SENATE BILL 216

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By: The President (Administration)
Introduced and read first time: January 22, 1996
Rule 32(d) suspended
Assigned to: Judicial Proceedings and Finance

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of reducing the cost of automobile insurance; prohibiting certain
4 persons from compensating others for the purpose of soliciting clients for those
5 persons; prohibiting a person from soliciting, for personal gain, another person to
6 sue; authorizing certain actions against certain insurers under certain
7 circumstances; requiring that the Insurance Fraud Division of the Maryland
8 Insurance Administration notify certain professional licensing boards of evidence of
9 insurance fraud; requiring that certain professional licensing boards revoke the
10 license of licensees convicted of insurance fraud; authorizing the Insurance
11 Commissioner to determine that certain automobile insurance rates are excessive
12 under certain circumstances; requiring certain insurers to verify certain data under
13 certain circumstances; permitting certain automobile insurance coverages to be
14 waived under certain circumstances; requiring certain insurers to offer certain
15 insurance benefits as managed care benefits; authorizing certain insurers to offer
16 certain benefits as managed care benefits; clarifying that an insurer paying certain
17 benefits shall be primary to insurers paying certain collateral benefits, and that the
18 insurer paying collateral benefits may collect from the primary insurer under certain
19 circumstances; providing that payments and charges for soft tissue injuries may not
20 exceed a certain amount under certain circumstances; providing that certain
21 insurers shall contract with peer review organizations for the purpose of reviewing
22 certain claims; establishing procedures for the use of peer review organizations;
23 requiring that certain payments of automobile insurance benefits shall be reduced
24 by the amount of certain collateral benefits under certain circumstances; requiring
25 evidence of physical contact before benefits for uninsured motorist coverage under
26 an automobile insurance policy may be paid; limiting written communications by
27 lawyers to perspective clients under certain circumstances; requiring the Health
28 Care Access and Cost Commission to develop a payment system for softtissue
29 injuries by a certain date; requiring the Health Care Access and Cost Commission to
30 adopt regulations establishing practice parameters for soft tissue injuries by a
31 certain date; providing for the use of the payment system and practice parameters
32 by automobile insurers; limiting the right of a person operating a vehicle without
33 insurance to recover certain losses under certain circumstances; authorizing an
34 insurer to cancel and rescind an insurance policy or to deny first-party benefits, to
35 an insured who has made certain misrepresentations in the application for

1 automobile insurance under certain circumstances; establishing a pilot program for
2 an accident reporting unit in Baltimore City; defining certain terms; and generally
3 relating to efforts to reduce the costs of and reform automobile insurance.

4 BY repealing and reenacting, with amendments,
5 Article 48A - Insurance Code
6 Section 230A, 233(f) and (g), 233AC, 243L, 244D, 538, 539, 540, 541,and 543
7 Annotated Code of Maryland
8 (1994 Replacement Volume and 1995 Supplement)

9 BY repealing and reenacting, without amendments,
10 Article 48A - Insurance Code
11 Section 244H, 244-I, 542, 544, and 545
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1995 Supplement)

14 BY adding to
15 Article 48A - Insurance Code
16 Section 374A and 541A
17 Annotated Code of Maryland
18 (1994 Replacement Volume and 1995 Supplement)

19 BY adding to
20 Article - Business Occupations and Professions
21 Section 10-605.1
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1995 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Health - General
26 Section 19-1501, 19-1502, 19-1509, 19-1602, and 19-1605
27 Annotated Code of Maryland
28 (1990 Replacement Volume and 1995 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - Health - General
31 Section 19-1606
32 Annotated Code of Maryland
33 (1990 Replacement Volume and 1995 Supplement)

34 BY adding to
35 Article - Health - General
36 Section 19-1607
37 Annotated Code of Maryland
38 (1990 Replacement Volume and 1995 Supplement)

1 BY adding to
2 Article - Health Occupations
3 Section 3-317, 8-320, 12-318, 13-320, 14-416, and 15-316
4 Annotated Code of Maryland
5 (1994 Replacement Volume and 1995 Supplement)

6 BY adding to
7 Article - Transportation
8 Section 17-107(d)
9 Annotated Code of Maryland
10 (1992 Replacement Volume and 1995 Supplement)

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

13 **Article 48A - Insurance Code**

14 230A.

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

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

21 (2) This section does not apply to reinsurance, workers' compensation, or
22 surety.

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

25 (1) Misrepresenting pertinent facts or insurance policy provisions relating to
26 the claim at issue;

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

29 (3) Attempting to settle a claim on the basis of an applicationwhich is
30 altered without notice to, or the knowledge or consent of, the insured;

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

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

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

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

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

6 (1) Misrepresenting pertinent facts or insurance policy provisions relating to
7 the coverages at issue;

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

10 (3) Failing to adopt and implement reasonable standards for theprompt
11 investigation of claims arising under insurance policies;

12 (4) Refusing to pay claims without conducting a reasonable investigation
13 based on all available information;

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

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

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

21 (8) Attempting to settle a claim for less than the amount to which a
22 reasonable person would expect to be entitled after studying written orprinted
23 advertising material accompanying, or made part of, an application;

24 (9) Attempting to settle a claim on the basis of an applicationwhich is
25 altered without notice to, or the knowledge or consent of, the insured;

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

28 (11) Making known to insureds or claimants a policy of appealing from
29 arbitration awards in order to compel insureds or claimants to accept asettlement or
30 compromise less than the amount awarded in arbitration;

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

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

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

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

3 (16) REFERRING FIRST PARTY CLAIMS TO A PEER REVIEW
4 ORGANIZATION.

5 (e) (1) The Commissioner may impose a penalty of up to $500 for eachviolation
6 of subsection (c) of this section, or of any regulation promulgated under subsection (c) of
7 this section.

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

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

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

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

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

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

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

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

28 (G) (1) THIS SUBSECTION SHALL APPLY TO INSUREDS AND INSURERS
29 UNDER POLICIES OF PRIVATE PASSENGER AUTOMOBILE INSURANCE ONLY.

30 (2) (I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN
31 INSURED MAY BRING A CIVIL ACTION AGAINST ITS INSURER FOR A VIOLATION OF
32 SUBSECTION (C) OF THIS SECTION IF THE ALLEGED VIOLATION ARISES OUT OF
33 ACTIVITY BY THE INSURER RELATING TO THE PAYMENT OF BENEFITS UNDER §
34 539(G) OR § 541A OF THIS SUBTITLE.

35 (II) IN ANY ACTION BROUGHT UNDER THIS SUBSECTION, THE
36 INSURED, IF SUCCESSFUL, SHALL BE ENTITLED TO RECOVER:

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

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

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

8 (I) FILE AN ADMINISTRATIVE ACTION WITH THE COMMISSIONER
9 UNDER THIS SECTION; AND

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

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

15 (II) THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT
16 OF ANY PERSON TO MAINTAIN AN ACTION FOR DAMAGES OTHERWISE AVAILABLE.

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

19 **Article 48A - Insurance Code**

20 233.

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

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

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

28 (3) ANY HEALTH CARE PRACTITIONER OR LAWYER TO EMPLOY,
29 DIRECTLY OR INDIRECTLY, OR IN ANY WAY COMPENSATE ANY PERSON FOR THE
30 PURPOSE OF HAVING THAT PERSON SOLICIT OR ATTEMPT TO SOLICIT CLIENTS FOR
31 THE LAWYER OR HEALTH CARE PRACTITIONER.

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

38 (ii) A person convicted of any of the provisions of this section where
39 the claim or act that is the subject of the fraud has a value of under $300 is guilty of a
40 misdemeanor and shall restore to the victim the property taken or the value of the

1 property taken and shall be fined as described in paragraph (2) of thissubsection or be
2 imprisoned for not more than 18 months or both.

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

4 (i) A person convicted of violating any provision of subsection (b) of
5 this section shall for each such violation be subject to a fine, the maximum of which shall
6 not exceed three times the value of the claim or act that is the subject of the fraud or
7 $10,000, whichever is greater, and the minimum of which shall be $500.

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

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

14 (II) EACH ACT OF SOLICITATION UNDER SUBSECTION (F) OF THIS
15 SECTION SHALL CONSTITUTE A SEPARATE VIOLATION FOR THE PURPOSES OF
16 PENALTIES IMPOSED UNDER THIS SUBSECTION.

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

20 233AC.

21 The Insurance Fraud Division shall:

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

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

25 (I) REFER suspected cases of insurance fraud to the Officeof the
26 Attorney General or the appropriate local State's Attorney to criminally prosecute a
27 person for insurance fraud; AND

28 (II) NOTIFY THE APPROPRIATE PROFESSIONAL LICENSING BOARD
29 OR DISCIPLINARY BODY OF EVIDENCE OF INSURANCE FRAUD INVOLVING
30 PROFESSIONALS;

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

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

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

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

4 243L.

5 As used in this subtitle:

6 (a) "Administrator" means the Motor Vehicle Administrator.

7 (b) "Executive Director" means the Executive Director of the Maryland
8 Automobile Insurance Fund.

9 (c) "Automobile" shall include trucks, vans, and trailers, but shallnot include
10 motorcycles or motorbikes.

11 (d) "Fund" means the Maryland Automobile Insurance Fund.

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

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

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

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

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

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

6 [(j)] (K) "Registration license year" for Class A and D vehicles means the period
7 beginning April 1, 1973, and ending March 31, 1974, and each subsequenttwelve-month
8 period, beginning April 1 and ending the following March 31. For all other classes of
9 motor vehicles, "registration license year" means the period beginning May 1, 1973 and
10 ending April 30, 1974 and each subsequent twelve-month period, beginning May 1, and
11 ending the following April 30.

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

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

19 [(m)] (N) "Motor vehicle liability and physical damage insurance" means those
20 insurance coverages reported as private passenger auto no-fault, other private passenger
21 auto liability, commercial auto no-fault, other commercial auto liability, private passenger
22 auto physical damage, and commercial auto physical damage on the exhibit of premiums
23 and losses page of the annual statement which insurers are required to file with the
24 Insurance Commissioner of the State of Maryland.

25 [(n)] (O) "Association" means the Industry Automobile Insurance Association
26 created under § 243M.

27 [(o)] (P) "Cash basis accounting" means the records of accounts of the Fund
28 evidencing all cash receipts and all cash disbursements of the Fund fora particular year.

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

32 244D.

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

35 (a) (1) Rates may not be:

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

37 (ii) Unfairly discriminatory.

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

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

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

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

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

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

11 (4) In the case of personal lines property and casualty insurance, a statewide
12 rate or a rate in a particular jurisdiction or geographic territory maybe held by the
13 Commissioner to be excessive without determining whether a reasonable degree of
14 competition exists under § 244-I(c)(1) and (2) of this subtitle if the Commissioner
15 determines that the rate is:

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

17 [(ii)] 2. Not actuarially justified based on commonly accepted
18 actuarial principles; OR

19 (II) IN THE CASE OF PRIVATE PASSENGER AUTOMOBILE
20 INSURANCE ONLY, NOT IN COMPLIANCE WITH SUBSECTION (F) OF THIS SECTION.

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

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

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

27 (2) Conflagration or catastrophe hazards;

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

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

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

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

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

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

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

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

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

11 (iii) The standards may measure any difference among risksthat have
12 had a direct and substantial effect upon losses or expenses.

13 (iv) Notwithstanding any other provision of this paragraph, no rate may
14 be based partially or entirely on geographic area itself, as opposed tounderlying risk
15 considerations, even though expressed in geographic terms.

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

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

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

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

24 (e) All rates shall be made in accordance with the following specialprinciples:

25 (1) (i) An insurer under an automobile liability insurance policy may not
26 classify or maintain an insured in a classification entailing a higher premium because of a
27 specific claim for a period longer than 3 years, and an insurer may notclassify or maintain
28 an insured in a classification entailing a higher premium because of the insured's driving
29 record for a period longer than 3 years.

30 (ii) For the purpose of determining whether to classify aninsured in a
31 classification entailing a higher premium, the insurer may only review a period of time not
32 greater than 3 years prior to:

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

34 A. The date of the application; or

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

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

37 (iii) The removal of a discount is not a violation of thisparagraph.

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

5 (3) An insurer under an automobile insurance policy may not consider
6 accident reports and abstracts of court convictions pertaining to driving an emergency
7 vehicle that are on record with the Motor Vehicle Administration, as provided in §
8 16-117(b)(3) of the Transportation Article, for purposes of reclassifying an insured in a
9 classification entailing a higher premium.

10 (4) An insurer under an automobile insurance policy may not consider a
11 probation before judgment disposition of a motor vehicle law offense [or a first offense of
12 driving with an alcohol concentration of 0.10 or more under § 16-205.1 of the
13 Transportation Article on record with the Motor Vehicle Administration,as provided in
14 § 16-117(b) of the Transportation Article,] for purposes of reclassifying an insured in a
15 classification entailing a higher premium.

16 (5) (I) If the insured notifies the insurer under an automobileinsurance
17 policy of a change in circumstances that justifies reclassifying the insured in a different
18 classification or territory, the insurer shall adjust the premium charged the insured from
19 the date of notification.

20 (II) 1. IF AN INSURER CLASSIFIES AN INSURED BASED ON THE
21 NUMBER OF MILES AN INSURED VEHICLE IS DRIVEN, THE INSURER SHALL
22 IMPLEMENT AN AUDIT PROCEDURE TO ENSURE THE ACCURACY OF THE RATES
23 CHARGED TO INSUREDS WHO SELF-REPORT MILEAGE DATA FOR RATING
24 PURPOSES.

25 2. AN INSURER'S AUDIT PROCEDURE ESTABLISHED UNDER
26 THIS PARAGRAPH SHALL BE APPROVED BY THE COMMISSIONER PRIOR TO
27 IMPLEMENTATION.

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

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

32 (ii) Within the last 2 years, has completed successfully acourse in
33 accident prevention:

34 1. That is approved by the Motor Vehicle Administration;

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

37 3. For which the insured has received a certificate that certifies
38 the completion of the course.

39 (F) (1) IN ADDITION TO ANY OTHER PROVISION RELATING TO RATES IN
40 THIS SUBTITLE, IN THE CASE OF PRIVATE PASSENGER AUTOMOBILE INSURANCE,

1 THE RATES OF THE INSURER MAY BE HELD TO BE EXCESSIVE BY THE
2 COMMISSIONER AFTER A HEARING UNLESS:

3 (I) ON JANUARY 1, 1997 THE STATEWIDE AVERAGE RATE FOR THE
4 COVERAGES PROVIDED UNDER §§ 539 AND 541 OF THIS ARTICLE, OF THE INSURERIS
5 NO MORE THAN 88% OF THE STATEWIDE AVERAGE RATE IN EFFECT ON JANUARY 1,
6 1996;

7 (II) ON JANUARY 1, 1998 THE STATEWIDE AVERAGE RATE, FOR THE
8 COVERAGES PROVIDED UNDER §§ 539 AND 541 OF THIS ARTICLE, OF THE INSURERIS
9 NO MORE THAN 85% OF THE STATEWIDE AVERAGE RATE IN EFFECT ON JANUARY 1,
10 1996; AND

11 (III) ON JANUARY 1, 1999 AND EACH YEAR THEREAFTER, THE
12 STATEWIDE AVERAGE RATE, FOR THE COVERAGES PROVIDED UNDER §§ 539 AND 541
13 OF THIS ARTICLE, OF THE INSURER IS A PERCENTAGE OF THE STATEWIDE RATE IN
14 EFFECT ON JANUARY 1, 1996 ESTABLISHED BY THE COMMISSIONER BASED ON COST
15 CONTAINMENT MEASURES ENACTED, ADJUSTED UPWARD OR DOWNWARD BY
16 OTHER RELEVANT FACTORS, AS DETERMINED BY INDEPENDENT ACTUARIAL
17 ANALYSIS.

18 (2) THE COMMISSIONER MAY REDUCE THE PERCENTAGE THRESHOLD
19 IN PARAGRAPH (F)(1)(II), IF THE COMMISSIONER DETERMINES, BASED ON AN
20 INDEPENDENT ACTUARIAL ANALYSIS, THE PERCENTAGE IS NOT ACTUARIALLY
21 JUSTIFIED.

22 (3) IN DETERMINING WHETHER A RATE IS EXCESSIVE UNDER THIS
23 SUBSECTION, THE COMMISSIONER MAY TAKE INTO CONSIDERATION AMONG OTHER
24 RELEVANT FACTORS:

25 (I) INFLATIONARY FACTORS, UNRELATED TO ANY COST
26 CONTAINMENT MEASURES APPLICABLE TO INSURERS UNDER THIS ARTICLE, WHICH
27 SERVE TO INCREASE INSURANCE RATES GENERALLY; AND

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

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

34 (5) IF AFTER A HEARING THE COMMISSIONER DETERMINES A RATE TO
35 BE EXCESSIVE UNDER THIS SUBSECTION, THE DISAPPROVAL IS SUBJECT TO §
36 244-I(D) AND (E) OF THIS SUBTITLE.

37 (6) THE COMMISSIONER SHALL BY REGULATIONS ADOPTED OCTOBER
38 1, 1996, DETERMINE THE METHOD FOR CALCULATING THE STATEWIDE AVERAGE
39 RATE OF AN INSURER UNDER SUBSECTION (F)(1).

1 244H.

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

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

7 244-I.

8 (a) If the Commissioner finds after a hearing that a rate is not in compliance with
9 § 244D of this subtitle, or that a rate had been set in violation of § 244M of this subtitle,
10 the Commissioner shall order that its use be discontinued for any policy issued or
11 renewed after a date specified in the order and the order may prospectively provide for
12 premium adjustment of any policy then in force. Except as provided in subsection (b) of
13 this section, the order shall be issued within 30 days after the close of the hearing or
14 within a reasonable time extension as fixed by the Commissioner. The order shall expire
15 1 year after its effective date unless rescinded earlier by the Commissioner.

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

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

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

22 (iii) The hardship insureds will suffer absent the order of suspension
23 outweighs any hardship the insurers would suffer if the order of suspension were to issue;
24 and

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

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

32 (c) (1) At any hearing to determine compliance with § 244D(a)(2) of this subtitle
33 pursuant to subsection (a) of this section, the Commissioner shall first determine whether
34 a reasonable degree of competition exists within a market, and shall give a ruling to that
35 effect. All insurers operating within such market shall have the burdenof establishing
36 that a reasonable degree of competition exists within that market. The Commissioner
37 shall consider all relevant factors in determining the competitiveness of a market,
38 including:

39 (i) The number of insurers actively engaged in providing coverage in
40 the market;

1 (ii) Market shares;

2 (iii) Changes in market shares; and

3 (iv) Ease of entry.

4 (2) (i) If the Commissioner determines that a reasonable degreeof
5 competition does not exist in a market, any insurer designated by the Commissioner shall
6 have the burden of justifying its rate in such market.

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

9 (3) All determinations made by the Commissioner shall be on thebasis of
10 findings of fact and conclusions of law.

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

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

18 (e) Whenever an insurer has no legally effective rates as a result of the
19 Commissioner's disapproval of rates or other act, the Commissioner shall, on the insurer's
20 request, specify interim rates for the insurer that are high enough to protect the interests
21 of all parties and may order that a specified portion of the premiums be placed in a
22 special reserve established by the insurer. When new rates become legally effective, the
23 Commissioner shall order the specially reserved funds or any overchargein the interim
24 rates to be distributed appropriately, except that refunds to policyholders that are
25 minimal may not be required.

26 374A.

27 (A) ALL STATEMENTS AND DESCRIPTIONS IN AN APPLICATION FOR A MOTOR
28 VEHICLE INSURANCE POLICY OR CONTRACT, OR FOR THE REINSTATEMENT OR
29 RENEWAL OF THE POLICY OR CONTRACT, BY OR ON BEHALF OF THE INSURED,
30 SHALL BE DEEMED TO BE REPRESENTATIONS AND NOT WARRANTIES.

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

33 (I) AN INSURED WHO KNOWINGLY PROVIDES AN INCORRECT
34 ADDRESS FOR THE LOCATION AT WHICH AN INSURED VEHICLE IS PRINCIPALLY
35 GARAGED; AND

36 (II) A MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT
37 OR INCORRECT STATEMENT IN AN APPLICATION.

38 (2) IF A FIRST PARTY CLAIM HAS NOT BEEN FILED PRIOR TO
39 DISCOVERY BY AN INSURER OF AN INCORRECT ADDRESS, OR A

1 MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT, OR INCORRECT
2 STATEMENT, AN INSURER MAY RESCIND THE POLICY.

3 (3) IF A FIRST PARTY CLAIM HAS BEEN FILED PRIOR TO DISCOVERY OF
4 AN INCORRECT ADDRESS, OR A MISREPRESENTATION, OMISSION, CONCEALMENT
5 OF FACT, OR INCORRECT STATEMENT, AN INSURER MAY DENY FIRST PARTY
6 BENEFITS.

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

10 (I) FRAUDULENT;

11 (II) MATERIAL EITHER TO THE ACCEPTANCE OF THE RISK, OR TO
12 THE HAZARD ASSUMED BY THE INSURER; OR

13 (III) THE INSURER IN GOOD FAITH WOULD NOT HAVE ISSUED,
14 REINSTATED, RENEWED THE POLICY OR CONTRACT, IF THE TRUE FACTS HAD BEEN
15 MADE KNOWN TO THE INSURER AS REQUIRED EITHER BY THE APPLICATION FOR
16 THE POLICY OR CONTRACT.

17 538.

18 As used in this subtitle:

19 (a) "Accident" means any occurrence involving a motor vehicle, otherthan an
20 occurrence caused intentionally by or at the direction of the insured, from which damage
21 to any property or injury to any person results.

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

26 (c) "Named insured" means the person denominated in the declarationsin a
27 policy of motor vehicle liability insurance.

28 (d) "Income" means wages, salary, tips, commissions, professional fees, and other
29 earnings from work or employment, including earnings from businesses orfarms owned
30 individually or jointly or in partnership with others. To the extent that any such earnings
31 are paid or payable in property or services other than cash, "income" means the
32 reasonable value of such property or services.

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

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

1 539.

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

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

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

8 (i) The first named insured and members of the first namedinsured's
9 family residing in the first named insured's household who are injured in any motor
10 vehicle accident, including:

11 1. An accident involving an uninsured motor vehicle; or

12 2. A motor vehicle the identity of which cannot be ascertained;
13 and

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

16 (2) Other persons injured while occupying the insured motor vehicle as a
17 guest or a passenger;

18 (3) Pedestrians injured in an accident in which the insured motor vehicle is
19 involved; and

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

22 (c) The minimum medical, hospital and disability benefits shall include up to an
23 amount of $2,500, for payment of all reasonable expenses arising from the accident and
24 incurred within 3 years from the date of the accident for:

25 (1) Necessary medical, surgical, x-ray and dental services, including
26 prosthetic devices;

27 (2) Necessary ambulance, hospital, professional nursing and funeral
28 services; and

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

31 (ii) In the case where the person injured in the accident was not an
32 income or wage producer at the time of the accident, payments made in reimbursement of
33 necessary and reasonable expenses incurred for essential services ordinarily performed by
34 the injured person for the care and maintenance of the family or familyhousehold.

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

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

4 [(f) (1) (i) If the first named insured does not wish to obtain the benefits
5 described under this section, the first named insured shall make an affirmative written
6 waiver of those benefits.

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

11 (iii) Subject to subparagraph (iv) of this paragraph, a waiver made
12 under this subsection shall be binding on the following persons coveredby the policy:

13 1. All named insureds;

14 2. All listed drivers; and

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

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

20 1. Is the first named insured under the other policy;

21 2. Has not waived the benefits described under this section
22 under the other policy; and

23 3. Is not a named insured under any other policy of private
24 passenger motor vehicle liability insurance where a waiver of the benefits described in
25 this section is in effect.

26 (2) (i) Before a first named insured makes a waiver under this subsection,
27 the first named insured must be informed in writing of the nature and extent of the
28 coverage and benefits described under this section.

29 (ii) A waiver made under this subsection shall be made on a form
30 required by the Commissioner.

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

32 (iv) The form shall clearly and concisely explain in 10 point boldface
33 type:

34 1. The nature, extent, and cost of the coverage and benefits that
35 would be provided under the policy if not waived by the first named insured;

36 2. That, as to a policy of private passenger motor vehicle
37 liability insurance, a waiver made under this subsection constitutes a waiver of all the
38 benefits described under this section, whether provided under the firstnamed insured's

1 policy or any other private passenger motor vehicle liability policy orcoverage issued in
2 this State;

3 3. Subject to sub-subparagraph 4 of this subparagraph, that a
4 waiver made under this subsection shall be binding on the following persons covered
5 under the policy:

6 A. All named insureds;

7 B. All listed drivers; and

8 C. All members of the first named insured's family residing in
9 the first named insured's household who are 16 years of age or older;

10 4. That an individual listed under sub-subparagraph 3B or C of
11 this subparagraph may recover the benefits described under this sectionunder another
12 policy of private passenger motor vehicle liability insurance if that individual:

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

14 B. Has not waived the benefits described under this section
15 under the other policy; and

16 C. Is not a named insured under any other policy of private
17 passenger motor vehicle liability insurance where a waiver of the benefits described in
18 this section is in effect;

19 5. That a failure of the first named insured to make a waiver
20 requires an insurer to provide all coverages and benefits described under subsections (b)
21 and (c) of this section;

22 6. That an insurer may not refuse to underwrite a person
23 because the person refuses to waive the coverage and benefits describedunder this
24 section; and

25 7. That a waiver made under this subsection must be an
26 affirmative, written waiver.

27 (3) Failure of the first named insured to make an affirmative written waiver
28 under paragraph (1) of this subsection requires an insurer to provide all the coverages
29 and benefits described under subsections (b) and (c) of this section.

30 (4) A waiver made under this subsection by persons continuouslyinsured by
31 the Maryland Automobile Insurance Fund shall be construed to be effective until
32 withdrawn in writing.]

33 [(g)] (F) (1) An insurer may not refuse to underwrite a person because the
34 person refuses to waive the coverage and benefits described under this section.

35 (2) A violation of this subsection is subject to the penalties provided under
36 §§ 55 and 55A of this article.

37 (G) (1) IN THIS SUBSECTION, "MANAGED CARE OPTION" MEANS AN OFFER
38 BY AN INSURER TO PROVIDE THE BENEFITS REQUIRED UNDER THIS SECTION

1 THROUGH MANAGED CARE ARRANGEMENTS SUCH AS A HEALTH MAINTENANCE
2 ORGANIZATION (HMO) OR A PREFERRED PROVIDER ORGANIZATION (PPO).

3 (2) (I) A MANAGED CARE OPTION:

4 1. MAY BE MADE AVAILABLE BY ANY INSURER REQUIRED
5 TO OFFER BENEFITS UNDER THIS SECTION; AND

6 2. BEGINNING ON JANUARY 1, 1997, SHALL BE MADE BY THE
7 MARYLAND AUTOMOBILE INSURANCE FUND, AND EVERY MAJOR INSURER AS
8 DEFINED UNDER § 245 OF THIS ARTICLE.

9 (II) THE REQUIREMENT UNDER SUB-SUBPARAGRAPH (2)(I)2 OF
10 THIS PARAGRAPH SHALL APPLY ONLY WITH RESPECT TO THE MEDICAL, HOSPITAL,
11 AND DISABILITY BENEFITS UNDER THIS SECTION APPLICABLE TO SOFT TISSUE
12 INJURIES.

13 (3) (I) A MANAGED CARE OPTION MAY INCLUDE CONDITIONS AND
14 LIMITATIONS TO COVERAGE, INCLUDING, BUT NOT LIMITED TO, DEDUCTIBLES AND
15 COINSURANCE REQUIREMENTS, AS APPROVED BY THE COMMISSIONER. THE
16 COMMISSIONER SHALL APPROVE ANY CONDITIONS AND LIMITATIONS IMPOSED BY
17 AN INSURER UNDER THIS PARAGRAPH UNLESS A FINDING IS MADE BY THE
18 COMMISSIONER THAT THE CONDITIONS AND LIMITATIONS ARE UNREASONABLE
19 WHEN COMPARED WITH BENEFITS PROVIDED.

20 (II) AN INSURER MAY OFFER, AND PROVIDE AT THE OPTION OF
21 THE NAMED INSURED, DEDUCTIBLE, COST-SHARING, OR COINSURANCE
22 ARRANGEMENTS WHEREBY THE RECIPIENT OF CARE, TREATMENT, SERVICES,
23 PRODUCTS, EXPENSES, OR ACCOMMODATIONS SHARES IN THE PAYMENT
24 OBLIGATION FOR SUCH CARE, TREATMENT, SERVICES, PRODUCTS, EXPENSES, OR
25 ACCOMMODATIONS.

26 (III) A DEDUCTIBLE, COST-SHARING, OR COINSURANCE UNDER A
27 POLICY COVERED UNDER THIS PARAGRAPH MAY NOT BE APPLIED WITH RESPECT
28 TO CARE, TREATMENT, SERVICES, PRODUCTS, OR ACCOMMODATION PROVIDED OR
29 EXPENSES INCURRED BY AN INSURED DURING THE FIRST 24 HOURS IN WHICH
30 EMERGENCY TREATMENT HAS BEEN PROVIDED OR UNTIL THE INSURED PATIENT'S
31 EMERGENCY MEDICAL CONDITION IS STABILIZED, WHICHEVER IS LONGER, OR
32 UNTIL THE INSURED PATIENT IS TRANSFERRED TO A MANAGED CARE PROVIDER IN
33 ACCORDANCE WITH APPLICABLE LAW.

34 (4) IF ELECTED, THE MANAGED CARE OPTION PROVIDED UNDER THIS
35 SUBSECTION SHALL APPLY TO ANY PERSON TO WHOM BENEFITS WOULD
36 OTHERWISE BE APPLICABLE UNDER THIS SECTION.

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

39 (II) A VIOLATION OF THIS PARAGRAPH SHALL SUBJECT THE
40 INSURER TO THE PENALTIES PROVIDED UNDER §§ 12, 55, 55A, AND 215 OF THIS
41 ARTICLE.

1 (6) THE COMMISSIONER SHALL ADOPT REGULATIONS NECESSARY TO
2 IMPLEMENT THIS SUBSECTION, INCLUDING REGULATIONS PROVIDING FOR A FORM
3 FOR THE ELECTION OF A MANAGED CARE OPTION.

4 540.

5 (a) The benefits described under § 539 of this subtitle shall be payable without
6 regard to:

7 (1) The fault or nonfault of the named insured or the recipientin causing or
8 contributing to the accident; and

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

11 (b) (1) [Subject to paragraph (2) of this subsection, where] WHERE the
12 insured has coverage for both the benefits described under § 539 of this subtitle and the
13 collateral benefits, the insurer or insurers [may] SHALL coordinate thepolicies to
14 provide for nonduplication of the benefits, subject to appropriate reductions in premiums
15 for one or both of said coverages approved by the Commissioner.

16 (2) [(i) The named insured shall have the right to elect or reject the
17 coordination of policies and nonduplication of benefits.

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

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

22 (II) IF AN INSURER HAS PAID COLLATERAL BENEFITS TO AN
23 INSURED WHO IS ALSO ENTITLED TO BENEFITS UNDER § 539 OF THIS SUBTITLE, THE
24 PRIMARY INSURER SHALL PAY TO THE INSURED ONLY THOSE BENEFITS UNDER §
25 539 OF THIS SUBTITLE NOT PAID BY THE COLLATERAL INSURER, AND THE
26 COLLATERAL INSURER MAY COLLECT FROM THE PRIMARY INSURER THOSE
27 COLLATERAL BENEFITS PAID TO THE INSURED.

28 (c) An insurer paying benefits under § 539 of this subtitle shall have no right of
29 subrogation and no claim against any other person or insurer to recoverany benefits paid
30 by reason of the alleged fault of such other person in causing or contributing to the
31 accident.

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

36 541.

37 (a) Nothing in this subtitle affects or limits the provisions of Title 17 of the
38 Transportation Article, and every policy of motor vehicle liability insurance issued, sold,
39 or delivered in this State shall provide the minimum liability coveragespecified therein.

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

5 (2) Nothing in this subtitle shall be construed to prohibit an insurer from
6 providing Christian Science care and treatment, and such Christian Science care and
7 treatment shall constitute economic loss.

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

12 (i) Is less than the amount of coverage provided under this subsection;
13 or

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

17 (2) In addition to any other coverage required by this subtitle, every policy
18 of motor vehicle liability insurance issued, sold, or delivered in thisState after July 1,
19 1975 shall contain coverage in at least the amounts required under Title 17 of the
20 Transportation Article, for damages, subject to the policy limits, which:

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

24 (ii) The surviving relatives, as defined in § 3-904 of theCourts Article,
25 of the insured are entitled to recover from the owner or operator of anuninsured motor
26 vehicle because of the death of the insured as the result of an accident arising out of the
27 ownership, maintenance, or use of the uninsured motor vehicle.

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

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

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

39 1. The named insured or members of his family residing in the
40 household when occupying, or struck as a pedestrian by, an uninsured motor vehicle that

1 is owned by the named insured or a member of his immediate family residing in his
2 household; and

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

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

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

15 (4) AN INSURER MAY EXCLUDE FROM COVERAGE BENEFITS TO THE
16 NAMED INSURED AND MEMBERS OF HIS FAMILY FOR PROPERTY DAMAGE AND
17 BODILY INJURIES WHERE THERE IS NO PHYSICAL EVIDENCE OF CONTACT WITH THE
18 UNINSURED VEHICLE DEMONSTRATING THAT THE BODILY INJURIES WERE
19 SUSTAINED IN AN ACCIDENT ARISING OUT OF THE USE OF AN UNINSURED MOTOR
20 VEHICLE.

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

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

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

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

35 (ii) Whenever a private passenger automobile insurance policy issued,
36 sold, or delivered in this State includes collision coverage under thissubsection, the motor
37 vehicles insured under such coverage shall include any passenger car that is rented by an
38 insured for a period of 30 days or less under a rental agreement as otherwise defined in
39 § 14-2101 of the Commercial Law Article.

40 (iii) Every insurer providing a policy with such coverage shall notify its
41 insured in a separate written notice in bold type that the insured willnot need any

1 additional such coverages or a collision damage waiver whenever the insured rents a
2 private passenger car for a period of 30 days or less during the term of the policy.

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

5 1. The accident involved an uninsured motorist; or

6 2. The identity of the motor vehicle causing the damage cannot
7 be ascertained.

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

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

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

19 (2) [Where] IF THE FIRST NAMED INSURED DOES NOT WISH TO OBTAIN
20 UNINSURED MOTORIST BENEFITS, OR WHERE the liability insurance coverage under a
21 policy or binder of private passenger motor vehicle insurance is in excess of that required
22 under § 17-103 of the Transportation Article[, if] AND the first named insured does not
23 wish to obtain uninsured motorist benefits in the same amount as the liability insurance
24 coverage, the first named insured shall make an affirmative written waiver of having
25 uninsured motorist benefits OR HAVING BENEFITS in the same amount as the liability
26 coverage.

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

30 (ii) A waiver made under this subsection shall be made on a form
31 required by the Commissioner.

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

33 (iv) The form shall clearly and concisely explain in 10 point boldface
34 type:

35 1. The nature, extent, benefit, and cost of the levelof the
36 uninsured motorist coverage that would be provided under the policy if not waived by the
37 first named insured;

38 2. That a failure of the first named insured to make a waiver
39 requires an insurer to provide uninsured motorist coverage in an amountequal to the
40 amount of the liability coverage, where the liability insurance coverage under a policy or

1 binder of private passenger motor vehicle insurance is in excess of that required under §
2 17-103 of the Transportation Article;

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

6 4. That a waiver made under this subsection must be an
7 affirmative, written waiver.

8 (4) Failure of the first named insured to make an affirmative written waiver
9 under this subsection requires an insurer to provide uninsured motoristcoverage in an
10 amount equal to the amount of the liability coverage, where the liability insurance
11 coverage under a policy or binder of private passenger motor vehicle insurance is in
12 excess of that required under § 17-103 of the Transportation Article.

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

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

18 (6) A waiver made under this subsection by persons continuouslyinsured by
19 an insurer or by the Maryland Automobile Insurance Fund shall be construed to be
20 effective until withdrawn in writing.

21 (7) Subject to approval by the Commissioner, the waiver made under this
22 subsection may be made on the same form as the waiver made under § 539(f) of this
23 subtitle.

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

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

31 541A.

32 (A) IN THIS SECTION, THE TERMS "HEALTH CARE SERVICE" AND "HEALTH
33 CARE PRACTITIONER" HAVE THE MEANINGS STATED IN THE HEALTH - GENERAL
34 ARTICLE, § 19-1501.

35 (B) (1) BEGINNING JULY 1, 1997, WITH RESPECT TO HEALTH CARE SERVICES
36 RELATING TO SOFT TISSUE INJURIES RESULTING FROM A MOTOR VEHICLE
37 ACCIDENT, AN INSURER PROVIDING BENEFITS UNDER § 539 OF THIS SUBTITLE OR
38 PROVIDING COVERAGE UNDER § 541(A) AND (C) OF THIS SUBTITLE MAY NOT BE
39 REQUIRED TO PAY, AND A PERSON PROVIDING SUCH HEALTH CARE SERVICES MAY
40 NOT REQUIRE OR REQUEST, PAYMENT IN EXCESS OF THAT PROVIDED UNDER §
41 19-1509 OF THE HEALTH - GENERAL ARTICLE.

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

5 (3) A HEALTH CARE PRACTITIONER SUBJECT TO THIS SECTION MAY
6 NOT BILL THE INSURED OR INJURED PERSON, OR OTHERWISE ATTEMPT TO
7 COLLECT, ANY DIFFERENCE BETWEEN THE AMOUNT PAYABLE UNDER THIS
8 SECTION AND ANY OTHER AMOUNT CHARGED BY THE HEALTH CARE
9 PRACTITIONER.

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

14 (I) MEDICALLY NECESSARY; AND

15 (II) CONFORM TO PROFESSIONAL STANDARDS OF PERFORMANCE.

16 (2) AN INSURER'S REFERRAL OF A BILL FOR A HEALTH CARE SERVICE
17 MUST BE MADE TO A PRO WITHIN 90 DAYS OF THE INSURER'S RECEIPT OF THE
18 PRACTITIONER'S BILL, OR MAY BE MADE AT ANY TIME FOR CONTINUING HEALTH
19 CARE SERVICES.

20 (3) AN INSURER, PRACTITIONER, OR INSURED MAY REQUEST A
21 RECONSIDERATION BY THE PRO OF THE PRO'S INITIAL DETERMINATION. SUCH A
22 REQUEST FOR RECONSIDERATION MUST BE MADE WITHIN 30 DAYS OF THE PRO'S
23 INITIAL DETERMINATION. IF RECONSIDERATION IS REQUESTED FOR THE HEALTH
24 CARE SERVICES THEN THE REVIEWING INDIVIDUAL MUST BE, OR THE REVIEWING
25 PANEL MUST INCLUDE, AN INDIVIDUAL IN THE SAME SPECIALTY AS THE
26 INDIVIDUAL SUBJECT TO REVIEW.

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

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

36 (6) IF IT IS DETERMINED BY A PRO THAT A HEALTH CARE
37 PRACTITIONER HAS PROVIDED UNNECESSARY HEALTH CARE SERVICES, OR THAT
38 FUTURE HEALTH CARE SERVICES WILL BE UNNECESSARY, OR BOTH, THE INSURER
39 IS NOT LIABLE FOR THE MEDICALLY UNNECESSARY HEALTH CARE SERVICES. IN
40 THE CASE OF FIRST PARTY BENEFITS IF THE INSURED OR A HEALTH CARE
41 PRACTITIONER HAS COLLECTED SUCH PAYMENT, IT MUST RETURN THE AMOUNT
42 PAID PLUS INTEREST AT 12% PER YEAR WITHIN 30 DAYS.

1 542.

2 (a) Nothing in this subtitle shall be deemed to affect the right of any person to
3 claim and sue for damages or losses sustained by him as the result of amotor vehicle
4 accident.

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

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

14 (i) Written consent to acceptance of the settlement offer and to the
15 execution of releases; or

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

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

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

23 (ii) Receipt by the injured person of the payment described in
24 paragraph (3) of this subsection shall constitute the assignment, up tothe amount of the
25 payment, of any recovery on behalf of the injured person that is subsequently paid from
26 the applicable liability insurance policies, bonds, and securities.

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

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

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

34 543.

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

39 (b) (1) As to any person injured in an accident while occupying a motor vehicle
40 for which the coverage described under § 539 of this subtitle is in effect, and as to any

1 person injured by such a motor vehicle as a pedestrian or while in, on,or alighting from
2 any other vehicle powered by animal or muscular power, or on or alighting from an
3 animal, the benefits shall be payable by the insurer of the motor vehicle.

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

6 (c) As to any person insured under a policy providing the coverage described
7 under §§ 539 and 541 of this subtitle who is injured in an accident while occupying a
8 motor vehicle for which the coverage described under §§ 539 and 541 of this subtitle is not
9 in effect, or struck as a pedestrian or injured while in, on, or alighting from any other
10 vehicle powered by animal or muscular power or on or alighting from an animal by a
11 motor vehicle for which the coverage described under §§ 539 and 541 of this subtitle is not
12 in effect, the benefits shall be payable by the injured party's insurerproviding such
13 coverage; provided, however, that such benefits shall be reduced to theextent of any
14 medical or disability benefits coverage applicable to the motor vehicleand collectible
15 from the insurer of such motor vehicle.

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

20 (I) [workers'] WORKERS' compensation laws of any state or the
21 federal government;

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

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

25 (IV) THE MEDICAID PROGRAM OF TITLE XIX OF THE SOCIAL
26 SECURITY ACT;

27 (V) THE MEDICARE PROGRAM;

28 (VI) A POLICY PROVIDING BENEFITS UNDER § 539 OF THIS ARTICLE;
29 AND

30 (VII) ANY OTHER HEALTH, SICKNESS, ACCIDENT OR INCOME
31 DISABILITY INSURANCE AVAILABLE TO THE CLAIMANT, WHETHER PURCHASED BY
32 THE CLAIMANT OR PROVIDED BY OTHERS.

33 (2) BENEFITS PAYABLE UNDER THE COVERAGES DESCRIBED UNDER §
34 539 OF THIS SUBTITLE SHALL BE REDUCED TO THE EXTENT THAT THE RECIPIENT
35 HAS RECOVERED BENEFITS UNDER WORKERS' COMPENSATION LAWS OF ANY STATE
36 OR THE FEDERAL GOVERNMENT.

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

1 (4) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT ANY
2 RECOVERY BY AN INDIVIDUAL FOR NONECONOMIC DAMAGES AGAINST ANY
3 PERSON.

4 (e) Nothing herein shall prohibit a nonprofit health service plan oran authorized
5 insurer, with the approval of the Commissioner, from providing medical,hospital, and
6 disability benefits in connection with motor vehicle accidents.

7 544.

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

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

14 (2) The coverages described in § 539 of this subtitle may provide that in any
15 instance where a lapse occurs in the period of total disability or in the medical treatment
16 of an injured person who has received benefits under such coverage or coverages and such
17 person subsequently claims additional benefits based upon an alleged recurrence of the
18 injury for which the original claim for benefits was made, the insurer may require
19 reasonable medical proof of such alleged recurrence; provided, that in no event shall the
20 aggregate benefits payable to any person exceed the maximum limits prescribed in the
21 policy.

22 (b) Payments of benefits which are not made in accordance with this section and
23 which are overdue shall bear simple interest at the rate of 1.5 percentper month.

24 (c) Whenever an insurer providing benefits under § 539 of this subtitle receives
25 written notice from an insured of the occurrence of an accident, the insurer shall notify
26 that insured of the latest date on which claim may be filed as providedin subsection
27 (a)(1) of this section.

28 545.

29 (a) The coverages described under § 539 of this subtitle may excludefrom
30 benefits thereunder any person otherwise insured under the policy who:

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

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

34 (3) Is injured while in the commission of a felony or while in violation of §
35 21-904 of the Transportation Article, or

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

38 (b) With respect to motorcycles, economic loss benefits described under § 539 of
39 this subtitle may be excluded, or may be offered with deductibles, options or with specific
40 exclusions.

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

5 **Article - Business Occupations and Professions**

6 10-605.1.

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

14 **Article - Health - General**

15 19-1501.

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

17 (b) "Commission" means the Maryland Health Care Access and Cost
18 Commission.

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

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

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

25 (ii) A facility where health care is provided to patients or recipients,
26 including a facility as defined in § 10-101(e) of this article, a hospital as defined in §
27 19-301(f) of this article, a related institution as defined in § 19-301(l) of this article, a
28 health maintenance organization as defined in § 19-701(e) of this article, an outpatient
29 clinic, and a medical laboratory.

30 (2) "Health care provider" includes the agents and employees ofa facility
31 who are licensed or otherwise authorized to provide health care, the officers and directors
32 of a facility, and the agents and employees of a health care provider who are licensed or
33 otherwise authorized to provide health care.

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

36 (f) "Health care service" means any health or medical care procedureor service
37 rendered by a health care practitioner that:

38 (1) Provides testing, diagnosis, or treatment of human disease or
39 dysfunction; or

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

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

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

6 (i) Ambulatory surgery;

7 (ii) Radiological or diagnostic imagery; or

8 (iii) Laboratory services.

9 (3) "Office facility" does not include any office, facility, orservice operated
10 by a hospital and regulated under Subtitle 2 of this title.

11 (h) "Payor" means:

12 (1) A health insurer or nonprofit health service plan that holds a certificate
13 of authority and provides health insurance policies or contracts in theState in accordance
14 with this article or Article 48A of the Code;

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

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

19 (I) "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 19-1502.

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

24 (b) The Commission is an independent Commission that functions in the
25 Department.

26 (c) The purpose of the Commission is to:

27 (1) Develop health care cost containment strategies to help provide access
28 to appropriate quality health care services for all Marylanders, after consulting with the
29 Health Resources Planning Commission and the Health Services Cost Review
30 Commission;

31 (2) Facilitate the public disclosure of medical claims data forthe
32 development of public policy;

33 (3) Establish and develop a medical care data base on health care services
34 rendered by health care practitioners;

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

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

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

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

13 (8) Develop a payment system for health care services, INCLUDING A
14 PAYMENT SYSTEM FOR THE HEALTH CARE SERVICES RELATING TO THE
15 TREATMENT OF SOFT TISSUE INJURIES AS PROVIDED IN ARTICLE 48A, § 541A OFTHE
16 CODE;

17 (9) Establish standards for the operation and licensing of medical care
18 electronic claims clearinghouses in Maryland;

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

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

22 [(11)] (12) Reduce the costs of claims submission and the administration of
23 claims for health care practitioners and payors.

24 19-1509.

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

26 (2) "Code" means the applicable current procedural terminology (CPT)
27 code as adopted by the American Medical Association or other applicablecode under an
28 appropriate uniform coding scheme approved by the Commission.

29 (3) "Payor" means:

30 (i) A health insurer or nonprofit health service plan thatholds a
31 certificate of authority and provides health insurance policies or contracts in the State in
32 accordance with Article 48A of the Code or the Health - General Article;

33 (ii) A health maintenance organization that holds a certificate of
34 authority.

35 (4) "Unbundling" means the use of two or more codes by a healthcare
36 provider to describe a surgery or service provided to a patient when a single, more
37 comprehensive code exists that accurately describes the entire surgery or service.

1 (b) (1) By January 1, 1997, the Commission shall implement a paymentsystem
2 for all health care practitioners in the State.

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

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

7 (i) A numeric factor representing the resources of the health care
8 practitioner necessary to provide health care services;

9 (ii) A numeric factor representing the relative value of ahealth care
10 service, as classified by a code, compared to that of other health careservices; and

11 (iii) A numeric factor representing a conversion modifier used to adjust
12 reimbursement.

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

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

20 (6) THE PAYMENT SYSTEM UNDER THIS SECTION SHALL INCLUDE A
21 PAYMENT SYSTEM APPLICABLE TO HEALTH CARE PRACTITIONERS WHO TREAT
22 SOFT TISSUE INJURIES WHICH MAY BE CAUSED BY AN ACCIDENT INVOLVING A
23 MOTOR VEHICLE.

24 [(6)] (7) The Commission and the licensing boards shall develop, by
25 regulation, appropriate sanctions, including, where appropriate, notification to the
26 Insurance Fraud Unit of the State, for health care practitioners who violate the standards
27 established by the Commission to prohibit unbundling and upcoding.

28 (c) (1) In establishing a payment system under this section, the Commission
29 shall take into consideration the factors listed in this subsection.

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

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

35 (ii) Shall consider:

36 1. The cost of professional liability insurance;

37 2. The cost of complying with all federal, State, andlocal
38 regulatory requirements;

1 3. The reasonable cost of bad debt and charity care;

2 4. The differences in experience or expertise among health care
3 practitioners, including recognition of relative preeminence in the practitioner's field or
4 specialty and the cost of education and continuing professional education;

5 5. The geographic variations in practice costs;

6 6. The reasonable staff and office expenses deemed necessary
7 by the Commission to deliver health care services;

8 7. The costs associated with a faculty practice plan affiliated
9 with a teaching hospital; and

10 8. Any other factors deemed appropriate by the Commission.

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

14 (i) The relative complexity of the health care service compared to that
15 of other health care services;

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

17 (iii) The time and effort that are necessary to provide the health care
18 service; and

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

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

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

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

24 (iii) Arrangements agreed upon between a payor and a health care
25 practitioner.

26 (d) (1) (i) The Commission may make an effort, through voluntary and
27 cooperative arrangements between the Commission and the appropriate health care
28 practitioner specialty group, to bring that health care practitioner specialty group into
29 compliance with the health care cost goals of the Commission if the Commission
30 determines that:

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

33 2. Health care practitioners in a specialty area haveattained
34 unreasonable levels of reimbursable services under a specific code in comparison to
35 health care practitioners in another specialty area for the same code;

1 3. Health care practitioners in a specialty area haveattained
2 unreasonable levels of reimbursement, in terms of total compensation, in comparison to
3 health care practitioners in another specialty area;

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

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

9 (ii) If the Commission determines that voluntary and cooperative
10 efforts between the Commission and appropriate health care practitioners have been
11 unsuccessful in bringing the appropriate health care practitioners intocompliance with
12 the health care cost goals of the Commission, the Commission may adjustthe conversion
13 modifier.

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

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

20 (i) The total reimbursement for all health care services over a
21 12-month period;

22 (ii) The total reimbursement for each health care specialty over a
23 12-month period;

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

26 (iv) The annual rate of change in reimbursement for healthservices by
27 health care specialties and by code.

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

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

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

37 (1) Consult with appropriate health care practitioners, payors,the Maryland
38 Hospital Association, the Health Services Cost Review Commission, the Department of
39 Health and Mental Hygiene, and the Department of Business and Economic
40 Development; and

1 (2) Take into consideration:

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

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

5 (iii) The additional costs associated with aging populations and new
6 technology;

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

8 (v) The savings associated with the implementation of modified
9 practice patterns.

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

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

16 (J) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,
17 WITH RESPECT TO THE PAYMENT SYSTEM FOR SOFT TISSUE INJURIES REQUIRED
18 UNDER SUBSECTION (B)(6) OF THIS SECTION, THE COMMISSION SHALL ESTABLISH
19 THE CONVERSION MULTIPLIER FOR ALL HEALTH CARE PRACTITIONERS SUBJECT TO
20 THE SYSTEM, WHICH SHALL BE USED TO ADJUST REIMBURSEMENT TO THOSE
21 HEALTH CARE PRACTITIONERS FOR HEALTH CARE SERVICES RELATING TO THE
22 TREATMENT OF SOFT TISSUE INJURIES.

23 (2) WHEN ESTABLISHING THE CONVERSION MULTIPLIER UNDER THIS
24 SUBSECTION, THE COMMISSION SHALL TAKE INTO CONSIDERATION THE COST
25 CONTAINMENT GOALS UNDER APPLICABLE PROVISIONS OF THE INSURANCE CODE
26 RELATING TO AUTOMOBILE INSURANCE.

27 19-1602.

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

29 (b) The purpose of the Advisory Committee is:

30 (1) [to] TO study the development of practice parameters for medical
31 specialties and to provide information for and make recommendations to the
32 Commission, including recommendations on the adoption and use of practice parameters;
33 AND

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

1 19-1605.

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

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

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

9 (3) Are designed to discourage inappropriate utilization; and

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

13 19-1606.

14 (a) On receipt of a proposal of the Advisory Committee concerning adoption of
15 any practice parameters, by regulation, the Commission may adopt the practice
16 parameters.

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

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

21 (2) The proposal of the Advisory Committee includes supporting
22 information satisfactory to the Commission that the practice parameter will reduce
23 unnecessary utilization of health care services; and

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

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

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

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

35 19-1607.

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

1 (1) DISCOURAGE INAPPROPRIATE UTILIZATION; AND

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

3 (B) IF THE PRACTICE PARAMETERS SATISFY THE PROVISIONS OF §
4 19-1606(B)(2) AND (3) OF THIS SUBTITLE, THE COMMISSION SHALL ADOPT THE
5 PRACTICE PARAMETERS AS PROVIDED IN § 19-1606(C) AND (D) OF THIS SUBTITLE, BY
6 NOVEMBER 1, 1997.

7 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
8 PRACTICE PARAMETERS ADOPTED BY THE COMMISSION UNDER THIS SUBTITLE
9 SHALL BE PRIMA FACIE EVIDENCE OF THE MEDICAL NECESSITY AND
10 CONFORMANCE TO PROFESSIONAL STANDARDS OF PERFORMANCE OF ANY HEALTH
11 CARE SERVICE SUBJECT TO EVALUATION UNDER ARTICLE 48A, § 541A(B) OF THE
12 CODE.

13 (D) IN ESTABLISHING PRACTICE PARAMETERS REQUIRED UNDER THIS
14 SECTION, THE COMMISSION MAY CONTRACT WITH OTHER PUBLIC OR PRIVATE
15 ENTITIES.

16 **Article - Health Occupations**

17 3-317.

18 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
19 BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE
20 FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.

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

24 (1) THE FINAL DISPOSITION OF THE MATTER; AND

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

27 8-320.

28 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
29 BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE
30 FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.

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

34 (1) THE FINAL DISPOSITION OF THE MATTER; AND

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

1 12-318.

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

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

8 (1) THE FINAL DISPOSITION OF THE MATTER; AND

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

11 13-320.

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

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

18 (1) THE FINAL DISPOSITION OF THE MATTER; AND

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

21 14-416.

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

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

28 (1) THE FINAL DISPOSITION OF THE MATTER; AND

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

31 15-316.

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

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

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

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

4 **Article - Transportation**

5 17-107.

6 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY
7 PERSON WHO IS INJURED WHILE OPERATING A MOTOR VEHICLE THAT IS NOT
8 COVERED BY THE REQUIRED SECURITY UNDER SUBSECTION (A) OF THIS SECTION
9 SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO RECOVER FOR NONECONOMIC
10 LOSS AGAINST A PERSON WHO IS OPERATING A MOTOR VEHICLE COVERED BY THE
11 REQUIRED SECURITY UNDER SUBSECTION (A) OF THIS SECTION.

12 (2) THIS SUBSECTION SHALL NOT APPLY TO:

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

16 (II) A PERSON WHOSE INJURIES WERE CAUSED BY A PERSON:

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

19 2. CONVICTED OF HOMICIDE BY MOTOR VEHICLE WHILE
20 INTOXICATED UNDER ARTICLE 27, § 388A OF THE CODE IN CONNECTION WITH THE
21 ACCIDENT; OR

22 3. CONVICTED OF VEHICULAR ASSAULT IN CONNECTION
23 WITH THE ACCIDENT.

24 (3) FOR PURPOSES OF THIS SUBSECTION, THERE IS A REBUTTABLE
25 PRESUMPTION THAT A PERSON KNOWS OR HAS REASON TO KNOW THAT A MOTOR
26 VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY UNDER SUBSECTION (A) OF
27 THIS SECTION IF SECURITY PREVIOUSLY IN EFFECT HAD LAPSED, TERMINATED, OR
28 WAS OTHERWISE INEFFECTIVE FOR A PERIOD OF AT LEAST 30 DAYS BEFORE THE
29 ACCIDENT.

30 (4) IF A PERSON HAS WAIVED THE RIGHT TO RECOVER FOR
31 NONECONOMIC LOSS UNDER THIS SUBSECTION:

32 (I) THE PERSON MAY NOT PRESENT ANY EVIDENCE OF
33 NONECONOMIC LOSS TO THE TRIER OF FACT; AND

34 (II) THE TRIER OF FACT MAY NOT BE INFORMED OF THE
35 EXISTENCE OF THE WAIVER OR ITS EFFECT ON THE TOTAL AMOUNT OF THE
36 PERSON'S RECOVERY.

37 SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding any
38 other provision of law, for the period beginning July 1, 1996 through June 30, 1997, with
39 respect to health care services, as defined in § 19-1501 of the Health - General Article,

1 relating to soft tissue injuries resulting from a motor vehicle accident, an insurer
2 providing benefits under Article 48A, § 539 or providing coverage underArticle 48A, §
3 541(a) and (c) may not be required to pay and a person providing such health care
4 services may not require or request payment in excess of that provided under the federal
5 medicare system as of January 1, 1996. If a reimbursement rate has not been calculated
6 for the medicare system, for a health care service, the amount payable may not exceed
7 80% of the provider's usual and customary charge. A provider subject tothis section may
8 not bill the insured or injured person or otherwise attempt to collect any difference
9 between the amount payable under this section and any other amount charged by the
10 provider.

11 SECTION 4. AND BE IT FURTHER ENACTED, That the Insurance Fraud
12 Division of the Maryland Insurance Administration, in consultation withthe Maryland
13 State Police, the Baltimore City Police Department, and other interested parties, shall
14 establish as a pilot project an accident reporting unit in Baltimore City. The purpose of
15 the accident reporting unit shall be to reduce the incident of insurance fraud. The Fraud
16 Division is authorized to impose an annual assessment on each insurer or other entity
17 authorized to operate in the State under Article 48A of the Code based on the written
18 premium volume of the insurer or other entity. The assessment may be imposed for no
19 more than 3 years, and the total of all assessments may not exceed $500,000. The
20 assessment shall be paid into the Insurance Fraud Division Fund and shall be used solely
21 for the operation of the accident reporting unit.

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

26 SECTION 6. AND BE IT FURTHER ENACTED, That the Health Care Access
27 and Cost Commission shall report to the General Assembly on or before December 31,
28 1996 on the progress of the development of practice parameters for softtissue injuries as
29 required under §§ 19-1502 and 19-1607 of the Health - General Article.

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