~  
31 ~~Article - Business Occupations and Professions~~  
32 ~~Section 10-605.1~~  
33 ~~Annotated Code of Maryland~~  
34 ~~(1995 Replacement Volume and 1995 Supplement)~~

35 BY repealing and reenacting, with amendments,  
36 Article - Health - General  
37 Section 19-1501, 19-1502, 19-1509, 19-1602, and 19-1605  
38 Annotated Code of Maryland  
39 (1990 Replacement Volume and 1995 Supplement)

40 ~~BY repealing and reenacting, without amendments,~~

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1 ~~Article—Health—General~~  
2 ~~Section 19-1606~~  
3 ~~Annotated Code of Maryland~~  
4 ~~(1990 Replacement Volume and 1995 Supplement)~~

5 ~~BY adding to~~  
6 ~~Article—Health—General~~  
7 ~~Section 19-1607~~  
8 ~~Annotated Code of Maryland~~  
9 ~~(1990 Replacement Volume and 1995 Supplement)~~

10 BY repealing and reenacting, with amendments,  
11 Article - Health Occupations  
12 Section 3-313(21) and (22), 13-316(20) and (21), and 14-404(a)(33) and (34)  
13 Annotated Code of Maryland  
14 (1994 Replacement Volume and 1995 Supplement)

15 BY adding to  
16 Article - Health Occupations  
17 Section ~~3-317~~ 3-313(22) and (23), ~~8-320, 12-318, 13-320, 14-416, and 15-316~~  
18 13-316(21) and (22), and 14-404(34)  
19 Annotated Code of Maryland  
20 (1994 Replacement Volume and 1995 Supplement)

21 ~~BY adding to~~  
22 ~~Article—Transportation~~  
23 ~~Section 17-107(d)~~  
24 ~~Annotated Code of Maryland~~  
25 ~~(1992 Replacement Volume and 1995 Supplement)~~

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

28 **~~Article 48A—Insurance Code~~**

29 ~~230A.~~

30 ~~(a) In this section "policy" means an individual or group policy, contract, or~~  
31 ~~certificate issued by an insurer, including a nonprofit health service plan.~~

32 ~~(b) (1) This section applies to any individual or group policy delivered or issued~~  
33 ~~by any insurer, including any nonprofit health service plan authorized under the~~  
34 ~~provisions of Subtitle 20 of this article, in this State or issued to a group which has a main~~  
35 ~~office in this State or covering persons who reside or work within this State.~~

36 ~~(2) This section does not apply to reinsurance, workers' compensation, or~~  
37 ~~surety.~~

1           ~~(c) The following actions by an insurer or nonprofit health service plan are unfair~~  
2 ~~claim settlement practices and are violations of this section:~~

3           ~~(1) Misrepresenting pertinent facts or insurance policy provisions relating to~~  
4 ~~the claim at issue;~~

5           ~~(2) Refusing to pay a claim for an arbitrary or capricious reason based on all~~  
6 ~~available information;~~

7           ~~(3) Attempting to settle a claim on the basis of an application which is~~  
8 ~~altered without notice to, or the knowledge or consent of, the insured;~~

9           ~~(4) Failing to include with any claim paid to an insured or beneficiary a~~  
10 ~~statement setting forth the coverage under which payment is being made;~~

11           ~~(5) Failing to settle a claim promptly whenever liability is reasonably clear,~~  
12 ~~under one portion of a policy in order to influence settlements under other portions of~~  
13 ~~the policy;~~

14           ~~(6) Failing promptly upon request to provide a reasonable explanation of~~  
15 ~~the basis for a denial of a claim; or~~

16           ~~(7) Failing to meet the requirements of Title 19, Subtitle 13 of the Health-~~  
17 ~~General Article for preauthorization for a health care service.~~

18           ~~(d) The following actions by an insurer or nonprofit health service plan, if~~  
19 ~~committed with such frequency as to indicate a general business practice, are unfair claim~~  
20 ~~settlement practices and are violations of this section:~~

21           ~~(1) Misrepresenting pertinent facts or insurance policy provisions relating to~~  
22 ~~the coverages at issue;~~

23           ~~(2) Failing to acknowledge and act with reasonable promptness on~~  
24 ~~communications regarding claims arising under insurance policies;~~

25           ~~(3) Failing to adopt and implement reasonable standards for the prompt~~  
26 ~~investigation of claims arising under insurance policies;~~

27           ~~(4) Refusing to pay claims without conducting a reasonable investigation~~  
28 ~~based on all available information;~~

29           ~~(5) Failing to affirm or deny coverage of claims within a reasonable time~~  
30 ~~after proof of loss statements have been completed;~~

31           ~~(6) Failing to make a good faith attempt promptly, fairly, or equitably to~~  
32 ~~settle claims for which liability has become reasonably clear;~~

33           ~~(7) Compelling insureds to institute litigation to recover amounts due under~~  
34 ~~an insurance policy by offering substantially less than the amounts ultimately recovered in~~  
35 ~~actions brought by such insureds;~~

36           ~~(8) Attempting to settle a claim for less than the amount to which a~~  
37 ~~reasonable person would expect to be entitled after studying written or printed~~  
38 ~~advertising material accompanying, or made part of, an application;~~

1                   ~~(9) Attempting to settle a claim on the basis of an application which is~~  
2 ~~altered without notice to, or the knowledge or consent of, the insured;~~

3                   ~~(10) Failing to include with claims paid to insureds or beneficiaries~~  
4 ~~statements setting forth the coverage under which payments are being made;~~

5                   ~~(11) Making known to insureds or claimants a policy of appealing from~~  
6 ~~arbitration awards in order to compel insureds or claimants to accept a settlement or~~  
7 ~~compromise less than the amount awarded in arbitration;~~

8                   ~~(12) Delaying an investigation or payment of a claim by requiring a claimant~~  
9 ~~or a claimant's licensed health care provider to submit a preliminary claim report in~~  
10 ~~addition to subsequent submission of formal proof of loss forms, containing substantially~~  
11 ~~the same information;~~

12                   ~~(13) Failing to settle claims promptly whenever liability is reasonably clear~~  
13 ~~under one portion of a policy, in order to influence settlements under other portions of~~  
14 ~~the policy;~~

15                   ~~(14) Failing promptly to provide a reasonable explanation for the basis for~~  
16 ~~denial of a claim or the offer of a compromise settlement; [or]~~

17                   ~~(15) Failing to meet the requirements of Title 19, Subtitle 13 of the Health~~  
18 ~~General Article for preauthorization for a health care service; OR~~

19                   ~~(16) REFERRING FIRST PARTY CLAIMS TO A PEER REVIEW~~  
20 ~~ORGANIZATION.~~

21                   ~~(e) (1) The Commissioner may impose a penalty of up to \$500 for each violation~~  
22 ~~of subsection (e) of this section, or of any regulation promulgated under subsection (e) of~~  
23 ~~this section.~~

24                   ~~(2) The penalty for a violation of subsection (d) of this section shall be as~~  
25 ~~provided in §§ 12, 55, 55A, and 215 of this article.~~

26                   ~~(3) (i) Upon finding of a violation of this section, the Commissioner may~~  
27 ~~require that restitution be made by an insurer or nonprofit health service plan to any~~  
28 ~~claimant who has suffered actual economic damage as a result of a violation of this~~  
29 ~~section.~~

30                   ~~(ii) Restitution shall be limited to the amount of actual economic~~  
31 ~~damage sustained, subject to the limits of any applicable insurance policy.~~

32                   ~~(f) (1) (i) [This] EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS~~  
33 ~~SECTION, THIS section provides administrative remedies only.~~

34                   ~~(ii) Appeals from orders issued by the Commissioner under this~~  
35 ~~section shall be as provided in § 40 of this article.~~

36                   ~~(2) (i) Nothing contained in this section is intended to provide or deprive~~  
37 ~~any private right or cause of action to, or on behalf of any claimant or other person in any~~  
38 ~~state, territory, or possession of the United States.~~

1                   (ii) It is the specific intent of this section to provide an additional  
2 administrative remedy to the claimant for any violation of the provisions of this section or  
3 any regulation pertaining to this section.

4                   (3) This section may not be construed to impair the right of any person to  
5 seek redress in law or equity for any conduct which is otherwise actionable.

6                   (G) (1) THIS SUBSECTION SHALL APPLY TO INSURED AND INSURERS  
7 UNDER POLICIES OF PRIVATE PASSENGER AUTOMOBILE INSURANCE ONLY.

8                   (2) (I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN  
9 INSURED MAY BRING A CIVIL ACTION AGAINST ITS INSURER FOR A VIOLATION OF  
10 SUBSECTION (C) OF THIS SECTION IF THE ALLEGED VIOLATION ARISES OUT OF  
11 ACTIVITY BY THE INSURER RELATING TO THE PAYMENT OF BENEFITS UNDER §  
12 539(G) OR § 541A OF THIS SUBTITLE.

13                   (H) IN ANY ACTION BROUGHT UNDER THIS SUBSECTION, THE  
14 INSURED, IF SUCCESSFUL, SHALL BE ENTITLED TO RECOVER:

15                                 1. COSTS AND EXPENSES, INCLUDING REASONABLE  
16 ATTORNEYS' FEES, INCURRED BY THE INSURED; AND

17                                 2. IF THE INSURED PROVES THAT ITS INSURER IN BAD  
18 FAITH IN DENYING COVERAGE OR FAILING AND REFUSING TO MAKE PAYMENT TO  
19 THE INSURED UNDER SECTIONS 539(G) OR 541A OF THIS SUBTITLE, AN AMOUNT NOT  
20 TO EXCEED THREE (3) TIMES THE AMOUNT OF THE PAYMENT WITHHELD BY THE  
21 INSURER.

22                   (3) PRIOR TO BRINGING AN ACTION UNDER PARAGRAPH (2) OF THIS  
23 SUBSECTION, AN INSURED SHALL:

24                                 (I) FILE AN ADMINISTRATIVE ACTION WITH THE COMMISSIONER  
25 UNDER THIS SECTION; AND

26                                 (II) OBTAIN IN THE ADMINISTRATIVE ACTION A FINAL ORDER  
27 FROM THE COMMISSIONER IN FAVOR OF THE INSURED.

28                   (4) (I) IN ANY ACTION UNDER THIS SUBSECTION, THE INSURED IS  
29 NOT ENTITLED TO RECOVER DAMAGES OTHER THAN THOSE PROVIDED IN  
30 PARAGRAPH (2)(II) OF THIS SECTION.

31                   (H) THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT  
32 OF ANY PERSON TO MAINTAIN AN ACTION FOR DAMAGES OTHERWISE AVAILABLE.

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

35                   **Article 48A - Insurance Code**

36 233.

37                   (f) IT SHALL BE A FRAUDULENT INSURANCE ACT FOR:

7

1 (1) ANY PERSON, FOR PERSONAL GAIN, TO SOLICIT A PERSON INJURED  
2 BY OR IN A MOTOR VEHICLE, TO SUE OR RETAIN A LAWYER TO REPRESENT THAT  
3 PERSON IN A LAWSUIT;

4 (2) ANY PERSON, FOR PERSONAL GAIN, TO SOLICIT A PERSON INJURED  
5 BY OR IN A MOTOR VEHICLE TO SEEK CARE FROM A HEALTH CARE PRACTITIONER;  
6 AND

7 (3) ANY HEALTH CARE PRACTITIONER OR LAWYER TO EMPLOY,  
8 DIRECTLY OR INDIRECTLY, OR IN ANY WAY COMPENSATE ANY PERSON FOR THE  
9 PURPOSE OF HAVING THAT PERSON SOLICIT OR ATTEMPT TO SOLICIT CLIENTS FOR  
10 THE LAWYER OR HEALTH CARE PRACTITIONER.

11 (4) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT PUBLIC  
12 COMMUNICATIONS OR ACTIVITY PERMITTED BY APPLICABLE RULES OF  
13 PROFESSIONAL CONDUCT, OR ANY ACTIVITY PROTECTED UNDER THE STATE OR  
14 FEDERAL CONSTITUTIONS.

15 (G) (1) (i) A person convicted of violating SUBSECTION (F) OF THIS  
16 SECTION, OR any OTHER provision of this section where the claim or act that is the  
17 subject of the fraud has a value of \$300 or greater is guilty of a felony and for each such  
18 violation shall restore to the victim the property taken or the value of the property taken  
19 and shall be fined as described in paragraph (2) of this subsection or be imprisoned for  
20 not more than 15 years or both.

21 (ii) A person convicted of any of the provisions of this section where  
22 the claim or act that is the subject of the fraud has a value of under \$300 is guilty of a  
23 misdemeanor and shall restore to the victim the property taken or the value of the  
24 property taken and shall be fined as described in paragraph (2) of this subsection or be  
25 imprisoned for not more than 18 months or both.

26 (2) In addition to the penalties provided in paragraph (1) of this subsection:

27 (i) A person convicted of violating any provision of subsection (b) of  
28 this section shall for each such violation be subject to a fine, the maximum of which shall  
29 not exceed three times the value of the claim or act that is the subject of the fraud or  
30 \$10,000, whichever is greater, and the minimum of which shall be \$500.

31 (ii) A person convicted of violating any provision of subsection (c), (d),  
32 [or] (e), OR (F) of this section is for each such violation subject to a fine not to exceed  
33 \$10,000.

34 (3) (I) The penalties imposed under this section may be imposed separate  
35 from and consecutive to or concurrent with a sentence for any other offense based upon  
36 the act or acts establishing a violation of this section.

37 (II) EACH ACT OF SOLICITATION UNDER SUBSECTION (F) OF THIS  
38 SECTION SHALL CONSTITUTE A SEPARATE VIOLATION FOR THE PURPOSES OF  
39 PENALTIES IMPOSED UNDER THIS SUBSECTION.

8

1 [(g)] (H) Notwithstanding any other provision of law, a penalty imposed for a  
2 violation pursuant to subsection [(f)] (G)(2) of this section shall be mandatory and not  
3 subject to suspension.

4 233AC.

5 The Insurance Fraud Division shall:

6 (1) Have the authority to investigate any person suspected of engaging in  
7 insurance fraud;

8 (2) Where appropriate after an investigation[, refer]:

9 (I) REFER suspected cases of insurance fraud to the Office of the  
10 Attorney General or the appropriate local State's Attorney to criminally prosecute a  
11 person for insurance fraud; ~~AND~~

12 (II) NOTIFY THE APPROPRIATE PROFESSIONAL LICENSING BOARD  
13 OR DISCIPLINARY BODY OF EVIDENCE OF INSURANCE FRAUD INVOLVING  
14 PROFESSIONALS; AND

15 (III) NOTIFY THE APPROPRIATE PROFESSIONAL LICENSING BOARD  
16 OF EVIDENCE OF GROSS OVERUTILIZATION OF HEALTH CARE SERVICES;

17 (3) Compile and abstract information that includes the number of  
18 confirmed acts of insurance fraud and the type of acts of insurance fraud;

19 (4) In exercising its authority under this subtitle, cooperate with the  
20 Department of State Police, the Office of the Attorney General, the local State's  
21 Attorney in the jurisdiction in which the alleged acts of insurance fraud took place and  
22 appropriate local and federal law enforcement authorities;

23 (5) Operate or provide for a toll-free insurance fraud hot line for the  
24 purpose of receiving and recording information on alleged acts of insurance fraud; and

25 (6) In cooperation with the Office of the Attorney General and the  
26 Department of State Police, conduct public outreach and awareness programs on the  
27 costs of insurance fraud to the public.

28 ~~243L.~~

29 ~~As used in this subtitle:~~

30 (a) ~~"Administrator" means the Motor Vehicle Administrator.~~

31 (b) ~~"Executive Director" means the Executive Director of the Maryland~~  
32 ~~Automobile Insurance Fund.~~

33 (c) ~~"Automobile" shall include trucks, vans, and trailers, but shall not include~~  
34 ~~motorcycles or motorbikes.~~

35 (d) ~~"Fund" means the Maryland Automobile Insurance Fund.~~

36 (E) ~~"NAMED INSURED" MEANS THE PERSON DENOMINATED IN THE~~  
37 ~~DECLARATIONS IN A POLICY OF MOTOR VEHICLE LIABILITY INSURANCE.~~

1           ~~[(e)]~~ (F) "Qualified person" means a resident of this State or the owner of a  
 2 motor vehicle registered in this State or a resident of another state, territory, or federal  
 3 district of the United States or province of the Dominion of Canada, or foreign country,  
 4 in which recourse is afforded to residents of this State, of substantially similar character  
 5 to that provided for by this subtitle, but it shall not include: (1) any automobile collision  
 6 insurance carrier or other insurer seeking by way of subrogation any recovery for amounts  
 7 paid for damages to motor vehicles, other real or personal property or injuries to persons  
 8 under any insurance coverages that may be valid, including but not limited to collision,  
 9 fire, theft, medical payments, or uninsured motorist coverages; or (2) any holder of a  
 10 certificate of self insurance under this article; or (3) an insured under a policy provision  
 11 providing coverage for damages sustained by the insured as a result of the operation of an  
 12 uninsured motor vehicle in a form authorized to be included in automobile liability  
 13 policies of insurance delivered or issued for delivery in the State; OR (4) A NAMED  
 14 INSURED, LISTED DRIVER, OR ANY MEMBER OF THE NAMED INSURED'S FAMILY  
 15 RESIDING IN THE NAMED INSURED'S HOUSEHOLD UNDER A POLICY OF INSURANCE  
 16 ISSUED IN THIS STATE THAT DOES NOT INCLUDE UNINSURED MOTORIST COVERAGE  
 17 AS OUTLINED IN § 541(C) OF THIS ARTICLE. A vehicle bearing temporary registration  
 18 plates issued under Part I of Title 13, Subtitle 6 of the Transportation Article is not, for  
 19 the purposes of this section, a motor vehicle registered in this State, if the owner of the  
 20 vehicle is a nonresident of the State of Maryland. "Qualified person" includes anyone  
 21 injured by an uninsured motorist who later files for bankruptcy or other protection from  
 22 creditors that bars the Fund from a subrogation recovery.

23           ~~[(f)]~~ (G) "Uninsured motor vehicle" means a motor vehicle as to which there is  
 24 not in force security meeting the requirements of Title 17 of the Transportation Article;  
 25 and a motor vehicle as to which there is in force a liability policy meeting the  
 26 requirements of that title where a receiver or conservator has been appointed by a court  
 27 of competent jurisdiction for the insurance company issuing said liability policy.

28           ~~[(g)]~~ (H) "Person" includes natural persons, firms, copartnerships, associations,  
 29 corporations, and governmental bodies.

30           ~~[(h)]~~ (I) "Insurer" means any insurer authorized in this State to write automobile  
 31 liability insurance.

32           ~~[(i)]~~ (J) "Net direct written premiums" means direct gross premiums written on  
 33 all policies of motor vehicle liability and physical damage insurance less return premiums  
 34 and dividends paid or credited to policyholders with respect to those policies.

35           ~~[(j)]~~ (K) "Registration license year" for Class A and D vehicles means the period  
 36 beginning April 1, 1973, and ending March 31, 1974, and each subsequent twelve-month  
 37 period, beginning April 1 and ending the following March 31. For all other classes of  
 38 motor vehicles, "registration license year" means the period beginning May 1, 1973 and  
 39 ending April 30, 1974 and each subsequent twelve-month period, beginning May 1, and  
 40 ending the following April 30.

41           ~~[(k)]~~ (L) "Payment of the appropriate premium" means actual receipt by a  
 42 producer of that sum required by the binding rules of the Fund to be collected to effect  
 43 coverage. Payment of all or any part of the premium by an instrument which is later  
 44 dishonored is not payment of the appropriate premium so as to effect coverage.

1           ~~[(l)] (M) "Producer" means any agent, including any independent agent, or~~  
2 ~~broker qualified in this State who has applied for and received a Producer Authorization~~  
3 ~~Code from the Fund.~~

4           ~~[(m)] (N) "Motor vehicle liability and physical damage insurance" means those~~  
5 ~~insurance coverages reported as private passenger auto no fault, other private passenger~~  
6 ~~auto liability, commercial auto no fault, other commercial auto liability, private passenger~~  
7 ~~auto physical damage, and commercial auto physical damage on the exhibit of premiums~~  
8 ~~and losses page of the annual statement which insurers are required to file with the~~  
9 ~~Insurance Commissioner of the State of Maryland.~~

10           ~~[(n)] (O) "Association" means the Industry Automobile Insurance Association~~  
11 ~~created under § 243M.~~

12           ~~[(o)] (P) "Cash basis accounting" means the records of accounts of the Fund~~  
13 ~~evidencing all cash receipts and all cash disbursements of the Fund for a particular year.~~

14           ~~[(p)] (Q) "Statutory basis accounting" means those accounting practices~~  
15 ~~prescribed or permitted by the Maryland Insurance Commissioner, as reflected in the~~  
16 ~~Fund's annual statement.~~

17 ~~244D:~~

18           ~~The following standards apply to the making and use of rates pertaining to all~~  
19 ~~classes of insurance to which this subtitle is applicable:~~

20           ~~(a) (1) Rates may not be:~~

21                           ~~(i) Excessive or inadequate, as defined under this subtitle; or~~

22                           ~~(ii) Unfairly discriminatory.~~

23           ~~(2) Except as provided in paragraph (4) of this subsection, a rate may not be~~  
24 ~~held to be excessive unless:~~

25                           ~~(i) The rate is unreasonably high for the insurance provided; and~~

26                           ~~(ii) The Commissioner has issued a ruling under § 244 I(c) of this~~  
27 ~~subtitle that a reasonable degree of competition does not exist in a market to which the~~  
28 ~~rate is applicable.~~

29           ~~(3) A rate may not be held to be inadequate unless:~~

30                           ~~(i) It is unreasonably low for the insurance provided and continued~~  
31 ~~use of it would endanger solvency of the insurer; or~~

32                           ~~(ii) The rate is unreasonably low for the insurance provided and the~~  
33 ~~use of the rate by the insurer has had or, if continued, will have the effect of destroying~~  
34 ~~competition or of creating monopoly.~~

35           ~~(4) In the case of personal lines property and casualty insurance, a statewide~~  
36 ~~rate or a rate in a particular jurisdiction or geographic territory may be held by the~~  
37 ~~Commissioner to be excessive without determining whether a reasonable degree of~~

11

1 competition exists under § 244 I(c)(1) and (2) of this subtitle if the Commissioner  
2 determines that the rate is:

3 (i) 1. Unreasonably high for the insurance provided; [and]OR

4 {(ii)} 2. Not actuarially justified based on commonly accepted  
5 actuarial principles; OR

6 (H) IN THE CASE OF PRIVATE PASSENGER AUTOMOBILE  
7 INSURANCE ONLY, NOT IN COMPLIANCE WITH SUBSECTION (F) OF THIS SECTION.

8 (5) If the Commissioner determines that a rate is excessive under paragraph  
9 (4) of this subsection and disapproves a rate, the disapproval is subject to § 244 I(c)(4),  
10 (d), and (e).

11 (b) In determining whether rates comply with standards under subsection (a) of  
12 this section, due consideration shall be given to:

13 (1) Past and prospective loss experience within and outside this State;

14 (2) Conflagration or catastrophe hazards;

15 (3) A reasonable margin for underwriting profit and contingencies;

16 (4) Dividends, savings, or unabsorbed premium deposits allowed or  
17 returned by insurers to their policyholders or members or subscribers;

18 (5) Past and prospective expenses, both countrywide and those specially  
19 applicable to this State;

20 (6) Investment income earned or realized by insurers both from their  
21 unearned premium and from their loss reserve funds; and

22 (7) All relevant factors within and outside this State.

23 (c) As to the kinds of insurance to which this subtitle applies:

24 (1) The systems of expense provisions included in the rates for use by an  
25 insurer or group of insurers may differ from those of any other insurers or groups of  
26 insurers to reflect the requirements of the operating methods of the insurer or group of  
27 insurers with respect to any kind of insurance, or with respect to any subdivision or  
28 combination of insurance for which separate expense provisions are applicable; and

29 (2) (i) Risks may be grouped by classifications for the establishment of  
30 rates and minimum premiums.

31 (ii) Classification rates may be modified to produce rates for individual  
32 risks in accordance with rating plans which establish standards for measuring variations in  
33 hazards or expense provisions, or both.

34 (iii) The standards may measure any difference among risks that have  
35 had a direct and substantial effect upon losses or expenses.

12

1                   (iv) Notwithstanding any other provision of this paragraph, no rate may  
2 be based partially or entirely on geographic area itself, as opposed to underlying risk  
3 considerations, even though expressed in geographic terms.

4           (d) (1) Any insurer providing a private passenger automobile insurance policy  
5 shall provide the policyholder at the time of issuance or renewal with a statement that:

6                   (i) Defines the policyholders' rate classifications; and

7                   (ii) In the case of a licensed insurer, includes a summary, in a format  
8 approved by the Commissioner, of the licensed insurer's approved surcharge plan or  
9 driver record point plan for that policy.

10                   (2) The statement shall be sufficiently clear and specific so that a person of  
11 average intelligence can identify the classifications without making further inquiry.

12           (e) All rates shall be made in accordance with the following special principles:

13                   (1) (i) An insurer under an automobile liability insurance policy may not  
14 classify or maintain an insured in a classification entailing a higher premium because of a  
15 specific claim for a period longer than 3 years, and an insurer may not classify or maintain  
16 an insured in a classification entailing a higher premium because of the insured's driving  
17 record for a period longer than 3 years.

18                   (ii) For the purpose of determining whether to classify an insured in a  
19 classification entailing a higher premium, the insurer may only review a period of time not  
20 greater than 3 years prior to:

21                                 1. If the policy has not yet been issued:

22                                         A. The date of the application; or

23                                         B. The proposed effective date of the policy; or

24                                 2. Upon renewal of a policy, the effective date of the renewal.

25                   (iii) The removal of a discount is not a violation of this paragraph.

26                   (2) An insurer's automobile and physical damage insurance premiums shall  
27 reflect the reduction in claims, if any, attributable to the requirement that drivers under  
28 the age of 18 must acquire a provisional driver's license before acquiring a driver's  
29 license.

30                   (3) An insurer under an automobile insurance policy may not consider  
31 accident reports and abstracts of court convictions pertaining to driving an emergency  
32 vehicle that are on record with the Motor Vehicle Administration, as provided in §  
33 16-117(b)(3) of the Transportation Article, for purposes of reclassifying an insured in a  
34 classification entailing a higher premium.

35                   (4) An insurer under an automobile insurance policy may not consider a  
36 probation before judgment disposition of a motor vehicle law offense [or a first offense of  
37 driving with an alcohol concentration of 0.10 or more under § 16-205.1 of the  
38 Transportation Article on record with the Motor Vehicle Administration, as provided in

13

1 ~~§ 16-117(b) of the Transportation Article,] for purposes of reclassifying an insured in a~~  
2 ~~classification entailing a higher premium.~~

3 ~~(5) (D) If the insured notifies the insurer under an automobile insurance~~  
4 ~~policy of a change in circumstances that justifies reclassifying the insured in a different~~  
5 ~~classification or territory, the insurer shall adjust the premium charged the insured from~~  
6 ~~the date of notification.~~

7 ~~(H) 1. IF AN INSURER CLASSIFIES AN INSURED BASED ON THE~~  
8 ~~NUMBER OF MILES AN INSURED VEHICLE IS DRIVEN, THE INSURER SHALL~~  
9 ~~IMPLEMENT AN AUDIT PROCEDURE TO ENSURE THE ACCURACY OF THE RATES~~  
10 ~~CHARGED TO INSUREDS WHO SELF-REPORT MILEAGE DATA FOR RATING~~  
11 ~~PURPOSES.~~

12 ~~2. AN INSURER'S AUDIT PROCEDURE ESTABLISHED UNDER~~  
13 ~~THIS PARAGRAPH SHALL BE APPROVED BY THE COMMISSIONER PRIOR TO~~  
14 ~~IMPLEMENTATION.~~

15 ~~(6) An insurer may provide a reduction in rates based on actuarial~~  
16 ~~justification, for motor vehicle personal injury and property damage coverage, to an~~  
17 ~~insured who:~~

18 ~~(i) Is at least 55 years of age; and~~

19 ~~(ii) Within the last 2 years, has completed successfully a course in~~  
20 ~~accident prevention:~~

21 ~~1. That is approved by the Motor Vehicle Administration;~~

22 ~~2. That includes classroom instruction or practice driving of the~~  
23 ~~number of hours that the Motor Vehicle Administration requires; and~~

24 ~~3. For which the insured has received a certificate that certifies~~  
25 ~~the completion of the course.~~

26 ~~(F) (1) IN ADDITION TO ANY OTHER PROVISION RELATING TO RATES IN~~  
27 ~~THIS SUBTITLE, IN THE CASE OF PRIVATE PASSENGER AUTOMOBILE INSURANCE,~~  
28 ~~THE RATES OF THE INSURER MAY BE HELD TO BE EXCESSIVE BY THE~~  
29 ~~COMMISSIONER AFTER A HEARING UNLESS:~~

30 ~~(I) ON JANUARY 1, 1997 THE STATEWIDE AVERAGE RATE FOR THE~~  
31 ~~COVERAGES PROVIDED UNDER §§ 539 AND 541 OF THIS ARTICLE, OF THE INSURER IS~~  
32 ~~NO MORE THAN 88% OF THE STATEWIDE AVERAGE RATE IN EFFECT ON JANUARY 1,~~  
33 ~~1996;~~

34 ~~(II) ON JANUARY 1, 1998 THE STATEWIDE AVERAGE RATE, FOR THE~~  
35 ~~COVERAGES PROVIDED UNDER §§ 539 AND 541 OF THIS ARTICLE, OF THE INSURER IS~~  
36 ~~NO MORE THAN 85% OF THE STATEWIDE AVERAGE RATE IN EFFECT ON JANUARY 1,~~  
37 ~~1996; AND~~

38 ~~(III) ON JANUARY 1, 1999 AND EACH YEAR THEREAFTER, THE~~  
39 ~~STATEWIDE AVERAGE RATE, FOR THE COVERAGES PROVIDED UNDER §§ 539 AND 541~~  
40 ~~OF THIS ARTICLE, OF THE INSURER IS A PERCENTAGE OF THE STATEWIDE RATE IN~~

14

1 ~~EFFECT ON JANUARY 1, 1996 ESTABLISHED BY THE COMMISSIONER BASED ON COST~~  
2 ~~CONTAINMENT MEASURES ENACTED, ADJUSTED UPWARD OR DOWNWARD BY~~  
3 ~~OTHER RELEVANT FACTORS, AS DETERMINED BY INDEPENDENT ACTUARIAL~~  
4 ~~ANALYSIS.~~

5 ~~(2) THE COMMISSIONER MAY REDUCE THE PERCENTAGE THRESHOLD~~  
6 ~~IN PARAGRAPH (F)(1)(II), IF THE COMMISSIONER DETERMINES, BASED ON AN~~  
7 ~~INDEPENDENT ACTUARIAL ANALYSIS, THE PERCENTAGE IS NOT ACTUARIALLY~~  
8 ~~JUSTIFIED.~~

9 ~~(3) IN DETERMINING WHETHER A RATE IS EXCESSIVE UNDER THIS~~  
10 ~~SUBSECTION, THE COMMISSIONER MAY TAKE INTO CONSIDERATION AMONG OTHER~~  
11 ~~RELEVANT FACTORS:~~

12 ~~(I) INFLATIONARY FACTORS, UNRELATED TO ANY COST~~  
13 ~~CONTAINMENT MEASURES APPLICABLE TO INSURERS UNDER THIS ARTICLE, WHICH~~  
14 ~~SERVE TO INCREASE INSURANCE RATES GENERALLY; AND~~

15 ~~(II) FACTORS SPECIFIC TO A PARTICULAR INSURER WHICH~~  
16 ~~RESULT IN ACTUARIALLY JUSTIFIED RATES EVEN THOUGH THE RATES ARE NOT IN~~  
17 ~~COMPLIANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.~~

18 ~~(4) AT A HEARING HELD TO DETERMINE WHETHER RATES ARE~~  
19 ~~EXCESSIVE UNDER THIS SUBSECTION, THE BURDEN OF PERSUASION SHALL BE ON~~  
20 ~~THE INSURER TO ESTABLISH THAT THE RATES IN QUESTION ARE NOT EXCESSIVE.~~

21 ~~(5) IF AFTER A HEARING THE COMMISSIONER DETERMINES A RATE TO~~  
22 ~~BE EXCESSIVE UNDER THIS SUBSECTION, THE DISAPPROVAL IS SUBJECT TO §~~  
23 ~~244 I(D) AND (E) OF THIS SUBTITLE.~~

24 ~~(6) THE COMMISSIONER SHALL BY REGULATIONS ADOPTED OCTOBER~~  
25 ~~1, 1996, DETERMINE THE METHOD FOR CALCULATING THE STATEWIDE AVERAGE~~  
26 ~~RATE OF AN INSURER UNDER SUBSECTION (F)(1).~~

27 ~~244H.~~

28 ~~(a) The Commissioner may investigate and determine whether or not rates in this~~  
29 ~~State for the kinds of insurance to which this subtitle applies are excessive, inadequate, or~~  
30 ~~unfairly discriminatory.~~

31 ~~(b) In any such investigation and determination the Commissioner shall give due~~  
32 ~~consideration to those factors specified in § 244D of this subtitle.~~

33 ~~244I.~~

34 ~~(a) If the Commissioner finds after a hearing that a rate is not in compliance with~~  
35 ~~§ 244D of this subtitle, or that a rate had been set in violation of § 244M of this subtitle,~~  
36 ~~the Commissioner shall order that its use be discontinued for any policy issued or~~  
37 ~~renewed after a date specified in the order and the order may prospectively provide for~~  
38 ~~premium adjustment of any policy then in force. Except as provided in subsection (b) of~~  
39 ~~this section, the order shall be issued within 30 days after the close of the hearing or~~  
40 ~~within a reasonable time extension as fixed by the Commissioner. The order shall expire~~  
41 ~~1 year after its effective date unless rescinded earlier by the Commissioner.~~

1           (b) (1) Pending a hearing, the Commissioner may order the suspension  
2 prospectively of a rate filed by an insurer and reimpose the last previous rate in effect if  
3 the Commissioner has reasonable cause to believe that:

4                   (i) An insurer is in violation of § 244D of this subtitle;

5                   (ii) Unless the order of suspension is issued, certain insureds will  
6 suffer irreparable harm;

7                   (iii) The hardship insureds will suffer absent the order of suspension  
8 outweighs any hardship the insurers would suffer if the order of suspension were to issue;  
9 and

10                  (iv) The order of suspension will cause no substantial harm to the  
11 public.

12           (2) In the event the Commissioner suspends a rate under this subsection,  
13 the Commissioner must, unless waived by the insurer, hold a hearing within 15 working  
14 days after issuing the order suspending the rate. In addition, the Commissioner must  
15 make a determination and issue the order as to whether or not the rate should be  
16 disapproved within 15 working days after the close of the hearing.

17           (c) (1) At any hearing to determine compliance with § 244D(a)(2) of this subtitle  
18 pursuant to subsection (a) of this section, the Commissioner shall first determine whether  
19 a reasonable degree of competition exists within a market, and shall give a ruling to that  
20 effect. All insurers operating within such market shall have the burden of establishing  
21 that a reasonable degree of competition exists within that market. The Commissioner  
22 shall consider all relevant factors in determining the competitiveness of a market,  
23 including:

24                   (i) The number of insurers actively engaged in providing coverage in  
25 the market;

26                   (ii) Market shares;

27                   (iii) Changes in market shares; and

28                   (iv) Ease of entry.

29           (2) (i) If the Commissioner determines that a reasonable degree of  
30 competition does not exist in a market, any insurer designated by the Commissioner shall  
31 have the burden of justifying its rate in such market.

32                   (ii) The Commissioner may require that an insurer file supporting data  
33 as provided under § 244K(b) of this subtitle.

34           (3) All determinations made by the Commissioner shall be on the basis of  
35 findings of fact and conclusions of law.

36           (4) If the Commissioner disapproves a rate, the disapproval shall take effect  
37 not less than 15 days after its order and the last previous rate in effect for the insurer shall  
38 be reimposed for a period of 1 year unless the Commissioner approves a rate under  
39 subsection (d) or subsection (e) of this section.

1           (d) ~~Within 1 year after the effective date of a disapproval order norate adopted to~~  
2 ~~replace one disapproved under such order may be used until it has been filed with the~~  
3 ~~Commissioner and not disapproved within 30 days thereafter.~~

4           (e) ~~Whenever an insurer has no legally effective rates as a result of the~~  
5 ~~Commissioner's disapproval of rates or other act, the Commissioner shall, on the insurer's~~  
6 ~~request, specify interim rates for the insurer that are high enough to protect the interests~~  
7 ~~of all parties and may order that a specified portion of the premiums be placed in a~~  
8 ~~special reserve established by the insurer. When new rates become legally effective, the~~  
9 ~~Commissioner shall order the specially reserved funds or any overcharge in the interim~~  
10 ~~rates to be distributed appropriately, except that refunds to policyholders that are~~  
11 ~~minimal may not be required.~~

12 374A.

13           (A) ~~ALL STATEMENTS AND DESCRIPTIONS IN AN APPLICATION FOR A MOTOR~~  
14 ~~VEHICLE INSURANCE POLICY OR CONTRACT, OR FOR THE REINSTATEMENT OR~~  
15 ~~RENEWAL OF THE POLICY OR CONTRACT, BY OR ON BEHALF OF THE INSURED,~~  
16 ~~SHALL BE DEEMED TO BE REPRESENTATIONS AND NOT WARRANTIES.~~

17           (B) ~~(1) AN INSURER MAY TAKE THE ACTION DESCRIBED IN PARAGRAPHS~~  
18 ~~(B)(2) AND (3) WITH RESPECT TO:~~

19                       (I) ~~AN INSURED WHO KNOWINGLY PROVIDES AN INCORRECT~~  
20 ~~ADDRESS FOR THE LOCATION AT WHICH AN INSURED VEHICLE IS PRINCIPALLY~~  
21 ~~GARAGED; AND~~

22                       (II) ~~A MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT~~  
23 ~~OR INCORRECT STATEMENT IN AN APPLICATION.~~

24                       (2) ~~IF A FIRST PARTY CLAIM HAS NOT BEEN FILED PRIOR TO~~  
25 ~~DISCOVERY BY AN INSURER OF AN INCORRECT ADDRESS, OR A~~  
26 ~~MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT, OR INCORRECT~~  
27 ~~STATEMENT, AN INSURER MAY RESCIND THE POLICY.~~

28                       (3) ~~IF A FIRST PARTY CLAIM HAS BEEN FILED PRIOR TO DISCOVERY OF~~  
29 ~~AN INCORRECT ADDRESS, OR A MISREPRESENTATION, OMISSION, CONCEALMENT~~  
30 ~~OF FACT, OR INCORRECT STATEMENT, AN INSURER MAY DENY FIRST PARTY~~  
31 ~~BENEFITS.~~

32                       (4) ~~AN INSURER MAY TAKE THE ACTIONS DESCRIBED IN PARAGRAPH~~  
33 ~~(2) OF THIS SECTION IF THE MISREPRESENTATION, OMISSION, CONCEALMENT OF~~  
34 ~~FACT, OR INCORRECT STATEMENT IN PARAGRAPH (B)(1)(II) IS EITHER:~~

35                               (I) ~~FRAUDULENT;~~

36                               (II) ~~MATERIAL EITHER TO THE ACCEPTANCE OF THE RISK, OR TO~~  
37 ~~THE HAZARD ASSUMED BY THE INSURER; OR~~

38                               (III) ~~THE INSURER IN GOOD FAITH WOULD NOT HAVE ISSUED,~~  
39 ~~REINSTATED, RENEWED THE POLICY OR CONTRACT, IF THE TRUE FACTS HAD BEEN~~  
40 ~~MADE KNOWN TO THE INSURER AS REQUIRED EITHER BY THE APPLICATION FOR~~  
41 ~~THE POLICY OR CONTRACT.~~

17

1 ~~538.~~

2 As used in this subtitle:

3 (a) ~~"Accident" means any occurrence involving a motor vehicle, other than an~~  
4 ~~occurrence caused intentionally by or at the direction of the insured, from which damage~~  
5 ~~to any property or injury to any person results.~~

6 (b) ~~"Motor vehicle" means automobile and any other vehicle, including a trailer,~~  
7 ~~operated or designed for operation upon a public road by any power other than animal or~~  
8 ~~muscular power but does not include a vehicle as defined in §§ 11-105 and 11-165 of the~~  
9 ~~Transportation Article of the Annotated Code of Maryland.~~

10 (c) ~~"Named insured" means the person denominated in the declarations in a~~  
11 ~~policy of motor vehicle liability insurance.~~

12 (d) ~~"Income" means wages, salary, tips, commissions, professional fees, and other~~  
13 ~~earnings from work or employment, including earnings from businesses or farms owned~~  
14 ~~individually or jointly or in partnership with others. To the extent that any such earnings~~  
15 ~~are paid or payable in property or services other than cash, "income" means the~~  
16 ~~reasonable value of such property or services.~~

17 (e) ~~"Income producer" means a person who at the time of an accident was in an~~  
18 ~~occupational status where he was earning or producing income.~~

19 (F) ~~"SOFT TISSUE INJURY" MEANS AN INJURY, SUCH AS A SPRAIN OR STRAIN,~~  
20 ~~TO TISSUE, OTHER THAN BONE OR CARTILAGE, WHICH IS PART OF THE SUPPORTING~~  
21 ~~STRUCTURES OF THE MUSCULOSKELETAL SYSTEM.~~

22 ~~539.~~

23 (a) ~~[Unless waived by the first named insured under subsection (f) of this section,~~  
24 ~~every] EVERY insurer proposing to issue, sell, or deliver any motor vehicle insurance~~  
25 ~~policy in this State shall [provide] OFFER coverage for the medical, hospital, and~~  
26 ~~disability benefits set forth in this section.~~

27 (b) ~~The medical, hospital, and disability benefits shall cover:~~

28 (1) ~~Except for persons specifically excluded under § 240C-1 of this article:~~

29 (i) ~~The first named insured and members of the first named insured's~~  
30 ~~family residing in the first named insured's household who are injured in any motor~~  
31 ~~vehicle accident, including:~~

32 1. ~~An accident involving an uninsured motor vehicle; or~~

33 2. ~~A motor vehicle the identity of which cannot be ascertained;~~

34 ~~and~~

35 (ii) ~~Other persons injured while using the insured motor vehicle with~~  
36 ~~the express or implied permission of the named insured;~~

37 (2) ~~Other persons injured while occupying the insured motor vehicle as a~~  
38 ~~guest or a passenger;~~

18

1 ~~(3) Pedestrians injured in an accident in which the insured motor vehicle is~~  
2 ~~involved; and~~

3 ~~(4) Individuals injured in, on, or alighting from any other vehicle operated~~  
4 ~~by animal or muscular power in an accident in which the insured vehicle is involved.~~

5 ~~(e) The minimum medical, hospital and disability benefits shall include up to an~~  
6 ~~amount of \$2,500, for payment of all reasonable expenses arising from the accident and~~  
7 ~~incurred within 3 years from the date of the accident for:~~

8 ~~(1) Necessary medical, surgical, x ray and dental services, including~~  
9 ~~prosthetic devices;~~

10 ~~(2) Necessary ambulance, hospital, professional nursing and funeral~~  
11 ~~services; and~~

12 ~~(3) (i) In the case of an income producer, payment of benefits for 85~~  
13 ~~percent of income lost as the result of the accident; and~~

14 ~~(ii) In the case where the person injured in the accident was not an~~  
15 ~~income or wage producer at the time of the accident, payments made in reimbursement of~~  
16 ~~necessary and reasonable expenses incurred for essential services ordinarily performed by~~  
17 ~~the injured person for the care and maintenance of the family or family household.~~

18 ~~(d) The insurer providing loss of income benefits may require, as a condition of~~  
19 ~~receiving such benefits that the injured person furnish the insurer reasonable medical~~  
20 ~~proof of his injury causing loss of income.~~

21 ~~(e) The provisions of this section do not apply to policies issued, sold or delivered~~  
22 ~~in this State to insure vehicles as defined in §§ 11-105 and 11-165 of the Transportation~~  
23 ~~Article of the Annotated Code of Maryland.~~

24 ~~{(f) (1) (i) If the first named insured does not wish to obtain the benefits~~  
25 ~~described under this section, the first named insured shall make an affirmative written~~  
26 ~~waiver of those benefits.~~

27 ~~(ii) As to a policy of private passenger motor vehicle liability~~  
28 ~~insurance, a waiver made under this subsection shall constitute a waiver of all the benefits~~  
29 ~~described under this section, whether provided under the first named insured's policy or~~  
30 ~~any other private passenger motor vehicle liability insurance policy issued in this State.~~

31 ~~(iii) Subject to subparagraph (iv) of this paragraph, a waiver made~~  
32 ~~under this subsection shall be binding on the following persons covered by the policy:~~

33 ~~1. All named insureds;~~

34 ~~2. All listed drivers; and~~

35 ~~3. All members of the first named insured's family residing in~~  
36 ~~the first named insured's household who are 16 years of age or older.~~

37 ~~(iv) An individual listed under subparagraph (iii) 2 or 3 of this~~  
38 ~~paragraph may recover the benefits described under this section under another policy of~~  
39 ~~private passenger motor vehicle liability insurance if that individual:~~

19

- 1                                   1. Is the first named insured under the other policy;
- 2                                   2. Has not waived the benefits described under this section
- 3 under the other policy; and
- 4                                   3. Is not a named insured under any other policy of private
- 5 passenger motor vehicle liability insurance where a waiver of the benefits described in
- 6 this section is in effect.

7                           (2) (i) Before a first named insured makes a waiver under this subsection,

8 the first named insured must be informed in writing of the nature and extent of the

9 coverage and benefits described under this section.

10                           (ii) A waiver made under this subsection shall be made on a form

11 required by the Commissioner.

12                           (iii) The form may be part of the contract of insurance.

13                           (iv) The form shall clearly and concisely explain in 10 point boldface

14 type:

15                           1. The nature, extent, and cost of the coverage and benefits that

16 would be provided under the policy if not waived by the first named insured;

17                           2. That, as to a policy of private passenger motor vehicle

18 liability insurance, a waiver made under this subsection constitutes a waiver of all the

19 benefits described under this section, whether provided under the first named insured's

20 policy or any other private passenger motor vehicle liability policy or coverage issued in

21 this State;

22                           3. Subject to sub-subparagraph 4 of this subparagraph, that a

23 waiver made under this subsection shall be binding on the following persons covered

24 under the policy:

25                           A. All named insureds;

26                           B. All listed drivers; and

27                           C. All members of the first named insured's family residing in

28 the first named insured's household who are 16 years of age or older;

29                           4. That an individual listed under sub-subparagraph 3B or C of

30 this subparagraph may recover the benefits described under this section under another

31 policy of private passenger motor vehicle liability insurance if that individual:

32                           A. Is the first named insured under the other policy;

33                           B. Has not waived the benefits described under this section

34 under the other policy; and

35                           C. Is not a named insured under any other policy of private

36 passenger motor vehicle liability insurance where a waiver of the benefits described in

37 this section is in effect;



1                   ~~(II) AN INSURER MAY OFFER, AND PROVIDE AT THE OPTION OF~~  
2 ~~THE NAMED INSURED, DEDUCTIBLE, COST SHARING, OR COINSURANCE~~  
3 ~~ARRANGEMENTS WHEREBY THE RECIPIENT OF CARE, TREATMENT, SERVICES,~~  
4 ~~PRODUCTS, EXPENSES, OR ACCOMMODATIONS SHARES IN THE PAYMENT~~  
5 ~~OBLIGATION FOR SUCH CARE, TREATMENT, SERVICES, PRODUCTS, EXPENSES, OR~~  
6 ~~ACCOMMODATIONS.~~

7                   ~~(III) A DEDUCTIBLE, COST SHARING, OR COINSURANCE UNDER A~~  
8 ~~POLICY COVERED UNDER THIS PARAGRAPH MAY NOT BE APPLIED WITH RESPECT~~  
9 ~~TO CARE, TREATMENT, SERVICES, PRODUCTS, OR ACCOMMODATION PROVIDED OR~~  
10 ~~EXPENSES INCURRED BY AN INSURED DURING THE FIRST 24 HOURS IN WHICH~~  
11 ~~EMERGENCY TREATMENT HAS BEEN PROVIDED OR UNTIL THE INSURED PATIENT'S~~  
12 ~~EMERGENCY MEDICAL CONDITION IS STABILIZED, WHICHEVER IS LONGER, OR~~  
13 ~~UNTIL THE INSURED PATIENT IS TRANSFERRED TO A MANAGED CARE PROVIDER IN~~  
14 ~~ACCORDANCE WITH APPLICABLE LAW.~~

15                   ~~(4) IF ELECTED, THE MANAGED CARE OPTION PROVIDED UNDER THIS~~  
16 ~~SUBSECTION SHALL APPLY TO ANY PERSON TO WHOM BENEFITS WOULD~~  
17 ~~OTHERWISE BE APPLICABLE UNDER THIS SECTION.~~

18                   ~~(5) (I) AN INSURER MAY NOT REQUIRE AN INSURED TO AGREE TO A~~  
19 ~~MANAGED CARE OPTION AS A CONDITION OF PROVIDING INSURANCE COVERAGE.~~

20                   ~~(II) A VIOLATION OF THIS PARAGRAPH SHALL SUBJECT THE~~  
21 ~~INSURER TO THE PENALTIES PROVIDED UNDER §§ 12, 55, 55A, AND 215 OF THIS~~  
22 ~~ARTICLE.~~

23                   ~~(6) THE COMMISSIONER SHALL ADOPT REGULATIONS NECESSARY TO~~  
24 ~~IMPLEMENT THIS SUBSECTION, INCLUDING REGULATIONS PROVIDING FOR A FORM~~  
25 ~~FOR THE ELECTION OF A MANAGED CARE OPTION.~~

26 540.

27                   ~~(a) The benefits described under § 539 of this subtitle shall be payable without~~  
28 ~~regard to:~~

29                   ~~(1) The fault or nonfault of the named insured or the recipient in causing or~~  
30 ~~contributing to the accident; and~~

31                   ~~(2) [Any] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,~~  
32 ~~ANY collateral source of medical, hospital, or wage continuation benefits.~~

33                   ~~(b) (1) [Subject to paragraph (2) of this subsection, where] WHERE the~~  
34 ~~insured has coverage for both the benefits described under § 539 of this subtitle and the~~  
35 ~~collateral benefits, the insurer or insurers [may] SHALL coordinate the policies to~~  
36 ~~provide for nonduplication of the benefits, subject to appropriate reductions in premiums~~  
37 ~~for one or both of said coverages approved by the Commissioner.~~

38                   ~~(2) (i) The named insured shall have the right to elect or reject the~~  
39 ~~coordination of policies and nonduplication of benefits.~~

40                   ~~(ii) If the insured elects to coordinate policies, the insured shall~~  
41 ~~indicate in writing which policy is to become primary.]~~

1 ~~(I) AN INSURER PAYING BENEFITS UNDER § 539 OF THIS SUBTITLE~~  
2 ~~SHALL BE PRIMARY TO ANY OTHER INSURER PROVIDING COLLATERAL BENEFITS.~~

3 ~~(II) IF AN INSURER HAS PAID COLLATERAL BENEFITS TO AN~~  
4 ~~INSURED WHO IS ALSO ENTITLED TO BENEFITS UNDER § 539 OF THIS SUBTITLE, THE~~  
5 ~~PRIMARY INSURER SHALL PAY TO THE INSURED ONLY THOSE BENEFITS UNDER §~~  
6 ~~539 OF THIS SUBTITLE NOT PAID BY THE COLLATERAL INSURER, AND THE~~  
7 ~~COLLATERAL INSURER MAY COLLECT FROM THE PRIMARY INSURER THOSE~~  
8 ~~COLLATERAL BENEFITS PAID TO THE INSURED.~~

9 ~~(c) An insurer paying benefits under § 539 of this subtitle shall have no right of~~  
10 ~~subrogation and no claim against any other person or insurer to recover any benefits paid~~  
11 ~~by reason of the alleged fault of such other person in causing or contributing to the~~  
12 ~~accident.~~

13 ~~(d) Upon the issuance of a policy containing coverage described under § 539 of~~  
14 ~~this subtitle, the insurer shall notify the policyholder in writing that a surcharge may not~~  
15 ~~be imposed on the policyholder for any claim or payment made pursuant to the coverage~~  
16 ~~provided under § 539 of this subtitle.~~

17 541.

18 ~~(a) Nothing in this subtitle affects or limits the provisions of Title 17 of the~~  
19 ~~Transportation Article, and every policy of motor vehicle liability insurance issued, sold,~~  
20 ~~or delivered in this State shall provide the minimum liability coverages specified therein.~~

21 ~~(b) (1) Nothing in this subtitle or in Title 17 of the Transportation Article~~  
22 ~~prevents an insurer from issuing, selling, or delivering a policy of motor vehicle liability~~  
23 ~~insurance providing liability coverage in excess of the requirements of the Maryland~~  
24 ~~Vehicle Law.~~

25 ~~(2) Nothing in this subtitle shall be construed to prohibit an insurer from~~  
26 ~~providing Christian Science care and treatment, and such Christian Science care and~~  
27 ~~treatment shall constitute economic loss.~~

28 ~~(c) (1) In this subsection "uninsured motor vehicle" means a motor vehicle~~  
29 ~~whose ownership, maintenance, or use has resulted in the bodily injury or death of an~~  
30 ~~insured, and for which the sum of the limits of liability under all valid and collectible~~  
31 ~~liability insurance policies, bonds, and securities applicable to bodily injury or death:~~

32 ~~(i) Is less than the amount of coverage provided under this subsection;~~  
33 ~~or~~

34 ~~(ii) Has been reduced by payment to other persons of claims arising~~  
35 ~~from the same occurrence to an amount less than the coverage provided under this~~  
36 ~~subsection.~~

37 ~~(2) In addition to any other coverage required by this subtitle, every policy~~  
38 ~~of motor vehicle liability insurance issued, sold, or delivered in this State after July 1,~~  
39 ~~1975 shall contain coverage in at least the amounts required under Title 17 of the~~  
40 ~~Transportation Article, for damages, subject to the policy limits, which:~~

1 (i) The insured is entitled to recover from the owner or operator of an  
2 uninsured motor vehicle because of bodily injuries sustained in an accident arising out of  
3 the ownership, maintenance, or use of such uninsured motor vehicle.

4 (ii) The surviving relatives, as defined in § 3-904 of the Courts Article,  
5 of the insured are entitled to recover from the owner or operator of an uninsured motor  
6 vehicle because of the death of the insured as the result of an accident arising out of the  
7 ownership, maintenance, or use of the uninsured motor vehicle.

8 (iii) The coverage required under this subsection (c) shall be in such  
9 form and subject to such conditions as may be approved by the Commissioner of  
10 Insurance.

11 (iv) Any provision in any policy of motor vehicle liability insurance  
12 issued after July 1, 1975, with respect to the coverage provided for damages sustained by  
13 the insured as a result of the operation of an uninsured motor vehicle, which commands  
14 or requires the submission of any dispute between the insured and the insurer to binding  
15 arbitration, is prohibited and shall be of no legal force or effect.

16 (v) In no case shall the uninsured motorist coverage be less than the  
17 coverage afforded a qualified person under Article 48A, §§ 243H and 243 I. However, the  
18 insurer may exclude from coverage benefits for:

19 1. The named insured or members of his family residing in the  
20 household when occupying, or struck as a pedestrian by, an uninsured motor vehicle that  
21 is owned by the named insured or a member of his immediate family residing in his  
22 household; and

23 2. The named insured, members of his family residing in the  
24 household, and all other persons having other applicable automobile insurance and  
25 occupying, or struck as a pedestrian by, the insured motor vehicle operated or used by a  
26 person excluded from coverage under § 240C-1 of this article.

27 (vi) The coverage required under this subsection shall be primary to  
28 any right to recovery from the Maryland Automobile Insurance Fund pursuant to § 243H  
29 of this article.

30 (3) The limit of liability for an insurer providing uninsured motorist  
31 coverage under this subsection is the amount of that coverage less the amount paid to the  
32 insured that exhausts any applicable liability insurance policies, bonds, and securities on  
33 behalf of any person who may be held liable for the bodily injuries or death of the  
34 insured.

35 (4) AN INSURER MAY EXCLUDE FROM COVERAGE BENEFITS TO THE  
36 NAMED INSURED AND MEMBERS OF HIS FAMILY FOR PROPERTY DAMAGE AND  
37 BODILY INJURIES WHERE THERE IS NO PHYSICAL EVIDENCE OF CONTACT WITH THE  
38 UNINSURED VEHICLE DEMONSTRATING THAT THE BODILY INJURIES WERE  
39 SUSTAINED IN AN ACCIDENT ARISING OUT OF THE USE OF AN UNINSURED MOTOR  
40 VEHICLE.

41 (d) (1) All insurers shall offer collision coverage for damage to insured motor  
42 vehicles subject to deductibles of \$50 to \$250 in \$50 increments.

1                   (2) An insurer may offer to its insured optional coverage for damages  
2 incurred by the insured as a result of the loss of use of a rental vehicle that sustains  
3 collision damage while rented by the insured.

4                   (3) Collision coverage shall provide insurance without regard to fault  
5 against accidental property damage to the insured motor vehicle caused by physical  
6 contact of the insured motor vehicle with another motor vehicle or with another object or  
7 by upset of the insured motor vehicle, if the accident occurs within the United States of  
8 America, its territories or possessions, Canada or Mexico.

9                   (4) (i) For purposes of this paragraph, "passenger car" means any motor  
10 vehicle that is a Class A (passenger) vehicle under § 13-912 of the Transportation Article,  
11 or any motor vehicle that is a Class M (multipurpose) vehicle under § 13-937 of the  
12 Transportation Article if the vehicle is used primarily for transporting passengers.

13                   (ii) Whenever a private passenger automobile insurance policy issued,  
14 sold, or delivered in this State includes collision coverage under this subsection, the motor  
15 vehicles insured under such coverage shall include any passenger car that is rented by an  
16 insured for a period of 30 days or less under a rental agreement as otherwise defined in  
17 § 14-2101 of the Commercial Law Article.

18                   (iii) Every insurer providing a policy with such coverage shall notify its  
19 insured in a separate written notice in bold type that the insured will not need any  
20 additional such coverages or a collision damage waiver whenever the insured rents a  
21 private passenger car for a period of 30 days or less during the term of the policy.

22                   (iv) An insurer may not deny coverage to an insured for collision  
23 damage to a rental vehicle because:

- 24                                   1. The accident involved an uninsured motorist; or  
25                                   2. The identity of the motor vehicle causing the damage cannot  
26 be ascertained.

27                   (e) The coverage required by subsection (c) of this section does not apply to a  
28 policy of liability insurance that insures a motor vehicle that is not subject to registration  
29 under § 13-402 of the Transportation Article, because it is not driven on a highway or it  
30 is exempt under § 13-402(e)(10) of the Transportation Article.

31                   (f) Policies of insurance that have as their primary purpose to provide coverage in  
32 excess of other valid and collectible insurance or qualified self insurance may include  
33 uninsured motorist coverage as provided in subsection (c) of this section.

34                   (g) (1) Unless THE FULL COVERAGE OR EXCESS COVERAGE IS waived by the  
35 first named insured under this subsection, the amount of uninsured motorist coverage  
36 under a policy of private passenger motor vehicle insurance shall be equal to the amount  
37 of liability coverage provided under the policy.

38                   (2) [Where] IF THE FIRST NAMED INSURED DOES NOT WISH TO OBTAIN  
39 UNINSURED MOTORIST BENEFITS, OR WHERE the liability insurance coverage under a  
40 policy or binder of private passenger motor vehicle insurance is in excess of that required  
41 under § 17-103 of the Transportation Article[, if] AND the first named insured does not

25

~~1 wish to obtain uninsured motorist benefits in the same amount as the liability insurance  
2 coverage, the first named insured shall make an affirmative written waiver of having  
3 uninsured motorist benefits OR HAVING BENEFITS in the same amount as the liability  
4 coverage.~~

~~5 (3) (i) Before a first named insured makes a waiver under this subsection,  
6 the first named insured must be informed in writing of the nature, extent, benefit, and  
7 cost of the level of the uninsured motorist coverage being waived.~~

~~8 (ii) A waiver made under this subsection shall be made on a form  
9 required by the Commissioner.~~

~~10 (iii) The form may be part of the contract of insurance.~~

~~11 (iv) The form shall clearly and concisely explain in 10 point boldface  
12 type:~~

~~13 1. The nature, extent, benefit, and cost of the level of the  
14 uninsured motorist coverage that would be provided under the policy if not waived by the  
15 first named insured;~~

~~16 2. That a failure of the first named insured to make a waiver  
17 requires an insurer to provide uninsured motorist coverage in an amount equal to the  
18 amount of the liability coverage, where the liability insurance coverage under a policy or  
19 binder of private passenger motor vehicle insurance is in excess of that required under §  
20 17-103 of the Transportation Article;~~

~~21 3. That an insurer may not refuse to underwrite a person  
22 because the person refuses to make a waiver of the FULL OR excess uninsured motorist  
23 coverage under this subsection; and~~

~~24 4. That a waiver made under this subsection must be an  
25 affirmative, written waiver.~~

~~26 (4) Failure of the first named insured to make an affirmative written waiver  
27 under this subsection requires an insurer to provide uninsured motorist coverage in an  
28 amount equal to the amount of the liability coverage, where the liability insurance  
29 coverage under a policy or binder of private passenger motor vehicle insurance is in  
30 excess of that required under § 17-103 of the Transportation Article.~~

~~31 (5) (i) An insurer may not refuse to underwrite a person because the  
32 person refuses to make a waiver of the FULL OR excess uninsured motorist coverage  
33 under this subsection.~~

~~34 (ii) A violation of this paragraph is subject to the penalties provided  
35 under §§ 55 and 55A of this article.~~

~~36 (6) A waiver made under this subsection by persons continuously insured by  
37 an insurer or by the Maryland Automobile Insurance Fund shall be construed to be  
38 effective until withdrawn in writing.~~

1                   ~~(7) Subject to approval by the Commissioner, the waiver made under this~~  
2 ~~subsection may be made on the same form as the waiver made under § 539(f) of this~~  
3 ~~subtitle.~~

4                   ~~(8) A PERSON WHO HAS WAIVED UNINSURED MOTORIST COVERAGE~~  
5 ~~UNDER THIS SUBSECTION MAY NOT MAKE A CLAIM AGAINST THE MARYLAND~~  
6 ~~AUTOMOBILE INSURANCE FUND UNDER § 243H OF THIS ARTICLE FOR ANY BENEFITS~~  
7 ~~OR PAYMENTS THAT WOULD OTHERWISE BE PAYABLE UNDER UNINSURED~~  
8 ~~MOTORIST COVERAGE.~~

9                   ~~(h) The amount of uninsured motorist coverage under a motor vehicle insurance~~  
10 ~~policy may not exceed the amount of the liability coverage under the same policy.~~

11 ~~541A.~~

12                   ~~(A) IN THIS SECTION, THE TERMS "HEALTH CARE SERVICE" AND "HEALTH~~  
13 ~~CARE PRACTITIONER" HAVE THE MEANINGS STATED IN THE HEALTH—GENERAL~~  
14 ~~ARTICLE, § 19-1501.~~

15                   ~~(B) (1) BEGINNING JULY 1, 1997, WITH RESPECT TO HEALTH CARE SERVICES~~  
16 ~~RELATING TO SOFT TISSUE INJURIES RESULTING FROM A MOTOR VEHICLE~~  
17 ~~ACCIDENT, AN INSURER PROVIDING BENEFITS UNDER § 539 OF THIS SUBTITLE OR~~  
18 ~~PROVIDING COVERAGE UNDER § 541(A) AND (C) OF THIS SUBTITLE MAY NOT BE~~  
19 ~~REQUIRED TO PAY, AND A PERSON PROVIDING SUCH HEALTH CARE SERVICES MAY~~  
20 ~~NOT REQUIRE OR REQUEST, PAYMENT IN EXCESS OF THAT PROVIDED UNDER §~~  
21 ~~19-1509 OF THE HEALTH—GENERAL ARTICLE.~~

22                   ~~(2) IF REIMBURSEMENT FOR A HEALTH CARE SERVICE HAS NOT BEEN~~  
23 ~~ESTABLISHED BY THE SYSTEM ADOPTED UNDER § 19-1509 OF THE HEALTH—~~  
24 ~~GENERAL ARTICLE THE AMOUNT PAYABLE MAY NOT EXCEED 80% OF THE~~  
25 ~~PROVIDER'S USUAL AND CUSTOMARY CHARGE.~~

26                   ~~(3) A HEALTH CARE PRACTITIONER SUBJECT TO THIS SECTION MAY~~  
27 ~~NOT BILL THE INSURED OR INJURED PERSON, OR OTHERWISE ATTEMPT TO~~  
28 ~~COLLECT, ANY DIFFERENCE BETWEEN THE AMOUNT PAYABLE UNDER THIS~~  
29 ~~SECTION AND ANY OTHER AMOUNT CHARGED BY THE HEALTH CARE~~  
30 ~~PRACTITIONER.~~

31                   ~~(C) (1) BEGINNING JANUARY 1, 1997, ANY INSURER PAYING BENEFITS OR~~  
32 ~~CLAIMS UNDER § 539 OR PROVIDING COVERAGE UNDER § 541 OF THIS ARTICLE MAY~~  
33 ~~CONTRACT WITH A PEER REVIEW ORGANIZATION (PRO) FOR THE PURPOSE OF~~  
34 ~~EVALUATING WHETHER HEALTH CARE SERVICES FOR SOFT TISSUE INJURIES ARE:~~

35                   ~~(I) MEDICALLY NECESSARY; AND~~

36                   ~~(II) CONFORM TO PROFESSIONAL STANDARDS OF PERFORMANCE.~~

37                   ~~(2) AN INSURER'S REFERRAL OF A BILL FOR A HEALTH CARE SERVICE~~  
38 ~~MUST BE MADE TO A PRO WITHIN 90 DAYS OF THE INSURER'S RECEIPT OF THE~~  
39 ~~PRACTITIONER'S BILL, OR MAY BE MADE AT ANY TIME FOR CONTINUING HEALTH~~  
40 ~~CARE SERVICES.~~

1                   ~~(3) AN INSURER, PRACTITIONER, OR INSURED MAY REQUEST A~~  
2 ~~RECONSIDERATION BY THE PRO OF THE PRO'S INITIAL DETERMINATION. SUCH A~~  
3 ~~REQUEST FOR RECONSIDERATION MUST BE MADE WITHIN 30 DAYS OF THE PRO'S~~  
4 ~~INITIAL DETERMINATION. IF RECONSIDERATION IS REQUESTED FOR THE HEALTH~~  
5 ~~CARE SERVICES THEN THE REVIEWING INDIVIDUAL MUST BE, OR THE REVIEWING~~  
6 ~~PANEL MUST INCLUDE, AN INDIVIDUAL IN THE SAME SPECIALTY AS THE~~  
7 ~~INDIVIDUAL SUBJECT TO REVIEW.~~

8                   ~~(4) IF THE INSURER REFERS A BILL TO A PRO WITHIN 30 DAYS OF~~  
9 ~~RECEIPT OF A BILL, THE INSURER NEED NOT PAY THE BILL SUBJECT TO THE~~  
10 ~~REFERRAL UNTIL A DETERMINATION HAS BEEN MADE BY THE PRO. THE INSURED~~  
11 ~~MAY NOT BE BILLED FOR ANY HEALTH CARE SERVICES DURING THE PEER REVIEW~~  
12 ~~PROCESS.~~

13                   ~~(5) IN THE CASE OF FIRST PARTY BENEFITS, IF A PRO DETERMINES~~  
14 ~~THAT HEALTH CARE SERVICES WERE MEDICALLY NECESSARY, THE INSURER MUST~~  
15 ~~PAY THE OUTSTANDING AMOUNT PLUS INTEREST AT 12% PER YEAR ON ANY~~  
16 ~~AMOUNT WITHHELD BY THE INSURER PENDING PRO REVIEW.~~

17                   ~~(6) IF IT IS DETERMINED BY A PRO THAT A HEALTH CARE~~  
18 ~~PRACTITIONER HAS PROVIDED UNNECESSARY HEALTH CARE SERVICES, OR THAT~~  
19 ~~FUTURE HEALTH CARE SERVICES WILL BE UNNECESSARY, OR BOTH, THE INSURER~~  
20 ~~IS NOT LIABLE FOR THE MEDICALLY UNNECESSARY HEALTH CARE SERVICES. IN~~  
21 ~~THE CASE OF FIRST PARTY BENEFITS IF THE INSURED OR A HEALTH CARE~~  
22 ~~PRACTITIONER HAS COLLECTED SUCH PAYMENT, IT MUST RETURN THE AMOUNT~~  
23 ~~PAID PLUS INTEREST AT 12% PER YEAR WITHIN 30 DAYS.~~

24 542.

25                   ~~(a) Nothing in this subtitle shall be deemed to affect the right of any person to~~  
26 ~~claim and sue for damages or losses sustained by him as the result of a motor vehicle~~  
27 ~~accident.~~

28                   ~~(b) (1) If an injured person receives a written offer, from a motor vehicle~~  
29 ~~insurance liability insurer or that insurer's authorized agent, to settle a claim for bodily~~  
30 ~~injury or death and the amount of the offer of settlement in combination with any other~~  
31 ~~settlements arising out of the same occurrence would exhaust the applicable bodily injury~~  
32 ~~or death limits of the liability insurance, policies, bonds, and securities, the injured person~~  
33 ~~shall submit by certified mail, to any insurer that provides uninsured motorist coverage~~  
34 ~~for the bodily injury or death, a copy of the liability insurer's written offer to settle.~~

35                   ~~(2) Within 60 days after receipt of the notice required under paragraph (1)~~  
36 ~~of this subsection, the uninsured motorist insurer shall send the injured person:~~

37                   ~~(i) Written consent to acceptance of the settlement offer and to the~~  
38 ~~execution of releases; or~~

39                   ~~(ii) Written refusal to consent to acceptance of the settlement offer.~~

40                   ~~(3) Within 30 days after a refusal under paragraph (b)(2)(ii) of this~~  
41 ~~subsection, the uninsured motorist insurer shall pay to the injured person the amount of~~  
42 ~~the settlement offer.~~

1                   (4) (i) Payment as described in paragraph (3) of this subsection shall  
2 preserve the uninsured motorist insurer's subrogation rights against the liability insurer  
3 and its insured.

4                   (ii) Receipt by the injured person of the payment described in  
5 paragraph (3) of this subsection shall constitute the assignment, up to the amount of the  
6 payment, of any recovery on behalf of the injured person that is subsequently paid from  
7 the applicable liability insurance policies, bonds, and securities.

8                   (5) The injured person may accept the settlement offer and execute releases  
9 in favor of the liability insurer and its insured without prejudice to any claim the injured  
10 person may have against the uninsured motorist insurer:

11                   (i) On receipt of written consent to acceptance of the settlement offer  
12 and to the execution of releases; or

13                   (ii) If the uninsured motorist insurer has not met the requirements of  
14 paragraphs (2) or (3) of this subsection.

15 543.

16                   (a) Notwithstanding any other provision of this subtitle, no person shall recover  
17 benefits under the coverages described under §§ 539 and 541 of this subtitle from more  
18 than one motor vehicle liability policy or insurer on either a duplicative or supplemental  
19 basis.

20                   (b) (1) As to any person injured in an accident while occupying a motor vehicle  
21 for which the coverage described under § 539 of this subtitle is in effect, and as to any  
22 person injured by such a motor vehicle as a pedestrian or while in, on, or alighting from  
23 any other vehicle powered by animal or muscular power, or on or alighting from an  
24 animal, the benefits shall be payable by the insurer of the motor vehicle.

25                   (2) Benefits may not be paid by an insurer under paragraph (1) of this  
26 subsection to any person who is in violation of § 17-103 of the Transportation Article.

27                   (c) As to any person insured under a policy providing the coverage described  
28 under §§ 539 and 541 of this subtitle who is injured in an accident while occupying a  
29 motor vehicle for which the coverage described under §§ 539 and 541 of this subtitle is not  
30 in effect, or struck as a pedestrian or injured while in, on, or alighting from any other  
31 vehicle powered by animal or muscular power or on or alighting from an animal by a  
32 motor vehicle for which the coverage described under §§ 539 and 541 of this subtitle is not  
33 in effect, the benefits shall be payable by the injured party's insurer providing such  
34 coverage; provided, however, that such benefits shall be reduced to the extent of any  
35 medical or disability benefits coverage applicable to the motor vehicle and collectible  
36 from the insurer of such motor vehicle.

37                   (d) (1) Benefits payable under the coverages described under §§ 539 and 541  
38 of this subtitle, INCLUDING PAYMENTS TO A THIRD PARTY UNDER LIABILITY  
39 COVERAGE REQUIRED UNDER § 541(A) OF THIS SUBTITLE, shall be reduced to the  
40 extent that the recipient has recovered benefits under:

1                   ~~(I) [workers'] WORKERS' compensation laws of any state or the~~  
2 ~~federal government;~~

3                   ~~(II) ANY HEALTH INSURANCE AS DEFINED IN § 66 OF THIS ARTICLE;~~

4                   ~~(III) ANY CONTRACTUAL OR VOLUNTARY WAGE CONTINUATION~~  
5 ~~PLAN INTENDED TO PROVIDE WAGES DURING A PERIOD OF DISABILITY;~~

6                   ~~(IV) THE MEDICAID PROGRAM OF TITLE XIX OF THE SOCIAL~~  
7 ~~SECURITY ACT;~~

8                   ~~(V) THE MEDICARE PROGRAM;~~

9                   ~~(VI) A POLICY PROVIDING BENEFITS UNDER § 539 OF THIS ARTICLE;~~  
10 ~~AND~~

11                   ~~(VII) ANY OTHER HEALTH, SICKNESS, ACCIDENT OR INCOME~~  
12 ~~DISABILITY INSURANCE AVAILABLE TO THE CLAIMANT, WHETHER PURCHASED BY~~  
13 ~~THE CLAIMANT OR PROVIDED BY OTHERS.~~

14                   ~~(2) BENEFITS PAYABLE UNDER THE COVERAGES DESCRIBED UNDER §~~  
15 ~~539 OF THIS SUBTITLE SHALL BE REDUCED TO THE EXTENT THAT THE RECIPIENT~~  
16 ~~HAS RECOVERED BENEFITS UNDER WORKERS' COMPENSATION LAWS OF ANY STATE~~  
17 ~~OR THE FEDERAL GOVERNMENT.~~

18                   ~~(3) IF A PERSON UNDER PARAGRAPH (1)(I) THROUGH (VII) OF THIS~~  
19 ~~SUBSECTION HAS PAID BENEFITS TO AN INDIVIDUAL AND THAT PERSON HAS A~~  
20 ~~RIGHT OF SUBROGATION, THE PERSON PAYING SUCH BENEFITS SHALL HAVE A~~  
21 ~~DIRECT CAUSE OF ACTION AGAINST ANY INSURER WHO HAS PAID BENEFITS, OR IS~~  
22 ~~LIABLE FOR BENEFITS UNDER § 541 OF THIS SUBTITLE.~~

23                   ~~(4) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT ANY~~  
24 ~~RECOVERY BY AN INDIVIDUAL FOR NONECONOMIC DAMAGES AGAINST ANY~~  
25 ~~PERSON.~~

26                   ~~(e) Nothing herein shall prohibit a nonprofit health service plan or an authorized~~  
27 ~~insurer, with the approval of the Commissioner, from providing medical, hospital, and~~  
28 ~~disability benefits in connection with motor vehicle accidents.~~

29 ~~544.~~

30                   ~~(a) All payments of benefits described under § 539 of this subtitle shall be made~~  
31 ~~periodically as the claims therefor arise and within 30 days after satisfactory proof thereof~~  
32 ~~is received by the insurer subject to the following limitations:~~

33                   ~~(1) The coverages described in § 539 of this subtitle may prescribe a period~~  
34 ~~of not less than 12 months after the date of accident within which the original claim for~~  
35 ~~benefits must be presented to the insurer.~~

36                   ~~(2) The coverages described in § 539 of this subtitle may provide that in any~~  
37 ~~instance where a lapse occurs in the period of total disability or in the medical treatment~~  
38 ~~of an injured person who has received benefits under such coverage or coverages and such~~  
39 ~~person subsequently claims additional benefits based upon an alleged recurrence of the~~  
40 ~~injury for which the original claim for benefits was made, the insurer may require~~

30

1 reasonable medical proof of such alleged recurrence; provided, that in no event shall the  
2 aggregate benefits payable to any person exceed the maximum limits prescribed in the  
3 policy.

4 (b) Payments of benefits which are not made in accordance with this section and  
5 which are overdue shall bear simple interest at the rate of 1.5 percent per month.

6 (c) Whenever an insurer providing benefits under § 539 of this subtitle receives  
7 written notice from an insured of the occurrence of an accident, the insurer shall notify  
8 that insured of the latest date on which claim may be filed as provided in subsection  
9 (a)(1) of this section.

10 545.

11 (a) The coverages described under § 539 of this subtitle may exclude from  
12 benefits thereunder any person otherwise insured under the policy who:

13 (1) Intentionally causes the accident resulting in the injury, or

14 (2) Is injured while operating or voluntarily riding in a vehicle known by him  
15 to be stolen, or

16 (3) Is injured while in the commission of a felony or while in violation of §  
17 21-904 of the Transportation Article, or

18 (4) Is a pedestrian injured in an accident outside of Maryland and is not a  
19 resident of Maryland.

20 (b) With respect to motorcycle, economic loss benefits described under § 539 of  
21 this subtitle may be excluded, or may be offered with deductibles, options or with specific  
22 exclusions.

23 (c) The insurer may exclude from the coverage described under § 539 of this  
24 subtitle, benefits for the named insured or members of his family residing in the  
25 household when occupying an uninsured motor vehicle that is owned by the named  
26 insured or a member of his immediate family residing in his household.

27 **Article—Business Occupations and Professions**

28 40-605.1.

29 A LAWYER MAY NOT SEND A WRITTEN COMMUNICATION, DIRECTLY OR  
30 THROUGH AN AGENT, TO A PROSPECTIVE CLIENT FOR THE PURPOSE OF OBTAINING  
31 PROFESSIONAL EMPLOYMENT IF THE COMMUNICATION CONCERNS AN ACTION FOR  
32 PERSONAL INJURY OR WRONGFUL DEATH, OR OTHERWISE RELATES TO AN  
33 AUTOMOBILE ACCIDENT INVOLVING THE PERSON TO WHOM THE COMMUNICATION  
34 IS ADDRESSED OR THE PERSON'S RELATIVE, UNLESS THE ACCIDENT OCCURRED  
35 MORE THAN 30 DAYS BEFORE THE DATE THE COMMUNICATION IS MAILED.

36 **Article—Health—General**

37 49-1501.

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

1 (b) "Commission" means the Maryland Health Care Access and Cost  
2 Commission.

3 (c) "Comprehensive standard health benefit plan" means the comprehensive  
4 standard health benefit plan adopted in accordance with Article 48A, § 700 of the Code.

5 (d) (1) "Health care provider" means:

6 (i) A person who is licensed, certified, or otherwise authorized under  
7 the Health Occupations Article to provide health care in the ordinary course of business  
8 or practice of a profession or in an approved education or training program; or

9 (ii) A facility where health care is provided to patients or recipients,  
10 including a facility as defined in § 10-101(e) of this article, a hospital as defined in §  
11 19-301(f) of this article, a related institution as defined in § 19-301(l) of this article, a  
12 health maintenance organization as defined in § 19-701(e) of this article, an outpatient  
13 clinic, and a medical laboratory.

14 (2) "Health care provider" includes the agents and employees of a facility  
15 who are licensed or otherwise authorized to provide health care, the officers and directors  
16 of a facility, and the agents and employees of a health care provider who are licensed or  
17 otherwise authorized to provide health care.

18 (e) "Health care practitioner" means any person that provides healthcare  
19 services and is licensed under the Health Occupations Article.

20 (f) "Health care service" means any health or medical care procedure or service  
21 rendered by a health care practitioner that:

22 (1) Provides testing, diagnosis, or treatment of human disease or  
23 dysfunction; or

24 (2) Dispenses drugs, medical devices, medical appliances, or medical goods  
25 for the treatment of human disease or dysfunction.

26 (g) (1) "Office facility" means the office of one or more health care  
27 practitioners in which health care services are provided to individuals.

28 (2) "Office facility" includes a facility that provides:

29 (i) Ambulatory surgery;

30 (ii) Radiological or diagnostic imagery; or

31 (iii) Laboratory services.

32 (3) "Office facility" does not include any office, facility, or service operated  
33 by a hospital and regulated under Subtitle 2 of this title.

34 (h) "Payor" means:

35 (1) A health insurer or nonprofit health service plan that holds a certificate  
36 of authority and provides health insurance policies or contracts in the State in accordance  
37 with this article or Article 48A of the Code;

1                   ~~(2) A health maintenance organization that holds a certificate of authority~~  
2 ~~in the State; or~~

3                   ~~(3) A third party administrator as defined in Article 48A, § 490R of the~~  
4 ~~Code.~~

5                   ~~(1) "SOFT TISSUE INJURY" MEANS AN INJURY, SUCH AS A SPRAIN OR STRAIN,~~  
6 ~~TO TISSUE, OTHER THAN BONE OR CARTILAGE, WHICH IS PART OF THE SUPPORTING~~  
7 ~~STRUCTURES OF THE MUSCULOSKELETAL SYSTEM.~~

8 ~~19-1502.~~

9                   ~~(a) There is a Maryland Health Care Access and Cost Commission.~~

10                  ~~(b) The Commission is an independent Commission that functions in the~~  
11 ~~Department.~~

12                  ~~(c) The purpose of the Commission is to:~~

13                   ~~(1) Develop health care cost containment strategies to help provide access~~  
14 ~~to appropriate quality health care services for all Marylanders, after consulting with the~~  
15 ~~Health Resources Planning Commission and the Health Services Cost Review~~  
16 ~~Commission;~~

17                   ~~(2) Facilitate the public disclosure of medical claims data for the~~  
18 ~~development of public policy;~~

19                   ~~(3) Establish and develop a medical care data base on health care services~~  
20 ~~rendered by health care practitioners;~~

21                   ~~(4) Encourage the development of clinical resource management systems to~~  
22 ~~permit the comparison of costs between various treatment settings and the availability of~~  
23 ~~information to consumers, providers, and purchasers of health care services;~~

24                   ~~(5) Develop a uniform set of effective benefits to be included in the~~  
25 ~~comprehensive standard health benefit plan to apply under Subtitle 55 of Article 48A of~~  
26 ~~the Code;~~

27                   ~~(6) Analyze the medical care data base and provide, in aggregate form, an~~  
28 ~~annual report on the variations in costs associated with health care practitioners;~~

29                   ~~(7) Ensure utilization of the medical care data base as a primary means to~~  
30 ~~compile data and information and annually report on trends and variances regarding fees~~  
31 ~~for service, cost of care, regional and national comparisons, and indications of~~  
32 ~~malpractice situations;~~

33                   ~~(8) Develop a payment system for health care services, INCLUDING A~~  
34 ~~PAYMENT SYSTEM FOR THE HEALTH CARE SERVICES RELATING TO THE~~  
35 ~~TREATMENT OF SOFT TISSUE INJURIES AS PROVIDED IN ARTICLE 48A, § 541A OF THE~~  
36 ~~CODE;~~

37                   ~~(9) Establish standards for the operation and licensing of medical care~~  
38 ~~electronic claims clearinghouses in Maryland;~~

1                   ~~(10) Foster the development of practice parameters; [and]~~

2                   ~~(11) DEVELOP PRACTICE PARAMETERS FOR THE TREATMENT OF SOFT~~  
3 ~~TISSUE INJURIES AS PROVIDED IN ARTICLE 48A, § 541A OF THE CODE; AND~~

4                   ~~[(11)] (12) Reduce the costs of claims submission and the administration of~~  
5 ~~claims for health care practitioners and payors.~~

6 ~~19-1509.~~

7                   ~~(a) (1) In this section the following words have the meanings indicated.~~

8                   ~~(2) "Code" means the applicable current procedural terminology (CPT)~~  
9 ~~code as adopted by the American Medical Association or other applicable code under an~~  
10 ~~appropriate uniform coding scheme approved by the Commission.~~

11                   ~~(3) "Payor" means:~~

12                   ~~(i) A health insurer or nonprofit health service plan that holds a~~  
13 ~~certificate of authority and provides health insurance policies or contracts in the State in~~  
14 ~~accordance with Article 48A of the Code or the Health—General Article;~~

15                   ~~(ii) A health maintenance organization that holds a certificate of~~  
16 ~~authority.~~

17                   ~~(4) "Unbundling" means the use of two or more codes by a health care~~  
18 ~~provider to describe a surgery or service provided to a patient when a single, more~~  
19 ~~comprehensive code exists that accurately describes the entire surgery or service.~~

20                   ~~(b) (1) By January 1, 1997, the Commission shall implement a payment system~~  
21 ~~for all health care practitioners in the State.~~

22                   ~~(2) The payment system established under this section shall include a~~  
23 ~~methodology for a uniform system of health care practitioner reimbursement.~~

24                   ~~(3) Under the payment system, reimbursement for each health care~~  
25 ~~practitioner shall be comprised of the following numeric factors:~~

26                   ~~(i) A numeric factor representing the resources of the health care~~  
27 ~~practitioner necessary to provide health care services;~~

28                   ~~(ii) A numeric factor representing the relative value of a health care~~  
29 ~~service, as classified by a code, compared to that of other health care services; and~~

30                   ~~(iii) A numeric factor representing a conversion modifier used to adjust~~  
31 ~~reimbursement.~~

32                   ~~(4) To prevent overpayment of claims for surgery or services, in developing~~  
33 ~~the payment system under this section, the Commission, to the extent practicable, shall~~  
34 ~~establish standards to prohibit the unbundling of codes and the use of reimbursement~~  
35 ~~maximization programs, commonly known as "upcoding".~~

36                   ~~(5) In developing the payment system under this section, the Commission~~  
37 ~~shall consider the underlying methodology used in the resource-based relative value scale~~  
38 ~~established under 42 U.S.C. § 1395w-4.~~

1                   ~~{(6) THE PAYMENT SYSTEM UNDER THIS SECTION SHALL INCLUDE A~~  
2 ~~PAYMENT SYSTEM APPLICABLE TO HEALTH CARE PRACTITIONERS WHO TREAT~~  
3 ~~SOFT-TISSUE INJURIES WHICH MAY BE CAUSED BY AN ACCIDENT INVOLVING A~~  
4 ~~MOTOR VEHICLE.~~

5                   ~~{(6)} (7) The Commission and the licensing boards shall develop, by~~  
6 ~~regulation, appropriate sanctions, including, where appropriate, notification to the~~  
7 ~~Insurance Fraud Unit of the State, for health care practitioners who violate the standards~~  
8 ~~established by the Commission to prohibit unbundling and upcoding.~~

9                   ~~(e) (1) In establishing a payment system under this section, the Commission~~  
10 ~~shall take into consideration the factors listed in this subsection.~~

11                   ~~(2) In making a determination under subsection (b)(3)(i) of this section~~  
12 ~~concerning the resources of a health care practitioner necessary to deliver health care~~  
13 ~~services, the Commission:~~

14                   ~~(i) Shall ensure that the compensation for health care services is~~  
15 ~~reasonably related to the cost of providing the health care service; and~~

16                   ~~(ii) Shall consider:~~

- 17                                 ~~1. The cost of professional liability insurance;~~
- 18                                 ~~2. The cost of complying with all federal, State, and local~~  
19 ~~regulatory requirements;~~
- 20                                 ~~3. The reasonable cost of bad debt and charity care;~~
- 21                                 ~~4. The differences in experience or expertise among health care~~  
22 ~~practitioners, including recognition of relative preeminence in the practitioner's field or~~  
23 ~~specialty and the cost of education and continuing professional education;~~
- 24                                 ~~5. The geographic variations in practice costs;~~
- 25                                 ~~6. The reasonable staff and office expenses deemed necessary~~  
26 ~~by the Commission to deliver health care services;~~
- 27                                 ~~7. The costs associated with a faculty practice plan affiliated~~  
28 ~~with a teaching hospital; and~~
- 29                                 ~~8. Any other factors deemed appropriate by the Commission.~~

30                   ~~(3) In making a determination under subsection (b)(3)(ii) of this section~~  
31 ~~concerning the value of a health care service relative to other health care services, the~~  
32 ~~Commission shall consider:~~

33                   ~~(i) The relative complexity of the health care service compared to that~~  
34 ~~of other health care services;~~

35                   ~~(ii) The cognitive skills associated with the health care service;~~

36                   ~~(iii) The time and effort that are necessary to provide the health care~~  
37 ~~service; and~~

35

1                                   (iv) Any other factors deemed appropriate by the Commission.

2                                   (4) Except as provided under subsection (d) AND (J) of this section, a  
3 conversion modifier shall be:

4                                   (i) A payor's standard for reimbursement;

5                                   (ii) A health care practitioner's standard for reimbursement; or

6                                   (iii) Arrangements agreed upon between a payor and a health care  
7 practitioner.

8                                   (d) (1) (i) The Commission may make an effort, through voluntary and  
9 cooperative arrangements between the Commission and the appropriate health care  
10 practitioner specialty group, to bring that health care practitioner specialty group into  
11 compliance with the health care cost goals of the Commission if the Commission  
12 determines that:

13                                                           1. Certain health care services are significantly contributing to  
14 unreasonable increases in the overall volume and cost of health care services;

15                                                           2. Health care practitioners in a specialty area have attained  
16 unreasonable levels of reimbursable services under a specific code in comparison to  
17 health care practitioners in another specialty area for the same code;

18                                                           3. Health care practitioners in a specialty area have attained  
19 unreasonable levels of reimbursement, in terms of total compensation, in comparison to  
20 health care practitioners in another specialty area;

21                                                           4. There are significant increases in the cost of providing health  
22 care services; or

23                                                           5. Costs in a particular health care specialty vary significantly  
24 from the health care cost annual adjustment goal established under subsection (f) of this  
25 section.

26                                   (ii) If the Commission determines that voluntary and cooperative  
27 efforts between the Commission and appropriate health care practitioners have been  
28 unsuccessful in bringing the appropriate health care practitioners into compliance with  
29 the health care cost goals of the Commission, the Commission may adjust the conversion  
30 modifier.

31                                   (2) If the Commission adjusts the conversion modifier under this subsection  
32 for a particular specialty group, a health care practitioner in that specialty group may not  
33 be reimbursed more than an amount equal to the amount determined according to the  
34 factors set forth in subsection (b)(3)(i) and (ii) of this section and the conversion modifier  
35 established by the Commission.

36                                   (e) (1) On an annual basis, the Commission shall publish:

37                                                           (i) The total reimbursement for all health care services over a  
38 12-month period;

1 (ii) The total reimbursement for each health care specialty over a  
2 12-month period;

3 (iii) The total reimbursement for each code over a 12-month period;  
4 and

5 (iv) The annual rate of change in reimbursement for health services by  
6 health care specialties and by code.

7 (2) In addition to the information required under paragraph (1) of this  
8 subsection, the Commission may publish any other information that the Commission  
9 deems appropriate.

10 (f) The Commission may establish health care cost annual adjustment goals for  
11 the cost of health care services and may establish the total cost of health care services by  
12 code to be rendered by a specialty group of health care practitioners designated by the  
13 Commission during a 12-month period.

14 (g) In developing a health care cost annual adjustment goal under subsection (f)  
15 of this section, the Commission shall:

16 (1) Consult with appropriate health care practitioners, payors, the Maryland  
17 Hospital Association, the Health Services Cost Review Commission, the Department of  
18 Health and Mental Hygiene, and the Department of Business and Economic  
19 Development; and

20 (2) Take into consideration:

21 (i) The input costs and other underlying factors that contribute to the  
22 rising cost of health care in this State and in the United States;

23 (ii) The resources necessary for the delivery of quality health care;

24 (iii) The additional costs associated with aging populations and new  
25 technology;

26 (iv) The potential impacts of federal laws on health care costs; and

27 (v) The savings associated with the implementation of modified  
28 practice patterns.

29 (h) Nothing in this section shall have the effect of impairing the ability of a health  
30 maintenance organization to contract with health care practitioners or any other  
31 individual under mutually agreed upon terms and conditions.

32 (i) A professional organization or society that performs activities in good faith in  
33 furtherance of the purposes of this section is not subject to criminal or civil liability under  
34 the Maryland Anti-Trust Act for those activities.

35 (j) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,  
36 WITH RESPECT TO THE PAYMENT SYSTEM FOR SOFT TISSUE INJURIES REQUIRED  
37 UNDER SUBSECTION (B)(6) OF THIS SECTION, THE COMMISSION SHALL ESTABLISH  
38 THE CONVERSION MULTIPLIER FOR ALL HEALTH CARE PRACTITIONERS SUBJECT TO  
39 THE SYSTEM, WHICH SHALL BE USED TO ADJUST REIMBURSEMENT TO THOSE

37

1 ~~HEALTH CARE PRACTITIONERS FOR HEALTH CARE SERVICES RELATING TO THE~~  
2 ~~TREATMENT OF SOFT-TISSUE INJURIES.~~

3 ~~(2) WHEN ESTABLISHING THE CONVERSION MULTIPLIER UNDER THIS~~  
4 ~~SUBSECTION, THE COMMISSION SHALL TAKE INTO CONSIDERATION THE COST~~  
5 ~~CONTAINMENT GOALS UNDER APPLICABLE PROVISIONS OF THE INSURANCE CODE~~  
6 ~~RELATING TO AUTOMOBILE INSURANCE.~~

7 ~~19-1602.~~

8 ~~(a) There is an Advisory Committee on Practice Parameters.~~

9 ~~(b) The purpose of the Advisory Committee is:~~

10 ~~(1) [to] TO study the development of practice parameters for medical~~  
11 ~~specialties and to provide information for and make recommendations to the~~  
12 ~~Commission, including recommendations on the adoption and use of practice parameters;~~  
13 ~~AND~~

14 ~~(2) TO DEVELOP PRACTICE PARAMETERS FOR THE TREATMENT OF~~  
15 ~~SOFT-TISSUE INJURIES AS PROVIDED IN § 19-1607 OF THIS SUBTITLE.~~

16 ~~19-1605.~~

17 ~~[On] EXCEPT AS PROVIDED IN § 19-1607 OF THIS SUBTITLE, ON request of the~~  
18 ~~Commission, the Advisory Committee shall advise, consult with, and propose to the~~  
19 ~~Commission practice parameters for any specialty designated by the Commission that:~~

20 ~~(1) Define appropriate clinical indications and methods of treatment for~~  
21 ~~individual procedures or diseases that are subject to a significant amount of medical~~  
22 ~~malpractice litigation within the medical specialty area;~~

23 ~~(2) Are consistent with the appropriate standards of care;~~

24 ~~(3) Are designed to discourage inappropriate utilization; and~~

25 ~~(4) Are not inconsistent with certification, licensure, or accreditation~~  
26 ~~standards established by governmental agencies or national accreditation organizations,~~  
27 ~~including the Joint Commission on the Accreditation of Health Care Organizations.~~

28 ~~19-1606.~~

29 ~~(a) On receipt of a proposal of the Advisory Committee concerning adoption of~~  
30 ~~any practice parameters, by regulation, the Commission may adopt the practice~~  
31 ~~parameters.~~

32 ~~(b) The Commission may adopt a practice parameter if:~~

33 ~~(1) The proposal of the Advisory Committee includes a statement, with~~  
34 ~~supporting documentation, that at least 60 percent of the specialists in the State affected~~  
35 ~~by the practice parameter have voted favorably on the adoption;~~

36 ~~(2) The proposal of the Advisory Committee includes supporting~~  
37 ~~information satisfactory to the Commission that the practice parameter will reduce~~  
38 ~~unnecessary utilization of health care services; and~~

1           ~~(3) The proposal of the Advisory Committee includes supporting~~  
2 ~~information satisfactory to the Commission that the practice parameter will continue to~~  
3 ~~provide a high quality of health care.~~

4           ~~(c) Any practice parameter adopted by the Commission shall remain ineffect, by~~  
5 ~~regulation no longer than 3 years from the date of its adoption. The Commission may~~  
6 ~~readopt a practice parameter after its expiration following consultation with the~~  
7 ~~appropriate medical speciality.~~

8           ~~(d) The Advisory Committee may submit amendments to a practice parameter for~~  
9 ~~adoption by the Commission at any time.~~

10          ~~(e) A practice parameter adopted under this subtitle is not admissible into~~  
11 ~~evidence in any legal proceeding in this State as evidence of a standard of care.~~

12 ~~49-1607.~~

13          ~~(A) THE ADVISORY COMMITTEE SHALL BY JULY 1, 1997 PROPOSE TO THE~~  
14 ~~COMMISSION PRACTICE PARAMETERS FOR THE TREATMENT OF SOFT TISSUE~~  
15 ~~INJURIES CAUSED BY MOTOR VEHICLE ACCIDENTS WHICH SHALL:~~

16           ~~(1) DISCOURAGE INAPPROPRIATE UTILIZATION; AND~~

17           ~~(2) BE CONSISTENT WITH APPROPRIATE STANDARDS OF CARE.~~

18          ~~(B) IF THE PRACTICE PARAMETERS SATISFY THE PROVISIONS OF §~~  
19 ~~49-1606(B)(2) AND (3) OF THIS SUBTITLE, THE COMMISSION SHALL ADOPT THE~~  
20 ~~PRACTICE PARAMETERS AS PROVIDED IN § 49-1606(C) AND (D) OF THIS SUBTITLE, BY~~  
21 ~~NOVEMBER 1, 1997.~~

22          ~~(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~  
23 ~~PRACTICE PARAMETERS ADOPTED BY THE COMMISSION UNDER THIS SUBTITLE~~  
24 ~~SHALL BE PRIMA FACIE EVIDENCE OF THE MEDICAL NECESSITY AND~~  
25 ~~CONFORMANCE TO PROFESSIONAL STANDARDS OF PERFORMANCE OF ANY HEALTH~~  
26 ~~CARE SERVICE SUBJECT TO EVALUATION UNDER ARTICLE 48A, § 541A(B) OF THE~~  
27 ~~CODE.~~

28          ~~(D) IN ESTABLISHING PRACTICE PARAMETERS REQUIRED UNDER THIS~~  
29 ~~SECTION, THE COMMISSION MAY CONTRACT WITH OTHER PUBLIC OR PRIVATE~~  
30 ~~ENTITIES.~~

31           ~~**Article – Health Occupations**~~

32 ~~3-317.~~

33          ~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~  
34 ~~BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE~~  
35 ~~FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.~~

36          ~~(B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER~~  
37 ~~ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING~~  
38 ~~TO THE INSURANCE FRAUD UNIT:~~

39           ~~(1) THE FINAL DISPOSITION OF THE MATTER; AND~~

39

1                   ~~(2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH~~  
2 ~~ACTION WAS NOT TAKEN.~~

3 ~~8-320.~~

4                   ~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~  
5 ~~BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE~~  
6 ~~FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.~~

7                   ~~(B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER~~  
8 ~~ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING~~  
9 ~~TO THE INSURANCE FRAUD UNIT:~~

10                   ~~(1) THE FINAL DISPOSITION OF THE MATTER; AND~~

11                   ~~(2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH~~  
12 ~~ACTION WAS NOT TAKEN.~~

13 ~~12-318.~~

14                   ~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~  
15 ~~BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE~~  
16 ~~FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.~~

17                   ~~(B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER~~  
18 ~~ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING~~  
19 ~~TO THE INSURANCE FRAUD UNIT:~~

20                   ~~(1) THE FINAL DISPOSITION OF THE MATTER; AND~~

21                   ~~(2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH~~  
22 ~~ACTION WAS NOT TAKEN.~~

23 ~~13-320.~~

24                   ~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~  
25 ~~BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE~~  
26 ~~FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.~~

27                   ~~(B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER~~  
28 ~~ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING~~  
29 ~~TO THE INSURANCE FRAUD UNIT:~~

30                   ~~(1) THE FINAL DISPOSITION OF THE MATTER; AND~~

31                   ~~(2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH~~  
32 ~~ACTION WAS NOT TAKEN.~~

33 ~~14-416.~~

34                   ~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~  
35 ~~BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE~~  
36 ~~FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.~~

40

1 ~~(B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER~~  
2 ~~ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING~~  
3 ~~TO THE INSURANCE FRAUD UNIT:~~

4 ~~(1) THE FINAL DISPOSITION OF THE MATTER; AND~~

5 ~~(2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH~~  
6 ~~ACTION WAS NOT TAKEN.~~

7 ~~15-316.~~

8 ~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~  
9 ~~BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE~~  
10 ~~FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.~~

11 ~~(B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER~~  
12 ~~ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING~~  
13 ~~TO THE INSURANCE FRAUD UNIT:~~

14 ~~(1) THE FINAL DISPOSITION OF THE MATTER; AND~~

15 ~~(2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH~~  
16 ~~ACTION WAS NOT TAKEN.~~

17 **Article -- Transportation**

18 ~~17-107.~~

19 ~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY~~  
20 ~~PERSON WHO IS INJURED WHILE OPERATING A MOTOR VEHICLE THAT IS NOT~~  
21 ~~COVERED BY THE REQUIRED SECURITY UNDER SUBSECTION (A) OF THIS SECTION~~  
22 ~~SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO RECOVER FOR NONECONOMIC~~  
23 ~~LOSS AGAINST A PERSON WHO IS OPERATING A MOTOR VEHICLE COVERED BY THE~~  
24 ~~REQUIRED SECURITY UNDER SUBSECTION (A) OF THIS SECTION.~~

25 ~~(2) THIS SUBSECTION SHALL NOT APPLY TO:~~

26 ~~(I) A PERSON WHO DOES NOT KNOW OR HAVE REASON TO KNOW~~  
27 ~~THAT THE MOTOR VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY UNDER~~  
28 ~~SUBSECTION (A) OF THIS SECTION; OR~~

29 ~~(II) A PERSON WHOSE INJURIES WERE CAUSED BY A PERSON:~~

30 ~~1. OPERATING A MOTOR VEHICLE WHILE UNDER THE~~  
31 ~~INFLUENCE OF DRUGS OR ALCOHOL IN VIOLATION OF § 21-902 OF THIS ARTICLE;~~

32 ~~2. CONVICTED OF HOMICIDE BY MOTOR VEHICLE WHILE~~  
33 ~~INTOXICATED UNDER ARTICLE 27, § 388A OF THE CODE IN CONNECTION WITH THE~~  
34 ~~ACCIDENT; OR~~

35 ~~3. CONVICTED OF VEHICULAR ASSAULT IN CONNECTION~~  
36 ~~WITH THE ACCIDENT.~~

37 ~~(3) FOR PURPOSES OF THIS SUBSECTION, THERE IS A REBUTTABLE~~  
38 ~~PRESUMPTION THAT A PERSON KNOWS OR HAS REASON TO KNOW THAT A MOTOR~~

41

1 ~~VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY UNDER SUBSECTION (A) OF~~  
2 ~~THIS SECTION IF SECURITY PREVIOUSLY IN EFFECT HAD LAPSED, TERMINATED, OR~~  
3 ~~WAS OTHERWISE INEFFECTIVE FOR A PERIOD OF AT LEAST 30 DAYS BEFORE THE~~  
4 ~~ACCIDENT.~~

5 ~~(4) IF A PERSON HAS WAIVED THE RIGHT TO RECOVER FOR~~  
6 ~~NONECONOMIC LOSS UNDER THIS SUBSECTION:~~

7 ~~(I) THE PERSON MAY NOT PRESENT ANY EVIDENCE OF~~  
8 ~~NONECONOMIC LOSS TO THE TRIER OF FACT; AND~~

9 ~~(II) THE TRIER OF FACT MAY NOT BE INFORMED OF THE~~  
10 ~~EXISTENCE OF THE WAIVER OR ITS EFFECT ON THE TOTAL AMOUNT OF THE~~  
11 ~~PERSON'S RECOVERY.~~

12 ~~SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding any~~  
13 ~~other provision of law, for the period beginning July 1, 1996 through June 30, 1997, with~~  
14 ~~respect to health care services, as defined in § 19-1501 of the Health—General Article,~~  
15 ~~relating to soft tissue injuries resulting from a motor vehicle accident, an insurer~~  
16 ~~providing benefits under Article 48A, § 539 or providing coverage under Article 48A, §~~  
17 ~~541(a) and (c) may not be required to pay and a person providing such health care~~  
18 ~~services may not require or request payment in excess of that provided under the federal~~  
19 ~~medicare system as of January 1, 1996. If a reimbursement rate has not been calculated~~  
20 ~~for the medicare system, for a health care service, the amount payable may not exceed~~  
21 ~~80% of the provider's usual and customary charge. A provider subject to this section may~~  
22 ~~not bill the insured or injured person or otherwise attempt to collect any difference~~  
23 ~~between the amount payable under this section and any other amount charged by the~~  
24 ~~provider.~~

25 ~~SECTION 4. AND BE IT FURTHER ENACTED, That the Insurance Fraud~~  
26 ~~Division of the Maryland Insurance Administration, in consultation with the Maryland~~  
27 ~~State Police, the Baltimore City Police Department, and other interested parties, shall~~  
28 ~~establish as a pilot project an accident reporting unit in Baltimore City. The purpose of~~  
29 ~~the accident reporting unit shall be to reduce the incident of insurance fraud. The Fraud~~  
30 ~~Division is authorized to impose an annual assessment on each insurer or other entity~~  
31 ~~authorized to operate in the State under Article 48A of the Code based on the written~~  
32 ~~premium volume of the insurer or other entity. The assessment may be imposed for no~~  
33 ~~more than 3 years, and the total of all assessments may not exceed \$500,000. The~~  
34 ~~assessment shall be paid into the Insurance Fraud Division Fund and shall be used solely~~  
35 ~~for the operation of the accident reporting unit.~~

36 ~~SECTION 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act~~  
37 ~~shall take effect January 1, 1997. The Insurance Commissioner shall report to the~~  
38 ~~Governor and the General Assembly as to the impact, if any, this section has had on~~  
39 ~~private passenger automobile insurance rates in Maryland.~~

40 ~~SECTION 6. AND BE IT FURTHER ENACTED, That the Health Care Access~~  
41 ~~and Cost Commission shall report to the General Assembly on or before December 31,~~  
42 ~~1996 on the progress of the development of practice parameters for soft tissue injuries as~~  
43 ~~required under §§ 19-1502 and 19-1607 of the Health—General Article.~~

42

1 **Article - Health Occupations**

2 3-313.

3 Subject to the hearing provisions of § 3-315 of this subtitle, the Board may deny a  
4 license to any applicant, reprimand any licensee, place any licensee on probation, or  
5 suspend or revoke a license if the applicant or licensee:

6 (21) Commits an act of unprofessional conduct in the practice of chiropractic;  
7 [or]

8 (22) GROSSLY OVERUTILIZES HEALTH CARE SERVICES;

9 (23) IS CONVICTED OF INSURANCE FRAUD UNDER ARTICLE 48A, § 233A  
10 OF THE CODE; OR

11 [(22)] (24) Refuses, withholds from, denies, or discriminates against an  
12 individual with regard to the provision of professional services for which the licensee is  
13 licensed and qualified to render because the individual is HIV positive.

14 13-316.

15 Subject to the hearing provisions of § 13-317 of this subtitle, the Board may deny a  
16 license, temporary license, or restricted license to any applicant, reprimand any licensee  
17 or holder of a temporary license or restricted license, place any licensee or holder of a  
18 temporary license or restricted license on probation, or suspend or revoke a license,  
19 temporary license, or restricted license if the applicant, licensee, or holder:

20 (20) Commits an act of unprofessional conduct in the practice of physical  
21 therapy; [or]

22 (21) GROSSLY OVERUTILIZES HEALTH CARE SERVICES;

23 (22) IS CONVICTED UNDER INSURANCE FRAUD UNDER ARTICLE 48A, §  
24 233A OF THE CODE; OR

25 [(21)] (23) Refuses, withholds from, denies, or discriminates against an  
26 individual with regard to the provision of professional services for which the licensee is  
27 licensed and qualified to render because the individual is HIV positive.

28 14-404.

29 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the  
30 affirmative vote of a majority of its full authorized membership, may reprimand any  
31 licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

32 (33) Fails to cooperate with a lawful investigation conducted by the Board;  
33 [or]

34 (34) IS CONVICTED OF INSURANCE FRAUD UNDER ARTICLE 48A, § 233A  
35 OF THE CODE; OR

36 [(34)] (35) Is in breach of a service obligation resulting from the applicant's  
37 or licensee's receipt of State or federal funding for the licensee's medical education.

1           SECTION ~~7.~~2. AND BE IT FURTHER ENACTED, That, ~~except as provided in~~  
2 ~~Section 5 of this Act,~~ this Act shall take effect July 1, 1996.