

SENATE BILL 143

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C3

1998 Regular Session
(8lr0545)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senators Hollinger, Bromwell, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Acquisition of Nonprofit Health Entities**

3 FOR the purpose of prohibiting a person from engaging in an acquisition of a
4 nonprofit health entity without the approval of a certain regulating entity;
5 requiring the person to submit certain applications; requiring the Department of
6 Health and Mental Hygiene, the Maryland Insurance Administration, and the
7 Attorney General to adopt certain regulations; requiring certain regulating
8 entities to provide certain notice and hold certain public hearings; requiring
9 certain transferors to provide certain notice; establishing criteria by which
10 certain regulating entities must evaluate a proposed acquisition; specifying
11 certain rules that relate to an entity that becomes a for-profit health entity
12 under this Act; authorizing certain regulating entities to revoke or suspend
13 certain licenses or certificates of authority, ~~impose certain penalties, or take~~
14 ~~certain other actions~~ under certain circumstances; specifying the conditions
15 under which a nonprofit charitable certain public or nonprofit charitable
16 corporation may receive ~~charitable~~ certain assets under this Act; defining
17 certain terms; providing for the application of this Act; and generally relating to

1 the acquisition of nonprofit health entities.

2 BY adding to

3 Article - State Government

4 Section 6.5-101 through ~~6.5-306~~ 6.5-307 to be under the new title "Title 6.5.

5 Attorney General - Acquisition of Nonprofit Health Entities"

6 Annotated Code of Maryland

7 (1995 Replacement Volume and 1997 Supplement)

8 BY repealing and reenacting, with amendments,

9 Article - Health - General

10 Section 19-327

11 Annotated Code of Maryland

12 (1996 Replacement Volume and 1997 Supplement)

13 BY adding to

14 Article - Health - General

15 Section 19-706(y)

16 Annotated Code of Maryland

17 (1996 Replacement Volume and 1997 Supplement)

18 BY repealing

19 Article - Health - General

20 Section 19-711.1

21 Annotated Code of Maryland

22 (1996 Replacement Volume and 1997 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Insurance

25 Section 4-113(b)

26 Annotated Code of Maryland

27 (1997 Volume)

28 BY repealing and reenacting, with amendments,

29 Article - Insurance

30 Section 14-112

31 Annotated Code of Maryland

32 (1997 Volume)

33 BY repealing

34 Article - Insurance

35 Section 14-131 and 14-132

36 Annotated Code of Maryland

1 (1997 Volume)

2 **Preamble**

3 ~~WHEREAS, Many charitable and nonprofit health entities exist in the State,~~
 4 ~~including hospitals, health service plans, health maintenance organizations, and~~
 5 ~~other nonprofit entities that provide health care and health insurance to residents of~~
 6 ~~the State; and~~

7 ~~WHEREAS, Over a period of years, these nonprofit health entities have~~
 8 ~~received various types of beneficial tax treatment and other benefits while operating~~
 9 ~~in the State; and~~

10 ~~WHEREAS, Nonprofit health entities are not owned by individuals, but~~
 11 ~~rather exist for the benefit of the public and are required to fulfill their nonprofit~~
 12 ~~mission as expressed in the charters of their corporations; and~~

13 ~~WHEREAS, The acquisition of nonprofit health entities by, and the transfer of~~
 14 ~~assets to, for-profit entities is a national trend and, in some cases, the assets of the~~
 15 ~~nonprofit health entities are not fully accounted for or are not used for the benefit of~~
 16 ~~the State; and~~

17 ~~WHEREAS, It is in the best interests of the State to ensure that, whenever a~~
 18 ~~nonprofit health entity is acquired or otherwise converts to for-profit status, the~~
 19 ~~public and charitable assets of the nonprofit health entity are fully accounted for and~~
 20 ~~properly distributed to the State for the benefit of the public; and~~

21 ~~WHEREAS, The General Assembly intends that the Secretary of Health and~~
 22 ~~Mental Hygiene, the Insurance Commissioner, and the Attorney General ensure that~~
 23 ~~the assets of nonprofit health entities are properly accounted for and distributed to~~
 24 ~~the State as set forth in this title; now, therefore,~~

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

27 **Article - State Government**

28 TITLE 6.5. ATTORNEY GENERAL - ACQUISITION OF NONPROFIT HEALTH ENTITIES.

29 SUBTITLE 1. DEFINITIONS AND GENERAL PROVISIONS.

30 6.5-101.

31 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

32 ~~(B) (+) "ACQUISITION" MEANS THE SALE, LEASE, TRANSFER, MERGER,~~
 33 ~~CREATION OF A JOINT VENTURE, OR OTHER DISPOSITION OF AN OWNERSHIP OR~~
 34 ~~CONTROLLING INTEREST IN THE PRINCIPAL OPERATING ASSETS OF A NONPROFIT~~
 35 ~~HEALTH ENTITY THAT RESULTS IN:~~

1 (C) "ADMINISTRATION" MEANS THE MARYLAND INSURANCE
2 ADMINISTRATION.

3 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL
4 HYGIENE.

5 (E) "HEALTH MAINTENANCE ORGANIZATION" HAS THE MEANING STATED IN §
6 19-701 OF THE HEALTH - GENERAL ARTICLE.

7 (F) "HOSPITAL" HAS THE MEANING STATED IN § 19-301 OF THE HEALTH -
8 GENERAL ARTICLE.

9 (G) "NONPROFIT HEALTH ENTITY" MEANS:

10 (1) A NONPROFIT HOSPITAL;

11 (2) A NONPROFIT HEALTH SERVICE PLAN; OR

12 (3) A NONPROFIT HEALTH MAINTENANCE ORGANIZATION.

13 (H) "NONPROFIT HEALTH SERVICE PLAN" MEANS A CORPORATION WITHOUT
14 CAPITAL STOCK WITH A CERTIFICATE OF AUTHORITY FROM THE INSURANCE
15 COMMISSIONER TO OPERATE AS A NONPROFIT HEALTH SERVICE PLAN OR A
16 NONPROFIT DENTAL PLAN.

17 ~~(I) "PUBLIC ASSETS" MEANS THE ASSETS OF A NONPROFIT HEALTH ENTITY.~~

18 ~~(I) "PUBLIC ASSETS" MEANS ASSETS INCLUDE:~~

19 (1) ASSETS HELD FOR THE BENEFIT OF THE PUBLIC OR THE
20 COMMUNITY;

21 (2) ASSETS IN WHICH THE PUBLIC HAS AN OWNERSHIP INTEREST; OR
22 AND

23 (3) ASSETS OWNED BY A GOVERNMENTAL ENTITY.

24 (J) "REGULATING ENTITY" MEANS:

25 (1) FOR AN ACQUISITION OF A NONPROFIT HOSPITAL, THE ATTORNEY
26 GENERAL IN CONSULTATION WITH THE DEPARTMENT;

27 (2) FOR AN ACQUISITION OF A NONPROFIT HEALTH SERVICE PLAN, THE
28 ADMINISTRATION; AND

29 (3) FOR AN ACQUISITION OF A NONPROFIT HEALTH MAINTENANCE
30 ORGANIZATION, THE ADMINISTRATION.

31 (K) "TRANSFeree" MEANS THE PERSON IN AN ACQUISITION THAT RECEIVES
32 THE OWNERSHIP OR CONTROL OF THE NONPROFIT HEALTH ENTITY THAT IS THE
33 SUBJECT OF THE ACQUISITION.

1 (L) "TRANSFEROR" MEANS THE NONPROFIT HEALTH ENTITY THAT IS THE
2 SUBJECT OF THE ACQUISITION, OR THE CORPORATION THAT OWNS THE NONPROFIT
3 HEALTH ENTITY THAT IS THE SUBJECT OF THE ACQUISITION.

4 6.5-102.

5 A PERSON MAY NOT ENGAGE IN AN ACQUISITION OF A NONPROFIT HEALTH
6 ENTITY UNLESS THE TRANSFEROR AND THE TRANSFEREE RECEIVE THE APPROVAL
7 OF THE APPROPRIATE REGULATING ENTITY.

8 6.5-103.

9 (A) THE ATTORNEY GENERAL, THE DEPARTMENT, AND THE ADMINISTRATION
10 SHALL ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

11 (B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION
12 SHALL INCLUDE PROVISIONS THAT ESTABLISH HEARING AND APPEAL PROCEDURES.

13 6.5-104.

14 NOTHING IN THIS TITLE SHALL IMPAIR THE RIGHTS AND POWERS OF A COURT
15 AND THE ATTORNEY GENERAL WITH RESPECT TO ANY ASSET DEVOTED TO CHARITY
16 OR WITH RESPECT TO ANY CHARITABLE TRUST.

17 SUBTITLE 2. APPLICATION PROCESS.

18 6.5-201.

19 (A) (1) A PERSON ~~WHO~~ THAT SEEKS TO ENGAGE IN AN ACQUISITION OF A
20 NONPROFIT HEALTH ENTITY SHALL SUBMIT AN APPLICATION TO THE APPROPRIATE
21 REGULATING ENTITY.

22 (2) ~~THIS APPLICATION~~ THE APPLICATION SUBMITTED UNDER
23 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN ADDITION TO ANY OTHER FILING
24 REQUIRED BY LAW.

25 (B) AN APPLICATION SHALL INCLUDE:

26 (1) THE NAME OF THE TRANSFEROR;

27 (2) THE NAME OF THE TRANSFEREE;

28 (3) THE NAMES OF ANY OTHER PARTIES TO THE ACQUISITION
29 AGREEMENT;

30 (4) THE TERMS OF THE PROPOSED ACQUISITION, INCLUDING THE SALE
31 PRICE;

32 (5) A COPY OF THE ACQUISITION AGREEMENT;

1 (6) A FINANCIAL AND COMMUNITY IMPACT ANALYSIS REPORT FROM AN
2 INDEPENDENT EXPERT OR CONSULTANT THAT ADDRESSES THE CRITERIA IN §
3 6.5-301 OF THIS TITLE; AND

4 (7) ANY OTHER DOCUMENTS RELATED TO THE ACQUISITION.

5 ~~(C) ON REQUEST TO THE REGULATING ENTITY, AND SUBJECT TO THE~~
6 ~~PROVISIONS OF § 7-106 OF THE INSURANCE ARTICLE, AN APPLICATION AND RELATED~~
7 ~~DOCUMENTS SHALL BE AVAILABLE FOR PUBLIC INSPECTION AND COPYING.~~

8 (C) (1) ON REQUEST TO THE REGULATING ENTITY, AND SUBJECT TO
9 PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION, AN APPLICATION AND RELATED
10 DOCUMENTS SHALL BE AVAILABLE FOR PUBLIC INSPECTION AND COPYING.

11 (2) EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4) OF THIS
12 SUBSECTION OR OTHERWISE BY LAW, ALL INFORMATION AND DOCUMENTS THAT
13 ARE FILED WITH THE REGULATING ENTITY IN COMPLIANCE WITH THE
14 REQUIREMENTS OF THIS TITLE OR THAT ARE REPORTED TO, OBTAINED BY, OR
15 OTHERWISE DISCLOSED TO THE REGULATING ENTITY OR ANY OTHER PERSON IN
16 THE COURSE OF AN EXAMINATION OR INVESTIGATION MADE UNDER THIS TITLE:

17 (I) ARE CONFIDENTIAL MATERIAL;

18 (II) ARE NOT SUBJECT TO SUBPOENA; AND

19 (III) MAY NOT BE MADE PUBLIC BY THE REGULATING ENTITY OR
20 ANY OTHER PERSON.

21 (3) MATERIAL THAT OTHERWISE IS CONFIDENTIAL UNDER PARAGRAPH
22 (2) OF THIS SUBSECTION MAY BE MADE PUBLIC BY ANY PERSON TO WHOM THE
23 NONPROFIT HEALTH ENTITY TO WHICH THE MATERIAL RELATES GIVES PRIOR
24 WRITTEN CONSENT.

25 (4) IF, AFTER GIVING A NONPROFIT HEALTH ENTITY NOTICE AND AN
26 OPPORTUNITY TO BE HEARD, THE REGULATING ENTITY DETERMINES THAT IT IS IN
27 THE INTEREST OF THE POLICYHOLDERS, STOCKHOLDERS, OR THE PUBLIC TO MAKE
28 PUBLIC ANY MATERIAL RELATING TO THE NONPROFIT HEALTH ENTITY THAT
29 OTHERWISE IS CONFIDENTIAL UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE
30 REGULATING ENTITY MAY MAKE PUBLIC ALL OR PART OF THE MATERIAL IN AN
31 APPROPRIATE MANNER.

32 ~~(D) (1) IF THE TRANSFEROR IS A NONPROFIT HEALTH SERVICE PLAN, THE~~
33 ~~TRANSFEROR SHALL NOTIFY EACH SUBSCRIBER TO THE NONPROFIT HEALTH~~
34 ~~SERVICE PLAN OF THE PROPOSED TRANSACTION BY FIRST CLASS MAIL WITHIN 10~~
35 ~~DAYS OF THE SUBMISSION OF THE APPLICATION REQUIRED UNDER SUBSECTION (A)~~
36 ~~OF THIS SECTION.~~

37 ~~(2) (D) IF THE TRANSFEROR IS A NONPROFIT HEALTH MAINTENANCE~~
38 ~~ORGANIZATION, THE TRANSFEROR SHALL NOTIFY EACH ENROLLEE OF THE~~
39 ~~NONPROFIT HEALTH MAINTENANCE ORGANIZATION OF THE PROPOSED~~

~~1 TRANSACTION BY FIRST CLASS MAIL WITHIN 10 DAYS OF THE SUBMISSION OF THE
2 APPLICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.~~

3 6.5-202.

4 (A) WITHIN 10 WORKING DAYS AFTER RECEIVING AN APPLICATION, THE
5 APPROPRIATE REGULATING ENTITY SHALL:

6 (1) PUBLISH NOTICE OF THE APPLICATION IN ~~A NEWSPAPER OF~~
7 ~~GENERAL CIRCULATION IN THE COUNTY WHERE THE NONPROFIT HEALTH ENTITY IS~~
8 ~~LOCATED~~ THE MOST WIDELY CIRCULATED NEWSPAPERS THAT ARE PART OF A
9 NONPROFIT HEALTH ENTITY'S SERVICE AREA; AND

10 (2) NOTIFY BY FIRST-CLASS MAIL ANY PERSON ~~WHO~~ THAT HAS
11 REQUESTED IN WRITING NOTICE OF THE FILING OF AN APPLICATION.

12 (B) THE NOTICE UNDER SUBSECTION (A) OF THIS SECTION SHALL:

13 (1) STATE THAT AN APPLICATION HAS BEEN RECEIVED;

14 (2) STATE THE NAMES OF THE PARTIES TO THE ACQUISITION;

15 (3) DESCRIBE THE CONTENTS OF THE APPLICATION;

16 (4) STATE THE DATE BY WHICH A PERSON MUST SUBMIT WRITTEN
17 COMMENTS ON THE APPLICATION; AND

18 (5) PROVIDE THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING ON
19 THE ACQUISITION.

20 (C) THE APPLICANT SHALL BEAR THE COST OF THE NOTICE REQUIRED
21 UNDER THIS SECTION.

22 6.5-203.

23 (A) ~~WITHIN 65 DAYS AFTER RECEIVING AN APPLICATION~~

24 (1) AS SOON AS PRACTICABLE, BUT NO LATER THAN 90 DAYS AFTER
25 RECEIVING A COMPLETED COMPLETE APPLICATION, INCLUDING ALL NECESSARY
26 EXPERT REPORTS, THE APPROPRIATE REGULATING ENTITY SHALL HOLD A PUBLIC
27 HEARING.

28 (2) IF THE NONPROFIT HEALTH ENTITY IS A HOSPITAL, THE
29 REGULATING ENTITY SHALL HOLD THE PUBLIC HEARING IN THE JURISDICTION IN
30 WHICH THE HOSPITAL IS LOCATED.

31 (B) A PUBLIC HEARING UNDER THIS SECTION SHALL BE A
32 QUASI-LEGISLATIVE HEARING AND NOT A CONTESTED CASE HEARING.

33 (C) ANY PERSON MAY FILE WRITTEN COMMENTS AND EXHIBITS OR MAKE A
34 STATEMENT AT ~~A~~ THE PUBLIC HEARING.

1 (D) THE REGULATING ENTITY MAY:

2 (1) SUBPOENA INFORMATION AND WITNESSES;

3 (2) REQUIRE SWORN STATEMENTS;

4 (3) TAKE DEPOSITIONS; AND

5 (4) USE RELATED DISCOVERY PROCEDURES.

6 (E) (1) THE REGULATING ENTITY MAY CONTRACT WITH EXPERTS ~~OR~~
7 ~~CONSULTANTS~~ AS REASONABLY NECESSARY TO:

8 (I) DETERMINE WHETHER TO APPROVE AN ACQUISITION
9 GENERALLY;

10 (II) PERFORM AN INDEPENDENT VALUATION OF THE PUBLIC OR
11 CHARITABLE ASSETS OF THE TRANSFEROR;

12 (III) EVALUATE THE IMPACT OF THE ACQUISITION ON THE
13 AFFECTED COMMUNITY;

14 (IV) DETERMINE WHETHER THERE HAS BEEN DUE DILIGENCE BY
15 THE TRANSFEROR; AND

16 (V) DETERMINE THE EXISTENCE OF ANY CONFLICTS OF INTEREST.

17 (2) THE SELECTION OF AN EXPERT BY A REGULATING ENTITY UNDER
18 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBJECT TO THE PROVISIONS OF
19 DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE STATE
20 PROCUREMENT LAWS.

21 ~~(2)~~ (3) IF A REGULATING ENTITY ~~EMPLOYS CONTRACTS FOR~~ EXPERT
22 ASSISTANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TRANSFEREE SHALL
23 PAY THE ~~COST~~ REASONABLE COST, AS DETERMINED BY THE REGULATING ENTITY, OF
24 THE EXPERT ASSISTANCE.

25 (F) ~~WITHIN 95 DAYS AFTER RECEIVING AN APPLICATION, SUBJECT TO~~
26 ~~SUBSECTION (G) OF THIS SECTION,~~ WITHIN 60 DAYS AFTER THE RECORD, INCLUDING
27 THE PUBLIC HEARING PROCESS, HAS BEEN CLOSED, THE APPROPRIATE REGULATING
28 ENTITY SHALL:

29 (1) APPROVE THE ACQUISITION, WITH OR WITHOUT MODIFICATIONS; OR

30 (2) DISAPPROVE THE ACQUISITION.

31 ~~(G) IF AN APPLICATION IS NOT APPROVED OR DISAPPROVED WITHIN 95 DAYS~~
32 ~~AFTER ITS RECEIPT, THE APPLICATION SHALL BE DEEMED APPROVED.~~

33 ~~(G) (1) UNLESS THE REGULATING ENTITY EXTENDS THE TIME FOR GOOD~~
34 ~~CAUSE, IF AN APPLICATION IS NOT APPROVED OR DISAPPROVED WITHIN 60 DAYS~~

1 ~~AFTER THE RECORD, INCLUDING THE HEARING PROCESS, HAS BEEN CLOSED, THE~~
 2 ~~APPLICATION SHALL BE DEEMED APPROVED.~~

3 ~~(2) FOR GOOD CAUSE, THE REGULATING ENTITY MAY EXTEND THE~~
 4 ~~APPLICATION REVIEW PERIOD FOR UP TO TWO 60-DAY PERIODS BEYOND THE~~
 5 ~~INITIAL 60-DAYS.~~

6 ~~(G) (1) UNLESS THE APPROPRIATE REGULATING ENTITY EXTENDS FOR~~
 7 ~~GOOD CAUSE UNDER PARAGRAPH (2) OF THIS SUBSECTION THE TIME FOR MAKING A~~
 8 ~~DETERMINATION UNDER SUBSECTION (F) OF THIS SECTION, IF AN APPLICATION IS~~
 9 ~~NOT APPROVED OR DISAPPROVED WITHIN 60 DAYS AFTER THE RECORD, INCLUDING~~
 10 ~~THE PUBLIC HEARING PROCESS, HAS BEEN CLOSED, THE APPLICATION SHALL BE~~
 11 ~~DEEMED APPROVED.~~

12 ~~(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AT ITS~~
 13 ~~DISCRETION, THE REGULATING ENTITY MAY EXTEND FOR GOOD CAUSE FOR A~~
 14 ~~60-DAY PERIOD THE TIME FOR MAKING A DETERMINATION UNDER SUBSECTION (F)~~
 15 ~~OF THIS SECTION.~~

16 ~~(3) THE REGULATING ENTITY IS LIMITED TO A MAXIMUM OF TWO~~
 17 ~~60-DAY EXTENSIONS FOR MAKING A DETERMINATION ON THE SAME APPLICATION.~~

18 SUBTITLE 3. REVIEW CRITERIA AND PENALTIES.

19 6.5-301.

20 (A) THE APPROPRIATE REGULATING ENTITY SHALL APPROVE AN
 21 ACQUISITION UNLESS IT FINDS THE ACQUISITION IS NOT IN THE PUBLIC INTEREST.

22 (B) AN ACQUISITION IS NOT IN THE PUBLIC INTEREST UNLESS APPROPRIATE
 23 STEPS HAVE BEEN TAKEN TO ~~ENSURE THAT~~:

24 ~~(1) SAFEGUARD THE VALUE OF PUBLIC ASSETS;~~

25 ~~(2) ENSURE THAT:~~

26 ~~(1) 100% OF THE PROCEEDS OF AN ACQUISITION~~

27 ~~(1) ENSURE THAT THE VALUE OF PUBLIC OR CHARITABLE ASSETS IS~~
 28 ~~SAFEGUARDED;~~

29 ~~(2) ENSURE THAT:~~

30 ~~(1) THE FAIR VALUE OF THE PUBLIC OR CHARITABLE ASSETS OF A~~
 31 ~~NONPROFIT HEALTH SERVICE PLAN OR A HEALTH MAINTENANCE ORGANIZATION IS~~
 32 ~~TRANSFERRED WILL BE DISTRIBUTED TO THE MARYLAND HEALTH CARE~~
 33 ~~FOUNDATION THAT WAS ESTABLISHED IN § 20-502 OF THE HEALTH - GENERAL~~
 34 ~~ARTICLE; OR~~

1 (II) 1. 40% OF THE ~~PROCEEDS OF AN ACQUISITION~~ FAIR VALUE
 2 OF THE PUBLIC OR CHARITABLE ASSETS OF A NONPROFIT HOSPITAL ~~IS~~ WILL BE
 3 ~~TRANSFERRED~~ DISTRIBUTED TO THE MARYLAND HEALTH CARE FOUNDATION THAT
 4 WAS ESTABLISHED IN § 20-502 OF THE HEALTH - GENERAL ARTICLE; AND

5 2. 60% OF THE ~~PROCEEDS OF AN ACQUISITION~~ FAIR VALUE
 6 OF THE PUBLIC OR CHARITABLE ASSETS OF A ~~PUBLIC OR~~ NONPROFIT HOSPITAL ~~IS~~
 7 WILL BE ~~TRANSFERRED~~ DISTRIBUTED TO A PUBLIC OR NONPROFIT CHARITABLE
 8 ENTITY OR TRUST THAT IS:

9 A. DEDICATED TO SERVING THE UNMET HEALTH CARE
 10 NEEDS OF THE AFFECTED COMMUNITY;

11 B. DEDICATED TO PROMOTING ACCESS TO HEALTH CARE IN
 12 THE AFFECTED COMMUNITY;

13 C. DEDICATED TO IMPROVING THE QUALITY OF HEALTH
 14 CARE IN THE AFFECTED COMMUNITY; AND

15 D. INDEPENDENT OF THE TRANSFEREE; AND

16 (3) ~~ENSURE THAT NO PART OF~~ ENSURE THAT NO PART OF THE PUBLIC
 17 OR CHARITABLE ASSETS OR THE PROCEEDS OF THE ACQUISITION INURE DIRECTLY
 18 OR INDIRECTLY TO AN OFFICER, DIRECTOR, OR TRUSTEE OF A NONPROFIT HEALTH
 19 ENTITY ~~THROUGH STOCK OPTIONS OR OTHERWISE.~~

20 (C) ~~THE REGULATING ENTITY MAY DETERMINE THAT A TRANSFER OR A~~
 21 DISTRIBUTION OF ASSETS OF A NONPROFIT HEALTH ENTITY OR A VOTE OF ITS
 22 CERTIFICATE HOLDERS AS PROVIDED UNDER § 6.5-303(2)(III) OF THIS SUBTITLE IS
 23 NOT REQUIRED UNDER THIS SECTION IF THE TRANSACTION IS:

24 (1) DETERMINED NOT TO BE AN ACQUISITION;

25 (2) IN THE ORDINARY COURSE OF BUSINESS; AND

26 (3) FOR FAIR VALUE.

27 (D) IN DETERMINING FAIR VALUE, THE APPROPRIATE REGULATING ENTITY
 28 MAY CONSIDER ALL RELEVANT FACTORS, INCLUDING, AS DETERMINED BY THE
 29 REGULATING ENTITY:

30 (1) THE VALUE OF A NONPROFIT HEALTH ENTITY OR AN AFFILIATE OR
 31 THE ASSETS OF SUCH AN ENTITY DETERMINED AS IF THE ENTITY HAD VOTING
 32 STOCK OUTSTANDING AND 100% OF ITS STOCK WERE WAS FREELY TRANSFERABLE
 33 AND AVAILABLE FOR PURCHASE WITHOUT RESTRICTION;

34 (2) THE VALUE AS A GOING CONCERN;

35 (3) THE MARKET VALUE;

36 (4) THE INVESTMENT OR EARNINGS VALUE;

1 (5) THE NET ASSET VALUE; AND

2 (6) A CONTROL PREMIUM, IF ANY.

3 ~~(C)~~ (E) IN DETERMINING WHETHER AN ACQUISITION IS IN THE PUBLIC
4 INTEREST, THE APPROPRIATE REGULATING ENTITY SHALL CONSIDER:

5 (1) WHETHER THE TRANSFEROR EXERCISED DUE DILIGENCE IN
6 DECIDING TO ENGAGE IN AN ACQUISITION, SELECTING THE TRANSFEREE, AND
7 NEGOTIATING THE TERMS AND CONDITIONS OF THE ACQUISITION;

8 (2) THE PROCEDURES THE TRANSFEROR USED IN MAKING THE
9 DECISION, INCLUDING WHETHER APPROPRIATE EXPERT ASSISTANCE WAS USED;

10 (3) WHETHER ANY CONFLICTS OF INTEREST WERE DISCLOSED,
11 INCLUDING CONFLICTS OF INTEREST OF BOARD MEMBERS, EXECUTIVES, AND
12 EXPERTS RETAINED BY THE TRANSFEROR, TRANSFEREE, OR ANY OTHER PARTIES TO
13 THE ACQUISITION;

14 (4) WHETHER THE TRANSFEROR WILL RECEIVE FAIR ~~MARKET~~ VALUE
15 FOR ITS PUBLIC OR CHARITABLE ASSETS;

16 (5) WHETHER ~~CHARITABLE FUNDS~~ PUBLIC OR CHARITABLE ASSETS ARE
17 PLACED AT UNREASONABLE RISK IF THE ACQUISITION IS FINANCED IN PART BY THE
18 TRANSFEROR;

19 (6) WHETHER THE ACQUISITION HAS THE LIKELIHOOD OF CREATING A
20 SIGNIFICANT ADVERSE EFFECT ON THE AVAILABILITY OR ACCESSIBILITY OF
21 HEALTH CARE SERVICES IN THE AFFECTED COMMUNITY;

22 (7) WHETHER THE ACQUISITION INCLUDES SUFFICIENT SAFEGUARDS
23 TO ENSURE THAT THE AFFECTED COMMUNITY WILL HAVE CONTINUED ACCESS TO
24 AFFORDABLE HEALTH CARE; AND

25 (8) WHETHER ANY MANAGEMENT CONTRACT UNDER THE ACQUISITION
26 IS FOR FAIR ~~MARKET~~ VALUE.

27 6.5-302.

28 IN DETERMINING WHETHER TO APPROVE AN ACQUISITION OF A NONPROFIT
29 HOSPITAL, THE ATTORNEY GENERAL SHALL CONSIDER:

30 (1) THE CRITERIA LISTED IN § 6.5-301 OF THIS SUBTITLE; AND

31 (2) WHETHER THE AFFECTED COMMUNITY WILL HAVE CONTINUED
32 ACCESS TO AFFORDABLE HEALTH CARE.

1 6.5-303.

2 IN DETERMINING WHETHER TO APPROVE AN ACQUISITION OF A NONPROFIT
3 HEALTH SERVICE PLAN OR A NONPROFIT HEALTH MAINTENANCE ORGANIZATION,
4 THE ADMINISTRATION SHALL CONSIDER:

5 (1) THE CRITERIA LISTED IN § 6.5-301 OF THIS SUBTITLE; AND

6 (2) WHETHER THE ACQUISITION:

7 (I) IS EQUITABLE TO ENROLLEES, INSUREDS, SHAREHOLDERS,
8 AND CERTIFICATE HOLDERS, IF ANY, OF THE TRANSFEROR;

9 (II) IS IN COMPLIANCE WITH TITLE 2, SUBTITLE 6 OF THE
10 CORPORATIONS AND ASSOCIATIONS ARTICLE;

11 (III) IS APPROVED BY AT LEAST TWO-THIRDS OF THE
12 TRANSFEROR'S CERTIFICATE HOLDERS WHO HAVE VOTED ON THE ACQUISITION:

13 1. IN PERSON, BY PROXY, OR BY MAIL; AND

14 2. PURSUANT TO THE REQUIREMENTS ADOPTED BY THE
15 COMMISSIONER REGARDING NOTICE AND PROCEDURE; AND

16 (IV) ENSURES THAT THE TRANSFEREE WILL POSSESS SURPLUS IN
17 AN AMOUNT SUFFICIENT TO:

18 1. COMPLY WITH THE SURPLUS REQUIRED UNDER LAW; AND

19 2. PROVIDE FOR THE SECURITY OF THE TRANSFEREE'S
20 CERTIFICATE HOLDERS AND POLICYHOLDERS.

21 6.5-304.

22 (A) A CORPORATION THAT BECOMES A FOR-PROFIT HEALTH ENTITY UNDER
23 THIS TITLE MAY NOT BE DEEMED TO HAVE ABANDONED ITS CORPORATE STATUS BY
24 VIRTUE OF AN ACQUISITION UNLESS THE ACQUISITION PROVIDES SPECIFICALLY TO
25 THE CONTRARY.

26 (B) THE CERTIFICATE OF AUTHORITY, AGENT APPOINTMENTS, LICENSES,
27 FORMS, AND ANY OTHER FILINGS IN EXISTENCE AT THE TIME OF AN ACQUISITION
28 SHALL CONTINUE IN FULL FORCE AND EFFECT UPON AN ACQUISITION IF A
29 CORPORATION AT ALL TIMES REMAINS QUALIFIED TO ENGAGE IN BUSINESS IN THE
30 STATE.

31 (C) ALL OUTSTANDING CONTRACTS OF A TRANSFEROR SHALL REMAIN IN
32 FULL FORCE AND EFFECT AND NEED NOT BE OTHERWISE ENDORSED UNLESS
33 ORDERED BY THE ~~ADMINISTRATION~~ REGULATING ENTITY.

1 6.5-305.

2 (A) THE SECRETARY OF THE DEPARTMENT MAY REVOKE OR SUSPEND A
3 LICENSE TO OPERATE A HOSPITAL IN ACCORDANCE WITH § 19-327 OF THE HEALTH -
4 GENERAL ARTICLE IF AN ACQUISITION OCCURS WITHOUT THE APPROVAL OF THE
5 ATTORNEY GENERAL.

6 ~~(B) THE INSURANCE COMMISSIONER MAY REVOKE OR SUSPEND A
7 CERTIFICATE OF AUTHORITY TO OPERATE A NONPROFIT HEALTH SERVICE PLAN IN
8 ACCORDANCE WITH TITLE 14, SUBTITLE 1 OF THE INSURANCE ARTICLE IF AN
9 ACQUISITION OF THE NONPROFIT HEALTH SERVICE PLAN OCCURS WITHOUT THE
10 APPROVAL OF THE ADMINISTRATION.~~

11 ~~(C) THE INSURANCE COMMISSIONER MAY REVOKE OR SUSPEND A
12 CERTIFICATE OF AUTHORITY TO OPERATE A HEALTH MAINTENANCE ORGANIZATION
13 IN ACCORDANCE WITH TITLE 19, SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE IF
14 AN ACQUISITION OF A NONPROFIT HEALTH MAINTENANCE ORGANIZATION OCCURS
15 WITHOUT THE APPROVAL OF THE ADMINISTRATION.~~

16 ~~(D) THE INSURANCE COMMISSIONER MAY REVOKE OR SUSPEND A
17 CERTIFICATE OF AUTHORITY TO OPERATE A NONPROFIT HEALTH SERVICE PLAN OR
18 A NONPROFIT HEALTH MAINTENANCE ORGANIZATION IF THE COMMISSIONER
19 DETERMINES THAT THE NONPROFIT ENTITY IS BEING OPERATED FOR PROFIT.~~

20 (B) AN ACQUISITION OF A NONPROFIT HEALTH SERVICE PLAN OR A
21 NONPROFIT HEALTH MAINTENANCE ORGANIZATION MAY NOT OCCUR WITHOUT THE
22 APPROVAL OF THE ADMINISTRATION.

23 (C) A NONPROFIT HEALTH SERVICE PLAN OR A NONPROFIT HEALTH
24 MAINTENANCE ORGANIZATION MAY NOT BE OPERATED FOR PROFIT.

25 (D) IF THE COMMISSIONER DETERMINES THAT A NONPROFIT HEALTH
26 SERVICE PLAN OR A NONPROFIT HEALTH MAINTENANCE ORGANIZATION IS IN
27 VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION, THE COMMISSIONER MAY, IN
28 ADDITION TO ANY OTHER REMEDIES AUTHORIZED BY LAW, REQUIRE THAT:

29 (1) THE ENTITY DIVEST THE ACQUISITION;

30 (2) THE ENTITY FULLY COMPLY WITH THIS TITLE;

31 (3) THE ENTITY FILE A PLAN FOR CONVERSION TO A FOR PROFIT
32 ENTITY AS REQUIRED UNDER THIS TITLE;

33 (4) THE CERTIFICATE OF AUTHORITY TO OPERATE A NONPROFIT
34 HEALTH SERVICE PLAN OR A NONPROFIT HEALTH MAINTENANCE ORGANIZATION IN
35 MARYLAND BE REVOKED OR SUSPENDED; OR

36 (5) A PENALTY BE PAID AS PROVIDED IN § 4-113(D)(1) OF THIS ARTICLE
37 FOR EACH VIOLATION THE FOLLOWING:

- 1 (1) THE DIVESTITURE OF THE ACQUISITION;
- 2 (2) THAT THE ENTITY FULLY COMPLY WITH THIS TITLE;
- 3 (3) THAT THE ENTITY FILE A PLAN FOR CONVERSION TO A FOR-PROFIT
4 ENTITY AS REQUIRED UNDER THIS TITLE;
- 5 (4) THAT THE CERTIFICATE OF AUTHORITY OF THE ENTITY TO OPERATE
6 AS A NONPROFIT HEALTH SERVICE PLAN OR A NONPROFIT HEALTH MAINTENANCE
7 ORGANIZATION IN THIS STATE BE REVOKED OR SUSPENDED; OR
- 8 (5) THE PAYMENT OF A PENALTY AS PROVIDED FOR IN § 4-113(D)(1) OF
9 THE INSURANCE ARTICLE FOR EACH VIOLATION OF SUBSECTION (B) OR (C) OF THIS
10 SECTION.

11 6.5-306.

12 (A) BEFORE A PUBLIC OR NONPROFIT ~~PUBLIC OR~~ CHARITABLE ENTITY OR
13 TRUST MAY RECEIVE A DISTRIBUTION OF PUBLIC OR CHARITABLE ASSETS IN
14 ACCORDANCE WITH AN AGREEMENT, CONTRACT, OR TRANSACTION APPROVED BY
15 THE REGULATING ENTITY UNDER THIS SUBTITLE, IT SHALL HAVE MECHANISMS IN
16 PLACE TO:

- 17 (1) AVOID CONFLICTS OF INTEREST; AND
- 18 (2) PROHIBIT THE MAKING OF GRANTS THAT WOULD BENEFIT:
- 19 (I) THE PUBLIC OR NONPROFIT CHARITABLE ENTITY'S OR TRUST'S
20 BOARD OF DIRECTORS;
- 21 (II) THE PUBLIC OR NONPROFIT CHARITABLE ENTITY'S OR TRUST'S
22 MANAGEMENT;
- 23 (III) THE FOR-PROFIT STOCK ENTITY; OR
- 24 (IV) A MUTUAL ENTITY.

25 (B) A PUBLIC OR NONPROFIT CHARITABLE ENTITY OR TRUST THAT RECEIVES
26 A DISTRIBUTION OF PUBLIC OR CHARITABLE ASSETS SHALL SUBMIT AN ANNUAL
27 REPORT TO THE OFFICE ~~ON~~ REGARDING THE GRANT-MAKING AND OTHER
28 CHARITABLE ACTIVITIES OF THE ENTITY RELATED TO ITS USE OF THE PUBLIC OR
29 CHARITABLE ASSETS RECEIVED.

30 (C) THE ANNUAL REPORT SUBMITTED UNDER SUBSECTION (B) OF THIS
31 SECTION SHALL BE MADE AVAILABLE TO THE PUBLIC AT THE PRINCIPAL OFFICE OF
32 THE PUBLIC OR NONPROFIT CHARITABLE ENTITY OR TRUST.

33 6.5-307.

34 (A) THIS TITLE DOES NOT APPLY TO THE ACQUISITION OF A FOREIGN
35 NONPROFIT HEALTH ENTITY OPERATING IN THIS STATE IF THE APPROPRIATE

1 REGULATING ENTITY DETERMINES, BASED ON THE STANDARDS SET FORTH IN THIS
 2 TITLE, THAT ANY PUBLIC OR CHARITABLE ASSETS OF THE NONPROFIT HEALTH
 3 ENTITY THAT SERVE HEALTH CARE NEEDS IN THIS STATE WILL BE ADEQUATELY
 4 PROTECTED.

5 ~~(B) IF THE APPROPRIATE REGULATING ENTITY DETERMINES UNDER~~
 6 ~~SUBSECTION (A) OF THIS SECTION THAT THIS TITLE DOES NOT APPLY, THE~~
 7 ~~NONPROFIT HEALTH ENTITY SHALL SUBMIT AN INFORMATION COPY OF ITS~~
 8 ~~APPLICATION TO ENGAGE IN AN ACQUISITION TO THE REGULATING ENTITY.~~

9 (B) ANY NONPROFIT HEALTH ENTITY THAT THE APPROPRIATE REGULATING
 10 ENTITY HAS DETERMINED UNDER SUBSECTION (A) OF THIS SECTION THAT THIS
 11 TITLE DOES NOT APPLY SHALL SUBMIT AN INFORMATION COPY OF ITS APPLICATION
 12 TO ENGAGE IN AN ACQUISITION TO THE REGULATING ENTITY.

13 **Article - Health - General**

14 19-327.

15 (a) (1) The Secretary shall deny a license to any applicant or revoke a
 16 license if the applicant or licensee has been convicted of a felony that relates to
 17 Medicaid or to a nursing home.

18 (2) The Secretary may deny a license to an applicant or revoke a license
 19 if the applicant or licensee does not meet the requirements of this subtitle or any rule
 20 or regulation that the Secretary adopts under this subtitle.

21 (B) THE SECRETARY MAY DENY A LICENSE TO AN APPLICANT OR REVOKE A
 22 LICENSE IF THE APPLICANT OR LICENSEE VIOLATES TITLE 6.5 OF THE STATE
 23 GOVERNMENT ARTICLE.

24 [(b)] (C) (1) Before any action is taken under this section, the Secretary
 25 shall give the applicant or licensee an opportunity for a hearing.

26 (2) The hearing notice to be given to the applicant or licensee shall be
 27 sent at least 10 days before the hearing.

28 (3) The applicant or licensee is entitled to be represented by counsel at
 29 the hearing.

30 19-706.

31 (Y) THE PROVISIONS OF TITLE 6.5 OF THE STATE GOVERNMENT ARTICLE
 32 SHALL APPLY TO THE ACQUISITION OF A HEALTH MAINTENANCE ORGANIZATION
 33 OWNED BY A NONPROFIT ENTITY.

1 [19-711.1.

2 (a) A domestic nonprofit health maintenance organization may become a
3 for-profit health maintenance organization under the plan and procedure approved
4 by the Commissioner.

5 (b) The Commissioner may not approve any plan or procedure unless:

6 (1) It is equitable to enrollees and shareholders, if any, of the health
7 maintenance organization;

8 (2) It is in compliance with Title 2, Subtitle 6 of the Corporations and
9 Associations Article; and

10 (3) The plan or procedure provides that no part of the assets or surplus of
11 the nonprofit health maintenance organization will inure directly or indirectly to any
12 officer or director of the health maintenance organization.

13 (c) A domestic nonprofit health maintenance organization that becomes a
14 for-profit health maintenance organization shall be given recognition in all respects
15 as a health maintenance organization formed under the laws of this State as of the
16 date of its initial authorization as a nonprofit health maintenance organization.

17 (d) The certificate of authority, agent appointments, forms, and other filings
18 which are in existence at the time of the conversion from a nonprofit health
19 maintenance organization to a for-profit health maintenance organization shall
20 continue in full force and effect upon conversion if the health maintenance
21 organization at all times remains qualified to engage in business in this State.

22 (e) All outstanding contracts of the converting health maintenance
23 organization shall remain in full force and effect and need not otherwise be endorsed
24 unless ordered by the Commissioner.

25 (f) The Commissioner may conduct a hearing concerning the proposed
26 conversion of a nonprofit health maintenance organization to a for-profit health
27 maintenance organization.]

28 **Article - Insurance**

29 4-113.

30 (b) The Commissioner may deny a certificate of authority to an applicant or,
31 subject to the hearing provisions of Title 2 of this article, refuse to renew, suspend, or
32 revoke a certificate of authority if the applicant or holder of the certificate of
33 authority:

34 (1) violates any provision of this article other than one that provides for
35 mandatory denial, refusal to renew, suspension, or revocation for its violation;

1 (2) knowingly fails to comply with a regulation or order of the
2 Commissioner;

3 (3) is found by the Commissioner to be in unsound condition or in a
4 condition that renders further transaction of insurance business hazardous to the
5 insurer's policyholders or the public;

6 (4) is engaged in writing policies in a jurisdiction in which it operates on
7 a premium basis that the Commissioner finds to be insufficient, insecure, or
8 impracticable so as to endanger the solvency of the insurer;

9 (5) refuses or delays payment of amounts due claimants without just
10 cause;

11 (6) refuses to be examined or to produce its accounts, records, or files for
12 examination by the Commissioner when required;

13 (7) refuses to provide additional information that the Commissioner
14 considers advisable in considering an application for renewal of the certificate of
15 authority;

16 (8) fails to pay a final judgment against it in the State within 30 days
17 after the judgment becomes final;

18 (9) is affiliated with and under the same general management or
19 interlocking directorate or ownership as another insurer that transacts direct
20 insurance in the State without having a certificate of authority to do so, except as
21 allowed to a surplus lines insurer under Title 3, Subtitle 3 of this article;

22 (10) is found by the Commissioner to have participated, with or without
23 the knowledge of an agent or broker, in selling motor vehicle insurance without an
24 actual intent to sell the insurance, as evidenced by a persistent pattern of filing
25 certificates of insurance together with or closely followed by cancellation notices for
26 the insurance;

27 (11) except as allowed under § 10-103(b) of this article, is found by the
28 Commissioner to have knowingly participated with a person, acting as an agent, that
29 does not have an appointment from the insurer in accepting insurance contracts that
30 the person has solicited, negotiated, or effectuated, if committed with sufficient
31 frequency to indicate a general business practice; [or]

32 (12) has had a certificate of authority revoked or suspended by the
33 insurance regulatory authority of another state; OR

34 (13) HAS VIOLATED THE PROVISIONS OF TITLE 6.5 OF THE STATE
35 GOVERNMENT ARTICLE.

1 14-112.

2 The Commissioner may revoke a certificate of authority issued to a corporation
3 subject to this subtitle, and at any time after revocation may institute proceedings
4 under Title 9, Subtitle 2 of this article to rehabilitate or liquidate the corporation, if:

5 (1) grounds exist under § 4-113 of this article; or

6 (2) the Commissioner has reason to believe that the corporation:

7 (i) is being operated for profit;

8 (ii) is being fraudulently conducted;

9 (iii) is not complying with this subtitle or article; [or]

10 (iv) knowingly is failing to comply with a rule, regulation, or order
11 of the Commissioner; OR

12 (V) HAS VIOLATED THE PROVISIONS OF TITLE 6.5 OF THE STATE
13 GOVERNMENT ARTICLE.

14 [14-131.

15 (a) This section does not apply to the conversion of a corporation authorized
16 under this subtitle to a stock health insurer under a court order in connection with
17 the rehabilitation or reorganization of the corporation under Title 9, Subtitle 2 of this
18 article.

19 (b) A corporation that is incorporated under the laws of the State and is
20 subject to this subtitle may convert to a for-profit stock health insurer subject to the
21 provisions of this article under a plan and procedure approved by the Commissioner.

22 (c) The Commissioner may not approve a plan or procedure for conversion
23 unless the plan or procedure:

24 (1) is equitable to subscribers and certificate holders, if any, of the
25 corporation;

26 (2) complies with Title 2, Subtitle 6 of the Corporations and Associations
27 Article;

28 (3) provides that none of the assets or surplus of the nonprofit health
29 service plan will inure directly or indirectly to an officer or director of the corporation;

30 (4) is approved by at least two-thirds of the corporation's certificate
31 holders who have voted on the plan or procedure in person, by proxy, or by mail under
32 the notice and procedure approved by the Commissioner; and

33 (5) ensures that the resulting stock health insurer will possess surplus
34 in an amount sufficient to:

1 (i) comply with the surplus requirements under this article for a
2 stock health insurer; and

3 (ii) provide for the security of the resulting stock health insurer's
4 policyholders and certificate holders.

5 (d) A corporation that becomes a for-profit stock health insurer under this
6 section does not abandon its corporate status by converting, unless the plan
7 specifically provides otherwise.

8 (e) If the corporation at all times remains qualified to engage in business in
9 the State, the certificate of authority, agent appointments, forms, and other filings
10 existing at the time of the conversion shall continue in effect after the conversion.

11 (f) All outstanding contracts of the converting corporation shall remain in
12 effect and need not otherwise be endorsed unless ordered by the Commissioner.

13 (g) The Commissioner or designee of the Commissioner may conduct a hearing
14 on the proposed conversion of a corporation subject to this subtitle into a for-profit
15 stock health insurer.]

16 [14-132.

17 (a) This section does not apply to the conversion of a corporation authorized
18 under this subtitle to a mutual health insurer under a court order in connection with
19 the rehabilitation or reorganization of the corporation under Title 9, Subtitle 2 of this
20 article.

21 (b) A corporation that is incorporated under the laws of the State and is subject
22 to this subtitle may convert to a mutual health insurer subject to the provisions of this
23 article under a plan and procedure approved by the Commissioner.

24 (c) The Commissioner may not approve a plan or procedure for conversion
25 unless the plan or procedure:

26 (1) is equitable to subscribers and certificate holders, if any, of the
27 corporation;

28 (2) complies with Title 2, Subtitle 6 of the Corporations and Associations
29 Article;

30 (3) provides that none of the assets or surplus of the nonprofit health
31 service plan will inure directly or indirectly to an officer or director of the corporation;
32 and

33 (4) is approved by at least two-thirds of the corporation's certificate
34 holders who have voted on the plan or procedure in person, by proxy, or by mail under
35 the notice and procedure approved by the Commissioner;

1 (5) ensures that the resulting mutual health insurer will possess surplus
2 in an amount sufficient to:

3 (i) comply with the surplus requirements under this article for a
4 mutual health insurer; and

5 (ii) provide for the security of the resulting mutual health insurer's
6 policyholders and certificate holders.

7 (d) A corporation that becomes a mutual health insurer under this section does
8 not abandon its corporate status by converting, unless the plan specifically provides
9 otherwise.

10 (e) If the corporation at all times remains qualified to engage in business in the
11 State, the certificate of authority, agent appointments, forms, and other filings existing
12 at the time of the conversion shall continue in effect after the conversion.

13 (f) All outstanding contracts of the converting corporation shall remain in
14 effect and need not otherwise be endorsed unless ordered by the Commissioner.

15 (g) The Commissioner or designee of the Commissioner may conduct a hearing
16 on the proposed conversion of a corporation subject to this subtitle into a mutual health
17 insurer.]

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
19 construed only prospectively and may not be applied or interpreted to have any effect
20 on or application to any acquisition completed or certificate of need or certificate of
21 authority granted before the effective date of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1998.