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By: **Delegates Goldwater and Taylor**
Introduced and read first time: February 12, 1999
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 1999

CHAPTER_____

AN ACT concerning

Health Care Regulatory Reform - Commission Consolidation

FOR the purpose of integrating, consolidating, and streamlining certain health care regulatory responsibilities and duties under the Maryland Health Care Access and Cost Commission; repealing certain obsolete provisions of law; altering the number of commissioners on the Commission who must meet certain criteria; establishing a Health Care Access and Cost Commission Fund; specifying the funding for the Health Care Access and Cost Commission Fund; specifying the purpose of this Act; abolishing a certain commission that functions in the Department of Health and Mental Hygiene ~~by certain dates~~; altering the duties, responsibilities, and functions of the Maryland Health Care Access and Cost Commission; requiring the Maryland Health Care Access and Cost Commission to coordinate the exercise of its functions with the Department and the Health Services Cost Review Commission; altering certain provisions of law related to State health planning and development; establishing a certain advisory committee and providing for its termination date; providing for the classification of certain staff hired by the Health Care Access and Cost Commission and the Health Services Cost Review Commission; altering certain procurement procedures required of certain commissions; requiring the Maryland Insurance Commissioner to provide the Maryland Health Care Access and Cost Commission with certain information after a certain date; eliminating certain duties required to be performed by the Maryland Insurance Commissioner after a certain date; requiring the Maryland Health Care Access and Cost Commission to assess a certain fee against certain entities; specifying certain transitional provisions relating to the implementation of the provisions of this Act; requiring certain individuals to meet periodically for a specified purpose; requiring a certain report to be filed by a certain date; requiring the Health Care Access and Cost Commission to conduct a certain study and to make a certain

report by a certain date; requiring the Governor to make certain appointments; providing for the accurate codification of the provisions of this Act; making certain technical and stylistic changes; reorganizing certain provisions; defining certain terms; altering certain definitions; providing for a delayed effective date for certain provisions of this Act; providing for the effective date of certain provisions of this Act; and generally relating to the integration, consolidation, and streamlining of certain health care regulatory responsibilities and duties.

BY repealing
Article - Health - General
Section 19-102 through 19-109, inclusive, 19-121, 19-122, 19-126, the part "Part I. Health Planning and Development", and the subtitle "Subtitle 1. Comprehensive Health Planning"; 19-222; 19-1511 and 19-1512
Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, without amendments,
Article - Health - General
Section 2-101 to be under the new part "Part I. General Provisions"
Annotated Code of Maryland
(1994 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, with amendments,
Article - Health - General
Section 2-106
Annotated Code of Maryland
(1994 Replacement Volume and 1998 Supplement)

BY adding to
Article - Health - General
Section 19-101, 19-102, 19-109 through 19-111, inclusive, to be under the new part "Part I. Maryland Health Care Access and Cost Commission" and the new subtitle "Subtitle 1. Health Care Planning and Systems Regulation"; 19-115 ~~and 19-116~~, 19-116, and 19-131 to be under the new part "Part II. Health Planning and Development"; and the new part "Part III. Medical Care Data Collection"
Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, with amendments,
Article - Health - General
Section 19-101, 19-110 through 19-120, inclusive, 19-123; 19-125, 19-126, and the part "Part II. Deficiencies in Services and Facilities"; 19-206 and 19-208; 19-207.1, 19-207.2, 19-207.3, and 19-209 through 19-221, inclusive, to be under the new part "Part II. Health Care Facility Rate

Setting"; 19-1501 through 19-1510, inclusive, 19-1513, 19-1514, and 19-1516
Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, without amendments,
Article - Health - General
Section 19-201 through 19-205, inclusive, and 19-207 to be under the new part "Part I. Definitions; General Provisions"
Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, with amendments,
Article 43C - Maryland Health and Higher Educational Facilities Authority
Section 16A
Annotated Code of Maryland
(1998 Replacement Volume)

BY repealing
Article - Health - General
Section 19-1515 and the subtitle "Subtitle 15. Maryland Health Care Access and Cost Commission"
Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, with amendments,
Article - Insurance
Section 15-111
Annotated Code of Maryland
(1997 Volume and 1998 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 19-102 through 19-109, inclusive, 19-121, 19-122, the part "Part I. Health Planning and Development", and the subtitle "Subtitle 1. Comprehensive Health Planning"; 19-222; 19-1511 and 19-1512 of Article - Health - General of the Annotated Code of Maryland be repealed.

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

Article - Health - General

PART I. GENERAL PROVISIONS.

2-101.

There is a Department of Health and Mental Hygiene, established as a principal department of the State government.

2-106.

(a) The following units are in the Department:

(1) Alcohol and Drug Abuse Administration.

(2) Anatomy Board.

(3) Developmental Disabilities Administration.

[(4) State Health Resources Planning Commission.]

[(5)] (4) Health Services Cost Review Commission.

[(6)] (5) Maryland Psychiatric Research Center.

[(7)] (6) Mental Hygiene Administration.

[(8)] (7) Postmortem Examiners Commission.

[(9)] (8) Board of Examiners for Audiologists.

[(10)] (9) Board of Chiropractic Examiners.

[(11)] (10) Board of Dental Examiners.

[(12)] (11) Board of Dietetic Practice.

[(13)] (12) Board of Electrologists.

[(14)] (13) Board of Morticians.

[(15)] (14) Board of Nursing.

[(16)] (15) Board of Examiners of Nursing Home Administrators.

[(17)] (16) Board of Occupational Therapy Practice.

[(18)] (17) Board of Examiners in Optometry.

[(19)] (18) Board of Pharmacy.

[(20)] (19) Board of Physical Therapy Examiners.

[(21)] (20) Board of Physician Quality Assurance.

[(22)] (21) Board of Podiatry Examiners.

[(23)] (22) Board of Examiners of Professional Counselors.

[(24)] (23) Board of Examiners of Psychologists.

[(25)] (24) Board of Social Work Examiners.

[(26)] (25) Board of Examiners for Speech-Language Pathologists.

[(27)] (26) Commission on Physical Fitness.

[(28) Advisory Board on Hospital Licensing.]

[(29)] (27) State Advisory Council on Alcohol and Drug Abuse.

[(30)] (28) Advisory Council on Infant Mortality.

(b) The Department also includes every other unit that is in the Department under any other law.

(c) The Secretary has the authority and powers specifically granted to the Secretary by law over the units in the Department. All authority and powers not so granted to the Secretary are reserved to those units free of the control of the Secretary.

Part II. Deficiencies in Services and Facilities.

[19-125.] 2-108.

The Secretary:

(1) On the Secretary's initiative or on request of a community or voluntary, nonprofit organization, may do a survey to identify any area in this State that has a substantial deficiency in general medical or health care facilities or services;

(2) In cooperation with appropriate county and State groups, may provide the community or organization with counsel and other help to establish medical or health care facilities and to recruit medical or health care staff in that area; and

(3) If the efforts under item (2) of this section are unsuccessful, may provide the facilities or staff by contract with one or more physicians, hospitals, or other medical groups or personnel.

~~[19-126.] 2-109.~~

~~(a) In conjunction with the powers of the Secretary under [§ 19-125] § 2-108 of this subtitle, and in cooperation with the HEALTH CARE ACCESS AND COST Commission, the Secretary shall make an assessment of health care deficiencies in Worcester County.~~

~~(b) The assessment shall include the following:~~

~~(1) The availability of efficient health care services and providers;~~

~~(2) The identification of unmet needs, including those which may result from seasonal variations in population;~~

~~(3) Access to health care, including an analysis of travel times and other factors;~~

~~(4) The need for specific services, such as emergency care;~~

~~(5) An evaluation of alternative means of providing care typically provided in the acute hospital setting;~~

~~(6) Methods of configuring the health care services of Worcester County with existing health care providers; and~~

~~(7) Financial and manpower resources required and available.~~

~~[(c) The Secretary shall report the findings of the assessment to the Joint Committee on Health Care Cost Containment on or before November 1, 1986.~~

~~(d)]~~ ~~(C)~~ ~~In cooperation with appropriate county and State groups, the Secretary shall develop recommendations to implement the findings of the assessment.~~

~~[(e)]~~ ~~(D)~~ ~~The Secretary shall report to the General Assembly on February 1, 1987, on the progress towards implementation of the recommendations.~~

~~[(f)]~~ ~~(E)~~ ~~The [Commission] SECRETARY shall include standards and policies in the State health plan that relate to the Secretary's recommendations.~~

SUBTITLE 1. HEALTH CARE PLANNING AND SYSTEMS REGULATION.

PART I. MARYLAND HEALTH CARE ACCESS AND COST COMMISSION.

19-101.

IN THIS SUBTITLE, "COMMISSION" MEANS THE MARYLAND HEALTH CARE ACCESS AND COST COMMISSION.

19-102.

(A) THE GENERAL ASSEMBLY FINDS THAT THE HEALTH CARE REGULATORY SYSTEM IN THIS STATE IS A HIGHLY COMPLEX STRUCTURE THAT NEEDS TO BE CONSTANTLY REEVALUATED AND MODIFIED IN ORDER TO BETTER REFLECT AND BE MORE RESPONSIVE TO THE EVER CHANGING HEALTH CARE ENVIRONMENT AND THE NEEDS OF THE CITIZENS OF THIS STATE.

(B) THE PURPOSE OF THIS SUBTITLE IS TO ESTABLISH A STREAMLINED HEALTH CARE REGULATORY SYSTEM IN THIS STATE IN A MANNER SUCH THAT A SINGLE STATE HEALTH POLICY CAN BE BETTER ARTICULATED, COORDINATED, AND IMPLEMENTED IN ORDER TO BETTER SERVE THE CITIZENS OF THIS STATE.

[19-1502.] 19-103.

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

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

(c) The purpose of the Commission is to:

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

(2) PROMOTE THE DEVELOPMENT OF A HEALTH REGULATORY SYSTEM THAT PROVIDES, FOR ALL MARYLANDERS, FINANCIAL AND GEOGRAPHIC ACCESS TO QUALITY HEALTH CARE SERVICES AT A REASONABLE COST BY:

(I) ADVOCATING POLICIES AND SYSTEMS TO PROMOTE THE EFFICIENT DELIVERY OF AND IMPROVED ACCESS TO HEALTH CARE SERVICES; AND

(II) ENHANCING THE STRENGTHS OF THE CURRENT HEALTH CARE SERVICE DELIVERY AND REGULATORY SYSTEM;

[(2)] (3) Facilitate the public disclosure of medical claims data for the development of public policy;

[(3)] (4) Establish and develop a medical care data base on health care services rendered by health care practitioners;

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

[(5)] (6) In accordance with Title 15, Subtitle 12 of the Insurance Article, develop:

(i) A uniform set of effective benefits to be included in the Comprehensive Standard Health Benefit Plan; and

(ii) A modified health benefit plan for medical savings accounts;

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

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

[(8)] (9) Develop a payment system for health care services;

[(9)] (10) Establish standards for the operation and licensing of medical care electronic claims clearinghouses in Maryland;

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

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

[(12)] (13) Develop a uniform set of effective benefits to be offered as substantial, available, and affordable coverage in the nongroup market in accordance with § 15-606 of the Insurance Article.

(D) THE COMMISSION SHALL COORDINATE THE EXERCISE OF ITS FUNCTIONS WITH THE DEPARTMENT AND THE HEALTH SERVICES COST REVIEW COMMISSION TO ENSURE AN INTEGRATED, EFFECTIVE HEALTH CARE POLICY FOR THE STATE.

[19-1503.] 19-104.

(a) (1) The Commission shall consist of nine members appointed by the Governor with the advice and consent of the Senate.

(2) Of the nine members, [six] FIVE shall be individuals who do not have any connection with the management or policy of a health care provider or payor.

(b) (1) The term of a member is 4 years.

(2) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(3) The Governor may remove a member for neglect of duty, incompetence, or misconduct.

(4) A member may not serve more than two consecutive terms.

(c) (1) Except as provided in paragraph (2) of this subsection, to the extent practicable, when appointing members to the Commission, the Governor shall assure geographic balance in the Commission's membership.

(2) Two members of the Commission shall be appointed at large and may be from a geographic area already represented on the Commission.

[19-1504.] 19-105.

(a) The Governor shall appoint the chairman of the Commission.

(b) The chairman may appoint a vice chairman for the Commission.

[19-1505.] 19-106.

(a) With the approval of the Governor, the Commission shall appoint an executive director who shall be the chief administrative officer of the Commission.

(b) The executive director, the deputy directors, and the principal section chiefs serve at the pleasure of the Commission.

(c) (1) The executive director, the deputy directors, and the principal section chiefs shall be executive service or management service employees.

(2) The Commission, in consultation with the Secretary, shall determine the appropriate job classification and, subject to the State budget, the compensation for the executive director, the deputy directors, and the principal section chiefs.

(d) Under the direction of the Commission, the executive director shall perform any duty or function that the Commission requires.

[19-1506.] 19-107.

(a) A majority of the full authorized membership of the Commission is a quorum. However, the Commission may not act on any matter unless at least four of the voting members in attendance concur.

(b) The Commission shall meet at least six times each year, at the times and places that it determines.

(c) Each member of the Commission is entitled to:

(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND

(2) [reimbursement] REIMBURSEMENT for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) (1) The Commission may employ a staff in accordance with the State budget.

~~(2) STAFF HIRED AFTER SEPTEMBER 30, 1999, ARE IN THE UNCLASSIFIED SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.~~

(2) (I) STAFF HIRED AFTER SEPTEMBER 30, 1999, ARE IN THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(II) THE COMMISSION, IN CONSULTATION WITH THE SECRETARY, SHALL DETERMINE THE APPROPRIATE JOB CLASSIFICATIONS AND GRADES FOR ALL STAFF.

[19-1510.] 19-108.

(a) In addition to the duties set forth elsewhere in this subtitle, the Commission shall adopt regulations specifying the comprehensive standard health benefit plan to apply under Title 15, Subtitle 12 of the Insurance Article.

(b) In carrying out its duties under this section, the Commission shall comply with the provisions of § 15-1207 of the Insurance Article.

19-109.

(A) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS SUBTITLE, THE COMMISSION MAY:

(1) ADOPT RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE;

(2) CREATE COMMITTEES FROM AMONG ITS MEMBERS;

(3) APPOINT ADVISORY COMMITTEES, WHICH MAY INCLUDE INDIVIDUALS AND REPRESENTATIVES OF INTERESTED PUBLIC OR PRIVATE ORGANIZATIONS;

(4) APPLY FOR AND ACCEPT ANY FUNDS, PROPERTY, OR SERVICES FROM ANY PERSON OR GOVERNMENT AGENCY;

(5) MAKE AGREEMENTS WITH A GRANTOR OR PAYOR OF FUNDS, PROPERTY, OR SERVICES, INCLUDING AN AGREEMENT TO MAKE ANY STUDY, PLAN, DEMONSTRATION, OR PROJECT;

(6) PUBLISH AND GIVE OUT ANY INFORMATION THAT RELATES TO THE FINANCIAL ASPECTS OF HEALTH CARE AND IS CONSIDERED DESIRABLE IN THE PUBLIC INTEREST; AND

(7) SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE, EXERCISE ANY OTHER POWER THAT IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

(B) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE, THE COMMISSION SHALL:

(1) ADOPT RULES AND REGULATIONS THAT RELATE TO ITS MEETINGS, MINUTES, AND TRANSACTIONS;

(2) KEEP MINUTES OF EACH MEETING;

(3) PREPARE ANNUALLY A BUDGET PROPOSAL THAT INCLUDES THE ESTIMATED INCOME OF THE COMMISSION AND PROPOSED EXPENSES FOR ITS ADMINISTRATION AND OPERATION;

(4) BEGINNING DECEMBER 1, 2000, AND EACH DECEMBER 1 THEREAFTER, SUBMIT TO THE GOVERNOR, TO THE SECRETARY, AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY AN ANNUAL REPORT ON THE OPERATIONS AND ACTIVITIES OF THE COMMISSION DURING THE PRECEDING FISCAL YEAR, INCLUDING:

(I) A COPY OF EACH SUMMARY, COMPILATION, AND SUPPLEMENTARY REPORT REQUIRED BY THIS SUBTITLE; AND

(II) ANY OTHER FACT, SUGGESTION, OR POLICY RECOMMENDATION THAT THE COMMISSION CONSIDERS NECESSARY; AND

(5) EXCEPT FOR CONFIDENTIAL OR PRIVILEGED MEDICAL OR PATIENT INFORMATION, MAKE:

(I) EACH REPORT FILED AND EACH SUMMARY, COMPILATION, AND REPORT REQUIRED UNDER THIS SUBTITLE AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE COMMISSION DURING REGULAR BUSINESS HOURS; AND

(II) EACH SUMMARY, COMPILATION, AND REPORT AVAILABLE TO ANY OTHER STATE AGENCY ON REQUEST.

(C) (1) THE COMMISSION MAY CONTRACT WITH A QUALIFIED, INDEPENDENT THIRD PARTY FOR ANY SERVICE NECESSARY TO CARRY OUT THE POWERS AND DUTIES OF THE COMMISSION.

(2) UNLESS PERMISSION IS GRANTED SPECIFICALLY BY THE COMMISSION, A THIRD PARTY HIRED BY THE COMMISSION MAY NOT RELEASE, PUBLISH, OR OTHERWISE USE ANY INFORMATION TO WHICH THE THIRD PARTY HAS ACCESS UNDER ITS CONTRACT.

19-110.

(A) EXCEPT AS EXPRESSLY PROVIDED IN THIS SUBTITLE, THE POWER OF THE SECRETARY OVER PLANS, PROPOSALS, AND PROJECTS OF UNITS IN THE DEPARTMENT DOES NOT INCLUDE THE POWER TO DISAPPROVE OR MODIFY ANY REGULATION, DECISION, OR DETERMINATION THAT THE COMMISSION MAKES UNDER AUTHORITY SPECIFICALLY DELEGATED BY LAW TO THE COMMISSION.

(B) THE POWER OF THE SECRETARY TO TRANSFER, BY RULE, REGULATION, OR WRITTEN DIRECTIVE, ANY STAFF, FUNCTIONS, OR FUNDS OF UNITS IN THE

DEPARTMENT DOES NOT APPLY TO ANY STAFF, FUNCTION, OR FUNDS OF THE COMMISSION.

(C) (1) THE POWER OF THE SECRETARY OVER THE PROCUREMENT PROCEDURE FOR UNITS IN THE DEPARTMENT DOES NOT APPLY TO THE PROCUREMENT PROCEDURE FOR THE COMMISSION.

(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, ANY PROCUREMENT FOR SERVICES TO BE PERFORMED OR FOR SUPPLIES TO BE DELIVERED TO THE COMMISSION IS SUBJECT TO THE PURPOSES AND REQUIREMENTS OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

19-111. RESERVED.

19-112. RESERVED.

19-113. RESERVED.

PART II. HEALTH PLANNING AND DEVELOPMENT.

[19-101.] 19-114.

(a) In [Part I] THIS PART II of this subtitle the following words have the meanings indicated.

(b) (1) "Ambulatory surgical facility" means any center, service, office, facility, or office of one or more health care practitioners or a group practice, as defined in § 1-301 of the Health Occupations Article, that:

(i) Has two or more operating rooms;

(ii) Operates primarily for the purpose of providing surgical services to patients who do not require overnight hospitalization; and

(iii) Seeks reimbursement from payors as an ambulatory surgical facility.

(2) For purposes of this subtitle, the office of one or more health care practitioners or a group practice with two operating rooms may be exempt from the certificate of need requirements under this subtitle if the Commission finds, in its sole discretion, that:

(i) A second operating room is necessary to promote the efficiency, safety, and quality of the surgical services offered; and

(ii) The office meets the criteria for exemption from the certificate of need requirements as an ambulatory surgical facility in accordance with regulations adopted by the Commission.

(c) "Certificate of need" means a certification of public need issued by the Commission under this [subtitle] PART II OF THIS SUBTITLE for a health care project.

(d) ["Commission" means the State Health Resources Planning Commission.

(e)] "Federal Act" means the National Health Planning and Resources Development Act of 1974 (Public Law 93-641), as amended.

[(f)] (E) (1) "Health care facility" means:

(i) A hospital, as defined in § 19-301 of this title;

(ii) A related institution, as defined in § 19-301 of this title;

(iii) An ambulatory surgical facility;

(iv) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;

(v) A home health agency, as defined in § 19-401 of this title;

(vi) A hospice, as defined in § 19-901 of this title; and

(vii) Any other health institution, service, or program for which [Part I] THIS PART II of this subtitle requires a certificate of need.

(2) "Health care facility" does not include:

(i) A hospital or related institution that is operated, or is listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts;

(ii) For the purpose of providing an exemption from a certificate of need under [§ 19-115] § 19-123 of this subtitle, a facility to provide comprehensive care constructed by a provider of continuing care, as defined by Article 70B of the Code, if:

1. The facility is for the exclusive use of the provider's subscribers who have executed continuing care agreements for the purpose of utilizing independent living units or domiciliary care within the continuing care facility;

2. The number of comprehensive care nursing beds in the facility does not exceed 20 percent of the number of independent living units at the continuing care community; and

3. The facility is located on the campus of the continuing care facility;

(iii) Except for a facility to provide kidney transplant services or programs, a kidney disease treatment facility, as defined by rule or regulation of the United States Department of Health and Human Services;

(iv) Except for kidney transplant services or programs, the kidney disease treatment stations and services provided by or on behalf of a hospital or related institution; or

(v) The office of one or more individuals licensed to practice dentistry under Title 4 of the Health Occupations Article, for the purposes of practicing dentistry.

[(g)] (F) "Health care practitioner" means [a person who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide medical services in the ordinary course of business or practice of a profession] ANY INDIVIDUAL WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.

[(h)] (G) "Health service area" means an area of this State that the Governor designates as appropriate for planning and developing of health services.

[(i)] (H) "Local health planning agency" means a body that the [Commission] SECRETARY designates to perform health planning and development functions for a health service area.

19-115.

(A) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE, IN THIS PART II OF THIS SUBTITLE, THE COMMISSION SHALL:

(1) ACT AS THE STATE AGENCY TO REPRESENT THE STATE UNDER TITLE VI OF THE FEDERAL PUBLIC HEALTH SERVICE ACT; AND

(2) PERIODICALLY PARTICIPATE IN OR PERFORM ANALYSES AND STUDIES THAT RELATE TO:

(I) ADEQUACY OF SERVICES AND FINANCIAL RESOURCES TO MEET THE NEEDS OF THE POPULATION;

(II) DISTRIBUTION OF HEALTH CARE RESOURCES;

(III) ALLOCATION OF HEALTH CARE RESOURCES;

(IV) COSTS OF HEALTH CARE IN RELATIONSHIP TO AVAILABLE FINANCIAL RESOURCES; OR

(V) ANY OTHER APPROPRIATE MATTER.

(B) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS PART II OF THIS SUBTITLE, THE GOVERNOR SHALL DIRECT, AS NECESSARY, A STATE OFFICER

OR AGENCY TO COOPERATE IN CARRYING OUT THE FUNCTIONS OF THE COMMISSION.

(C) THIS STATE RECOGNIZES THE FEDERAL ACT AND ANY AMENDMENT TO THE FEDERAL ACT THAT DOES NOT REQUIRE STATE LEGISLATION TO BE EFFECTIVE. HOWEVER, IF THE FEDERAL ACT IS REPEALED OR EXPIRES, THIS PART II OF THIS SUBTITLE REMAINS IN EFFECT.

19-116.

(A) (1) THE SECRETARY SHALL PROVIDE FOR A STUDY OF SYSTEMS CAPACITY IN HEALTH SERVICES.

(2) THE STUDY SHALL:

(I) DETERMINE FOR ALL HEALTH DELIVERY FACILITIES AND SETTINGS WHERE CAPACITY SHOULD BE INCREASED OR DECREASED TO BETTER MEET THE NEEDS OF THE POPULATION;

(II) EXAMINE AND DESCRIBE THE IMPLEMENTATION METHODS AND TOOLS BY WHICH CAPACITY SHOULD BE ALTERED TO BETTER MEET THE NEEDS; AND

(III) ASSESS THE IMPACT OF THOSE METHODS AND TOOLS ON THE COMMUNITIES AND HEALTH CARE DELIVERY SYSTEM.

(B) (1) IN ADDITION TO INFORMATION THAT AN APPLICANT FOR A CERTIFICATE OF NEED MUST PROVIDE, THE COMMISSION MAY REQUEST, COLLECT, AND REPORT ANY STATISTICAL OR OTHER INFORMATION THAT:

(I) IS NEEDED BY THE COMMISSION TO PERFORM ITS DUTIES DESCRIBED IN THIS PART II OF THIS SUBTITLE; AND

(II) IS DESCRIBED IN REGULATIONS OF THE COMMISSION.

(2) IF A HEALTH CARE FACILITY FAILS TO PROVIDE INFORMATION AS REQUIRED IN THIS SUBSECTION, THE COMMISSION MAY:

(I) IMPOSE A PENALTY OF NOT MORE THAN $100 PER DAY FOR EACH DAY THE VIOLATION CONTINUES AFTER CONSIDERATION OF THE WILLFULNESS AND SERIOUSNESS OF THE WITHHOLDING, AS WELL AS ANY PAST HISTORY OF WITHHOLDING OF INFORMATION;

(II) ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE APPLICANT TO PROVIDE THE INFORMATION; OR

(III) APPLY TO THE CIRCUIT COURT IN THE COUNTY IN WHICH THE FACILITY IS LOCATED FOR LEGAL RELIEF CONSIDERED APPROPRIATE BY THE COMMISSION.

(3) THE COMMISSION MAY SEND TO A LOCAL HEALTH PLANNING AGENCY ANY STATISTICAL OR OTHER INFORMATION THE COMMISSION IS AUTHORIZED TO COLLECT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

[19-110.] 19-117.

(a) In accordance with criteria that the Commission sets, the Governor shall designate health service areas in this State.

(b) After a 1-year period, the Governor may review or revise the boundaries of a health service area or increase the number of health service areas, on the Governor's initiative, at the request of the Commission, at the request of a local government, or at the request of a local health planning agency. Revisions to boundaries of health service areas shall be done in accordance with the criteria established by the Commission and with the approval of the legislature.

(c) Within 45 days of receipt of the State health plan or a change in the State health plan, the plan becomes effective unless the Governor notifies the Commission of [his] THE GOVERNOR'S intent to modify or revise the State health plan adopted by the Commission.

[19-111.] 19-118.

(a) The Commission shall designate, for each health service area, not more than 1 local health planning agency.

(B) Local health systems agencies shall be designated as the local health planning agency for a one-year period beginning October 1, 1982, provided that the local health systems agency has:

(1) Full or conditional designation by the federal government by October 1, 1982;

(2) The ability to perform the functions prescribed in subsection [(c)] (D) of this section; or

(3) Received the support of the local governments in the areas in which the agency is to operate.

[(b)] (C) The Commission shall establish by [regulations] REGULATION criteria for designation of local health planning agencies.

[(c)] (D) Applicants for designation as the local health planning agency shall, at a minimum, be able to:

(1) Assure broad citizen representation, including a board with a consumer majority;

(2) Develop a local health plan by assessing local health needs and resources, establishing local standards and criteria for service characteristics,

consistent with State specifications, and setting local goals and objectives for systems development;

(3) Provide input into the development of statewide criteria and standards for certificate of need and health planning; and

(4) Provide input into evidentiary hearings on the evaluation of certificate of need applications from its area. Where no local health planning agency is designated, the Commission shall seek the advice of the local county government of the affected area.

(E)(1) THE COMMISSION SHALL ESTABLISH CRITERIA FOR OBTAINING INPUT FROM AFFECTED LOCAL HEALTH PLANNING AGENCIES WHEN CONSIDERING AN APPLICATION FOR CERTIFICATE OF NEED.

(2) WHERE NO LOCAL HEALTH PLANNING AGENCY IS DESIGNATED, THE COMMISSION SHALL SEEK THE ADVICE OF THE LOCAL COUNTY GOVERNMENT OF THE AFFECTED AREA.

[(d)] (F) The Commission shall require that in developing local health plans, each local health planning agency:

(1) Use the population estimates that the Department prepares under § 4-218 of this article;

(2) Use the figures and special age group projections that the Office of Planning prepares annually for the Commission;

(3) Meet applicable planning specifications; and

(4) Work with other local health planning agencies to ensure consistency among local health plans.

[19-112.] 19-119.

Annually each local health planning agency shall receive the Department's program and budgetary priorities no later than July 1 and may submit to the Secretary comments on the proposed program and budgetary priorities within 60 days after receiving the proposals.

[19-113.] 19-120.

(a) (1) The governing body or bodies of 1 or more adjacent counties that constitute a health service area may establish a body to serve as the local health planning agency for the health service area, by:

(i) Making a joint agreement as to the purpose, structure, and functions of the proposed body; and

(ii) Each enacting an ordinance that designates the proposed body to be the local health planning agency for the county.

(2) The body so established becomes the local health planning agency if the Commission designates the body as a health planning agency.

(b) The governing board shall exercise all of the powers of the local health planning agency that, by law, agreement of the counties, or bylaws of the local health planning agency, are not conferred on or reserved to the counties or to another structure within the local health planning agency.

(c) In addition to the powers set forth elsewhere in [Part I] THIS PART II of this subtitle, each local health planning agency created under this section may:

(1) Sue and be sued;

(2) Make contracts;

(3) Incur necessary obligations, which may not constitute the obligations of any county in the health service area;

(4) Acquire, hold, use, improve, and otherwise deal with property;

(5) Elect officers and appoint agents, define their duties, and set their compensation;

(6) Adopt and carry out an employee benefit plan;

(7) Adopt bylaws to conduct its affairs; and

(8) Use the help of any person or public agency to carry out the plans and policies of the local health planning agency.

(d) (1) In addition to the duties set forth elsewhere in [Part I] THIS PART II of this subtitle, each local health planning agency created under this section shall submit annually to the governing body of each county in the health service area a report on the activities of the local health planning agency.

(2) The report shall include an account of the funds, property, and expenses of the local health planning agency in the preceding year.

[19-114.] 19-121.

(a) (1) At least every 5 years, beginning no later than October 1, 1983, the Commission shall adopt a State health plan that includes local health plans.

(2) The plan shall include:

(i) A description of the components that should comprise the health care system;

(ii) The goals and policies for Maryland's health care system;

(iii) Identification of unmet needs, excess services, minimum access criteria, and services to be regionalized;

(iv) An assessment of the financial resources required and available for the health care system;

(v) The methodologies, standards, and criteria for certificate of need review; and

(vi) Priority for conversion of acute capacity to alternative uses where appropriate.

(b) The Commission shall adopt specifications for the development of local health plans and their coordination with the State health plan.

(c) Annually or upon petition by any person, the Commission shall review the State health plan and publish any changes in the plan that the Commission considers necessary, subject to the review and approval granted to the Governor under this subtitle.

(d) The Commission shall adopt rules and regulations that ensure broad public input, public hearings, and consideration of local health plans in development of the State health plan.

(e) (1) The Commission shall [include] DEVELOP standards and policies [in] CONSISTENT WITH the State health plan that relate to the certificate of need program.

(2) The standards:

(I) [shall] SHALL address the availability, accessibility, cost, and quality of health care[. The standards]; AND

(II) [are] ARE to be reviewed and revised periodically to reflect new developments in health planning, delivery, and technology.

(3) In adopting standards regarding cost, efficiency, cost-effectiveness, or financial feasibility, the Commission [may] SHALL take into account the relevant methodologies of the Health Services Cost Review Commission.

(f) Annually, the Secretary shall make recommendations to the Commission on the plan. The Secretary may review and comment on State specifications to be used in the development of the State health plan.

(g) All State agencies and departments, directly or indirectly involved with or responsible for any aspect of regulating, funding, or planning for the health care industry or persons involved in it, shall carry out their responsibilities in a manner consistent with the State health plan and available fiscal resources.

(h) In carrying out [its] THEIR responsibilities under this [Act] PART II OF THIS SUBTITLE for hospitals, the Commission AND THE SECRETARY shall recognize [and], BUT MAY not apply, [not] develop, or [not] duplicate standards or requirements related to quality which have been adopted and enforced by national or State licensing or accrediting authorities.

(I) THE COMMISSION SHALL TRANSFER TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE HEALTH PLANNING FUNCTIONS AND NECESSARY STAFF RESOURCES FOR LICENSED ENTITIES IN THE STATE HEALTH PLAN THAT ARE NOT REQUIRED TO OBTAIN A CERTIFICATE OF NEED OR AN EXEMPTION FROM THE CERTIFICATE OF NEED PROGRAM.

[19-114.1.] 19-122.

(a) The Commission shall develop and adopt an institution-specific plan to guide possible capacity reduction.

(b) The institution-specific plan shall address:

(1) Accurate bed count data for licensed beds and staffed and operated beds;

(2) Cost data associated with all hospital beds and associated services on a hospital-specific basis;

(3) Migration patterns and current and future projected population data;

(4) Accessibility and availability of beds;

(5) Quality of care;

(6) Current health care needs, as well as growth trends for such needs, for the area served by each hospital;

(7) Hospitals in high growth areas; and

(8) Utilization.

(c) In the development of the institution-specific plan the Commission shall give priority to the conversion of acute capacity to alternative uses where appropriate.

(d) (1) The Commission shall use the institution-specific plan in reviewing certificate of need applications for conversion, expansion, consolidation, or introduction of hospital services in conjunction with the State health plan.

(2) If there is a conflict between the State health plan and any rule or regulation adopted by the Commission in accordance with Title 10, Subtitle 1 of the State Government Article to implement an institution-specific plan that is developed for identifying any excess capacity in beds and services, the provisions of whichever plan that is most recently adopted shall control.

(3) Immediately upon adoption of the institution-specific plan the [Health Resources Planning] Commission shall begin the process of incorporating the institution-specific plan into the State health plan and shall complete the incorporation within 12 months.

(4) A State health plan developed or adopted after the incorporation of the institution-specific plan into the State health plan shall include the criteria in subsection (b) of this section in addition to the criteria in [§ 19-114 of this article] § 19-121 OF THIS SUBTITLE.

[19-115.] 19-123.

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

(2) "Health care service" means any clinically-related patient service including a medical service under paragraph (3) of this subsection.

(3) "Medical service" means:

(i) Any of the following categories of health care services:

1. Medicine, surgery, gynecology, addictions;

2. Obstetrics;

3. Pediatrics;

4. Psychiatry;

5. Rehabilitation;

6. Chronic care;

7. Comprehensive care;

8. Extended care;

9. Intermediate care; or

10. Residential treatment; or

(ii) Any subcategory of the rehabilitation, psychiatry, comprehensive care, or intermediate care categories of health care services for which need is projected in the State health plan.

(b) The Commission may set an application fee for a certificate of need for facilities not assessed a user fee under [§ 19-122 of] this subtitle.

(c) The Commission shall adopt rules and regulations for applying for and issuing certificates of need.

(d) (1) The Commission may adopt, after October 1, 1983, new thresholds or methods for determining the circumstances or minimum cost requirements under which a certificate of need application must be filed. The Commission shall study alternative approaches and recommend alternatives that will streamline the current process, and provide incentives for management flexibility through the reduction of instances in which applicants must file for a certificate of need.

(2) The Commission shall conduct this study and report to the General Assembly by October 1, 1985.

(e) (1) A person shall have a certificate of need issued by the Commission before the person develops, operates, or participates in any of the following health care projects for which a certificate of need is required under this section.

(2) A certificate of need issued prior to January 13, 1987 may not be rendered wholly or partially invalid solely because certain conditions have been imposed, if an appeal concerning the certificate of need, challenging the power of the Commission to impose certain conditions on a certificate of need, has not been noted by an aggrieved party before January 13, 1987.

(f) Except as provided in subsection (g)(2)(iii) of this section, a certificate of need is required before a new health care facility is built, developed, or established.

(g) (1) A certificate of need is required before an existing or previously approved, but unbuilt, health care facility is moved to another site.

(2) This subsection does not apply if:

(i) The Commission adopts limits for relocations and the proposed relocation does not exceed those limits;

(ii) The relocation is the result of a partial or complete replacement of an existing hospital or related institution, as defined in § 19-301 of this title, and the relocation is to another part of the site or immediately adjacent to the site of the existing hospital or related institution; or

(iii) The relocation involves moving a portion of a complement of comprehensive care beds previously approved by the Commission after January 1, 1995 for use in a proposed new related institution, as defined in § 19-301 of this title, but unbuilt on October 1, 1998 if:

1. The comprehensive care beds that were originally approved by the Commission in a prior certificate of need review were approved for use in a proposed new related institution to be located in a municipal corporation within Carroll County in which a related institution is not located;

2. The comprehensive care beds being relocated will be used to establish an additional new related institution that is located in another municipal corporation within Carroll County in which a related institution is not located;

3. The comprehensive care beds not being relocated are intended to be used to establish a related institution on the original site; and

4. Both the previously approved comprehensive care beds for use on the original site and the relocated comprehensive care beds for use on the new site will be used as components of single buildings on each site that also offer independent or assisted living residential units.

(3) Notwithstanding any other provision of this subtitle, a certificate of need is not required for a relocation described under paragraph (2)(iii) of this subsection.

(h) (1) A certificate of need is required before the bed capacity of a health care facility is changed.

(2) This subsection does not apply to any increase or decrease in bed capacity if:

(i) During a 2-year period the increase or decrease would not exceed the lesser of 10 percent of the total bed capacity or 10 beds;

(ii) 1. The increase or decrease would change the bed capacity for an existing medical service; and

2. A. The change would not increase total bed capacity;

B. The change is maintained for at least a 1-year period; and

C. At least 45 days prior to the change the hospital provides written notice to the Commission describing the change and providing an updated inventory of the hospital's licensed bed complement; or

(iii) 1. At least 45 days before increasing or decreasing bed capacity, written notice of intent to change bed capacity is filed with the Commission; and

2. The Commission in its sole discretion finds that the proposed change:

A. Is pursuant to the consolidation or merger of 2 or more health care facilities, or conversion of a health care facility or part of a facility to a nonhealth-related use;

B. Is not inconsistent with the State health plan or the institution-specific plan developed by the Commission;

C. Will result in the delivery of more efficient and effective health care services; and

D. Is in the public interest.

(3) Within 45 days of receiving notice, the Commission shall notify the health care facility of its finding.

(i) (1) A certificate of need is required before the type or scope of any health care service is changed if the health care service is offered:

(i) By a health care facility;

(ii) In space that is leased from a health care facility; or

(iii) In space that is on land leased from a health care facility.

(2) This subsection does not apply if:

(i) The Commission adopts limits for changes in health care services and the proposed change would not exceed those limits;

(ii) The proposed change and the annual operating revenue that would result from the addition is entirely associated with the use of medical equipment;

(iii) The proposed change would establish, increase, or decrease a health care service and the change would not result in the:

1. Establishment of a new medical service or elimination of an existing medical service;

2. Establishment of an open heart surgery, organ transplant surgery, or burn or neonatal intensive health care service;

3. Establishment of a home health program, hospice program, or freestanding ambulatory surgical center or facility; or

4. Expansion of a comprehensive care, extended care, intermediate care, residential treatment, psychiatry, or rehabilitation medical service, except for an expansion related to an increase in total bed capacity in accordance with subsection (h)(2)(i) of this section; or

(iv) 1. At least 45 days before increasing or decreasing the volume of 1 or more health care services, written notice of intent to change the volume of health care services is filed with the Commission;

2. The Commission in its sole discretion finds that the proposed change:

A. Is pursuant to the consolidation or merger of 2 or more health care facilities, or conversion of a health care facility or part of a facility to a nonhealth-related use;

B. Is not inconsistent with the State health plan or the institution-specific plan developed and adopted by the Commission;

C. Will result in the delivery of more efficient and effective health care services; and

D. Is in the public interest; and

3. Within 45 days of receiving notice under item 1 of this subparagraph, the Commission shall notify the health care facility of its finding.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, a certificate of need is required:

(i) Before an additional home health agency, branch office, or home health care service is established by an existing health care agency or facility;

(ii) Before an existing home health agency or health care facility establishes a home health agency or home health care service at a location in the service area not included under a previous certificate of need or license;

(iii) Before a transfer of ownership of any branch office of a home health agency or home health care service of an existing health care facility that separates the ownership of the branch office from the home health agency or home health care service of an existing health care facility which established the branch office; or

(iv) Before the expansion of a home health service or program by a health care facility that:

1. Established the home health service or program without a certificate of need between January 1, 1984 and July 1, 1984; and

2. During a 1-year period, the annual operating revenue of the home health service or program would be greater than $333,000 after an annual adjustment for inflation, based on an appropriate index specified by the Commission.

(j) (1) A certificate of need is required before any of the following capital expenditures are made by or on behalf of a health care facility:

(i) Any expenditure that, under generally accepted accounting principles, is not properly chargeable as an operating or maintenance expense, if:

1. The expenditure is made as part of an acquisition, improvement, or expansion, and, after adjustment for inflation as provided in the regulations of the Commission, the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than $1,250,000;

2. The expenditure is made as part of a replacement of any plant and equipment of the health care facility and is more than $1,250,000 after adjustment for inflation as provided in the regulations of the Commission;

3. The expenditure results in a substantial change in the bed capacity of the health care facility; or

4. The expenditure results in the establishment of a new medical service in a health care facility that would require a certificate of need under subsection (i) of this section; or

(ii) Any expenditure that is made to lease or, by comparable arrangement, obtain any plant or equipment for the health care facility, if:

1. The expenditure is made as part of an acquisition, improvement, or expansion, and, after adjustment for inflation as provided in the rules and regulations of the Commission, the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than $1,250,000;

2. The expenditure is made as part of a replacement of any plant and equipment and is more than $1,250,000 after adjustment for inflation as provided in the regulations of the Commission;

3. The expenditure results in a substantial change in the bed capacity of the health care facility; or

4. The expenditure results in the establishment of a new medical service in a health care facility that would require a certificate of need under subsection (i) of this section.

(2) A certificate of need is required before any equipment or plant is donated to a health care facility, if a certificate of need would be required under paragraph (1) of this subsection for an expenditure by the health care facility to acquire the equipment or plant directly.

(3) A certificate of need is required before any equipment or plant is transferred to a health care facility at less than fair market value if a certificate of need would be required under paragraph (1) of this subsection for the transfer at fair market value.

(4) A certificate of need is required before a person acquires a health care facility if a certificate of need would be required under paragraph (1) of this subsection for the acquisition by or on behalf of the health care facility.

(5) This subsection does not apply to:

(i) Site acquisition;

(ii) Acquisition of a health care facility if, at least 30 days before making the contractual arrangement to acquire the facility, written notice of the intent to make the arrangement is filed with the Commission and the Commission does not find, within 30 days after the Commission receives notice, that the health services or bed capacity of the facility will be changed;

(iii) Acquisition of business or office equipment that is not directly related to patient care;

(iv) Capital expenditures to the extent that they are directly related to the acquisition and installation of major medical equipment;

(v) A capital expenditure made as part of a consolidation or merger of 2 or more health care facilities, or conversion of a health care facility or part of a facility to a nonhealth-related use if:

1. At least 45 days before an expenditure is made, written notice of intent is filed with the Commission;

2. Within 45 days of receiving notice, the Commission in its sole discretion finds that the proposed consolidation, merger, or conversion:

A. Is not inconsistent with the State health plan or the institution-specific plan developed by the Commission as appropriate;

B. Will result in the delivery of more efficient and effective health care services; and

C. Is in the public interest; and

3. Within 45 days of receiving notice, the Commission shall notify the health care facility of its finding;

(vi) A capital expenditure by a nursing home for equipment, construction, or renovation that:

1. Is not directly related to patient care; and

2. Is not directly related to any change in patient charges or other rates;

(vii) A capital expenditure by a hospital, as defined in § 19-301 of this title, for equipment, construction, or renovation that:

1. Is not directly related to patient care; and

2. Does not increase patient charges or hospital rates;

(viii) A capital expenditure by a hospital as defined in § 19-301 of this title, for a project in excess of $1,250,000 for construction or renovation that:

1. May be related to patient care;

2. Does not require, over the entire period or schedule of debt service associated with the project, a total cumulative increase in patient charges or hospital rates of more than $1,500,000 for the capital costs associated with the project

as determined by the Commission, after consultation with the Health Services Cost Review Commission;

3. At least 45 days before the proposed expenditure is made, the hospital notifies the Commission and within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under item 2 of this subparagraph; and

4. The relevant financial information to be submitted by the hospital is defined in regulations [promulgated] ADOPTED by the Commission, after consultation with the Health Services Cost Review Commission; or

(ix) A plant donated to a hospital as defined in § 19-301 of this title, which does not require a cumulative increase in patient charges or hospital rates of more than $1,500,000 for capital costs associated with the donated plant as determined by the Commission, after consultation with the Health Services Cost Review Commission that:

1. At least 45 days before the proposed donation is made, the hospital notifies the Commission and within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under this subparagraph; and

2. The relevant financial information to be submitted by the hospital is defined in regulations [promulgated] ADOPTED by the Commission after consultation with the Health Services Cost Review Commission.

(6) Paragraph (5)(vi), (vii), (viii), and (ix) of this subsection may not be construed to permit a facility to offer a new health care service for which a certificate of need is otherwise required.

(7) Subject to the notice requirements of paragraph (5)(ii) of this subsection, a hospital may acquire a freestanding ambulatory surgical facility or office of one or more health care practitioners or a group practice with one or more operating rooms used primarily for the purpose of providing ambulatory surgical services if the facility, office, or group practice:

(i) Has obtained a certificate of need;

(ii) Has obtained an exemption from certificate of need requirements; or

(iii) Did not require a certificate of need in order to provide ambulatory surgical services after June 1, 1995.

(8) Nothing in this subsection may be construed to permit a hospital to build or expand its ambulatory surgical capacity in any setting owned or controlled by the hospital without obtaining a certificate of need from the Commission if the building or expansion would increase the surgical capacity of the State's health care system.

(k) Repealed.

(l) A certificate of need is not required to close any hospital or part of a hospital as defined in § 19-301 of this title if:

(1) At least 45 days before closing, written notice of intent to close is filed with the Commission;

(2) The Commission in its sole discretion finds that the proposed closing is not inconsistent with the State health plan or the institution-specific plan developed by the Commission and is in the public interest; and

(3) Within 45 days of receiving notice the Commission notifies the health care facility of its findings.

(m) In this section the terms "consolidation" and "merger" include increases and decreases in bed capacity or services among the components of an organization which:

(1) Operates more than one health care facility; or

(2) Operates one or more health care facilities and holds an outstanding certificate of need to construct a health care facility.

(n) (1) Notwithstanding any other provision of this section, the Commission shall consider the special needs and circumstances of a county where a medical service, as defined in this section, does not exist; and

(2) The Commission shall consider and may approve under this subsection a certificate of need application to establish, build, operate, or participate in a health care project to provide a new medical service in a county if the Commission, in its sole discretion, finds that:

(i) The proposed medical service does not exist in the county that the project would be located;

(ii) The proposed medical service is necessary to meet the health care needs of the residents of that county;

(iii) The proposed medical service would have a positive impact on the existing health care system;

(iv) The proposed medical service would result in the delivery of more efficient and effective health care services to the residents of that county; and

(v) The application meets any other standards or regulations established by the Commission to approve applications under this subsection.

[19-116.] 19-124.

(a) In this section, "health maintenance organization" means a health maintenance organization under Subtitle 7 of this title.

(b) (1) A health maintenance organization or a health care facility that either controls, directly or indirectly, or is controlled by a health maintenance organization shall have a certificate of need before the health maintenance organization or health care facility builds, develops, operates, purchases, or participates in building, developing, operating, or establishing:

(i) A hospital, as defined in § 19-301 of this title, or an ambulatory surgical facility or center, as defined in [§ 19-101(f)] § 19-114(B) of this subtitle; and

(ii) Any other health care project for which a certificate of need is required under [§ 19-115] § 19-123 of this subtitle if that health care project is planned for or used by any nonsubscribers of that health maintenance organization.

(2) Notwithstanding paragraph (1)(i) of this subsection, a health maintenance organization or a health care facility that either controls, directly or indirectly, or is controlled by a health maintenance organization is not required to obtain a certificate of need before purchasing an existing ambulatory surgical facility or center, as defined in [§ 19-101(f) of this title] § 19-114(B) OF THIS SUBTITLE.

(c) An application for a certificate of need by a health maintenance organization or by a health care facility that either controls, directly or indirectly, or is controlled by, a health maintenance organization shall be approved if the Commission finds that the application:

(1) Documents that the project is necessary to meet the needs of enrolled members and reasonably anticipated new members for the services proposed to be provided by the applicant; and

(2) Is not inconsistent with those sections of the State health plan or those sections of the institution-specific plan that govern hospitals, as defined in § 19-301 of this title, and ambulatory surgical facilities or centers, as defined in [§ 19-101(f)] § 19-114(B) of this subtitle, or health care projects for which a certificate of need is required under subsection (b)(1)(ii) of this section.

[19-116.1.] 19-125.

A certificate of need is not required to delete, expand, develop, operate, or participate in a health care project for domiciliary care.

[19-117.] 19-126.

A certificate of need is required before an ambulatory care facility:

(1) Offers any health service:

(i) Through a health care facility;

(ii) In space leased from a health care facility; or

(iii) In space on land leased from a health care facility;

(2) To provide those services, makes an expenditure, if a certificate of need would be required under [§ 19-115(j)] § 19-123(J) of this subtitle for the expenditure by or on behalf of a health care facility; OR

(3) [Acquires medical equipment if a certificate of need would be required under § 19-115(k) of this subtitle for the acquisition by a health care facility; or

(4)] Does anything else for which the Federal Act requires a certificate of need and that the Commission has not exempted from that requirement.

[19-118.] 19-127.

(a) If the Commission receives an application for a certificate of need for a change in the bed capacity of a health care facility, as required under [§ 19-115] § 19-123 of this subtitle, or for a health care project that would create a new health care service or abolish an existing health care service, the Commission shall give notice of the filing by publication in the Maryland Register and give the following notice to:

(1) Each member of the General Assembly in whose district the action is planned;

(2) Each member of the governing body for the county where the action is planned;

(3) The county executive, mayor, or chief executive officer, if any, in whose county or city the action is planned; and

(4) Any health care provider, third party payor, local planning agency, or any other person the Commission knows has an interest in the application.

(b) Failure to give notice shall not adversely affect the application.

(c) (1) All decisions of the Commission on an application for a certificate of need, except in emergency circumstances posing a threat to public health, shall be consistent with the State health plan and the standards for review established by the Commission.

(2) The mere failure of the State health plan to address any particular project or health care service shall not alone be deemed to render the project inconsistent with the State health plan.

(3) Unless the Commission finds that the facility or service for which the proposed expenditure is to be made is not needed or is not consistent with the State health plan, the Commission shall approve an application for a certificate of need

required under [§ 19-115(j)] § 19-123(J) of this subtitle to the extent that the expenditure is to be made to:

(i) Eliminate or prevent an imminent safety hazard, as defined by federal, State, or local fire, building, or life safety codes or regulations;

(ii) Comply with State licensing standards; or

(iii) Comply with accreditation standards for reimbursement under Title XVIII of the Social Security Act or under the State Medical Assistance Program approved under Title XIX of the Social Security Act.

(d) (1) The Commission alone shall have final nondelegable authority to act upon an application for a certificate of need, except as provided in this subsection.

[(1)] (2) [Seven] FIVE voting members of the Commission shall be a quorum TO ACT ON AN APPLICATION FOR A CERTIFICATE OF NEED.

[(2)] (3) After an application is filed, the staff of the Commission:

(i) Shall review the application for completeness within 10 working days of the filing of the application; and

(ii) May request further information from the applicant.

[(3)] (4) The Commission may delegate to a reviewer the responsibility for review of an application for a certificate of need, including:

(i) The holding of an evidentiary hearing if the Commission, in accordance with criteria it has adopted by regulation, considers an evidentiary hearing appropriate due to the magnitude of the impact the proposed project may have on the health care delivery system; and

(ii) Preparation of a recommended decision for consideration by the full Commission.

[(4)] (5) The Commission shall designate a single Commissioner to act as a reviewer for the application and any competing applications.

[(5)] (6) The Commission shall delegate to its staff the responsibility for an initial review of an application, including, in the event that no written comments on an application are submitted by any interested party other than the staff of the Commission, the preparation of a recommended decision for consideration by the full Commission.

[(6)] (7) Any "interested party" may submit written comments on the application in accordance with procedural regulations adopted by the Commission.

[(7)] (8) The Commission shall define the term "interested party" to include, at a minimum:

(i) The staff of the Commission;

(ii) Any applicant who has submitted a competing application; and

(iii) Any other person who can demonstrate that the person would be adversely affected by the decision of the Commission on the application.

[(8)] (9) The reviewer shall review the application, any written comments on the application, and any other materials permitted by this section or by the Commission's regulations, and present a recommended decision on the application to the full Commission.

[(9)] (10) (i) An applicant and any interested party may request the opportunity to present oral argument to the reviewer, in accordance with regulations adopted by the Commission, before the reviewer prepares a recommended decision on the application for consideration by the full Commission.

(ii) The reviewer may grant, deny, or impose limitations on an interested party's request to present oral argument to the reviewer.

[(10)] (11) Any interested party who has submitted written comments under paragraph [(6)] (7) of this subsection may submit written exceptions to the proposed decision and make oral argument to the Commission, in accordance with regulations adopted by the Commission, before the Commission takes final action on the application.

[(11)] (12) The Commission shall, after determining that the recommended decision is complete, vote to approve, approve with conditions, or deny the application on the basis of the recommended decision, the record before the staff or the reviewer, and exceptions and arguments, if any, before the Commission.

[(12)] (13) The decision of the Commission shall be by a majority of the quorum present and voting[, except that no project shall be approved without the affirmative vote of at least two consumer members of the Commission].

(e) Where the State health plan identifies a need for additional hospital bed capacity in a region or subregion, in a comparative review of 2 or more applicants for hospital bed expansion projects, a certificate of need shall be granted to 1 or more applicants in that region or subregion that:

(1) Have satisfactorily met all applicable standards;

(2) (i) Have within the preceding 10 years voluntarily delicensed the greater of 10 beds or 10 percent of total licensed bed capacity to the extent of the beds that are voluntarily delicensed; or

(ii) Have been previously granted a certificate of need which was not recertified by the Commission within the preceding 10 years; and

(3) The Commission finds at least comparable to all other applicants.

(f) (1) If any party or interested person requests an evidentiary hearing with respect to a certificate of need application for any health care facility other than an ambulatory surgical facility and the Commission, in accordance with criteria it has adopted by regulation, considers an evidentiary hearing appropriate due to the magnitude of the impact that the proposed project may have on the health care delivery system, the Commission or a committee of the Commission shall hold the hearing in accordance with the contested case procedures of the Administrative Procedure Act.

(2) Except as provided in this section or in regulations adopted by the Commission to implement the provisions of this section, the review of an application for a certificate of need for an ambulatory surgical facility is not subject to the contested case procedures of Title 10, Subtitle 2 of the State Government Article.

(g) (1) An application for a certificate of need shall be acted upon by the Commission no later than 150 days after the application was docketed.

(2) If an evidentiary hearing is not requested, the Commission's decision on an application shall be made no later than 90 days after the application was docketed.

(h) (1) The applicant or any aggrieved party, as defined in [§ 19-120(a)] § 19-129(A) of this subtitle, may petition the Commission within 15 days for a reconsideration.

(2) The Commission shall decide whether or not it will reconsider its decision within 30 days of receipt of the petition for reconsideration.

(3) The Commission shall issue its reconsideration decision within 30 days of its decision on the petition.

(i) If the Commission does not act on an application within the required period, the applicant may file with a court of competent jurisdiction within 60 days after expiration of the period a petition to require the Commission to act on the application.

[19-119.] 19-128.

The circuit court for the county where a health care project is being developed or operated in violation of [Part I] THIS PART II of this subtitle may enjoin further development or operation.

[19-120.] 19-129.

(a) (1) In this section, "aggrieved party" means:

(i) An interested party who presented written comments on the application to the Commission and who would be adversely affected by the decision of the Commission on the project; or

(ii) The Secretary.

(2) The grounds for appeal by the Secretary shall be that the decision is inconsistent with the State health plan or adopted standards.

(b) (1) A decision of the Commission shall be the final decision for purposes of judicial review.

(2) A request for a reconsideration will stay the final decision of the Commission for purposes of judicial review until a decision is made on the reconsideration.

(C) AN AGGRIEVED PARTY MAY NOT APPEAL A FINAL DECISION OF THE COMMISSION TO THE BOARD OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL WITHIN 30 DAYS OF THE FINAL DECISION OF THE COMMISSION.

[(c)] (D) The Commission is a necessary party to an appeal at all levels of the appeal.

[(d)] (E) In the event of an adverse decision that affects its final decision, the Commission may apply within 30 days by writ of certiorari to the Court of Appeals for review where:

(1) Review is necessary to secure uniformity of decision, as where the same statute has been construed differently by 2 or more judges; or

(2) There are other special circumstances that render it desirable and in the public interest that the decision be reviewed.

[19-123.] 19-130.

(a) Notwithstanding the fact that a merger or consolidation may limit free economic competition, the Commission may approve the merger or consolidation of 2 or more hospitals if the merger or consolidation:

(1) Is not inconsistent with the State health plan or any institution-specific plan;

(2) Will result in the delivery of more efficient and effective hospital services; and

(3) Is in the public interest.

(b) Notwithstanding the fact that a merger or consolidation or the joint ownership and operation of major medical equipment may limit free economic competition, a hospital may engage in a merger or consolidation or the joint ownership of major medical equipment that has been approved by the Commission under this section.

~~19-131. RESERVED~~

19-131.

(A) THERE IS AN ADVISORY COMMITTEE ON LONG-TERM CARE IN THE COMMISSION.

(B) THE PURPOSE OF THE COMMITTEE IS TO ADVISE AND MAKE RECOMMENDATIONS TO THE COMMISSION ON THE DELIVERY OF LONG-TERM CARE IN MARYLAND'S HEALTH CARE SYSTEM.

(C) (1) THE ADVISORY COMMITTEE SHALL CONSIST OF NINE MEMBERS APPOINTED BY THE GOVERNOR.

(2) OF THE NINE MEMBERS:

(I) THREE SHALL REPRESENT ENTITIES PROVIDING LONG-TERM CARE, AT LEAST TWO OF WHICH SHALL REPRESENT COMPREHENSIVE CARE FACILITIES;

(II) ONE SHALL REPRESENT AN ASSISTED LIVING FACILITY;

(III) ONE SHALL BE A REGISTERED NURSE WITH TRAINING AND EXPERIENCE IN GERIATRIC MEDICINE;

(IV) ONE SHALL BE A LICENSED PHYSICIAN WITH TRAINING AND EXPERIENCE IN GERIATRIC MEDICINE;

(V) ONE SHALL REPRESENT THE DEPARTMENT OF AGING;

(VI) ONE SHALL REPRESENT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE; AND

(VII) ONE SHALL BE A PUBLIC MEMBER.

(D) (1) THE GOVERNOR SHALL APPOINT A CHAIRMAN OF THE COMMITTEE.

(2) THE COMMITTEE SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(3) EACH MEMBER OF THE COMMITTEE IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(4) STAFF FOR THE COMMITTEE SHALL BE PROVIDED BY THE COMMISSION, IN ACCORDANCE WITH ITS BUDGET.

19-132. RESERVED.

PART III. MEDICAL CARE DATA COLLECTION.

[19-1501.] 19-133.

(a) In this [subtitle] PART III OF THIS SUBTITLE the following words have the meanings indicated.

[(b) "Commission" means the Maryland Health Care Access and Cost Commission.]

[(c)] (B) "Comprehensive standard health benefit plan" means the comprehensive standard health benefit plan adopted in accordance with § 15-1207 of the Insurance Article.

[(d)] (C) (1) "Health care provider" means:

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

(ii) A facility where health care is provided to patients or recipients, including:

1. [a] A [facility] FACILITY, as defined in § 10-101(e) of this article[,];

2. [a] A [hospital] HOSPITAL, as defined in § 19-301(f) of this article[,];

3. [a] A related [institution] INSTITUTION, as defined in § 19-301(n) of this article[,];

4. [a] A health maintenance [organization] ORGANIZATION, as defined in § 19-701(e) of this article[,];

5. [an] AN outpatient clinic[,]; and

6. [a] A medical laboratory.

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

[(e)] (D) "Health care practitioner" means [any person that provides health care services and is licensed under the Health Occupations Article] ANY INDIVIDUAL

WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.

[(f)] (E) "Health care service" means any health or medical care procedure or service rendered by a health care practitioner that:

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

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

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

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

(i) Ambulatory surgery;

(ii) Radiological or diagnostic imagery; or

(iii) Laboratory services.

(3) "Office facility" does not include any office, facility, or service operated by a hospital and regulated under [Subtitle 2 of this title] PART II OF THIS SUBTITLE.

[(h)] (G) "Payor" means:

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

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

(3) [A] FOR THE PURPOSES OF THIS PART III OF THIS SUBTITLE ONLY, A third party administrator as defined in § 15-111 of the Insurance Article.

[19-1507.] 19-134.

(a) The Commission shall establish a Maryland medical care data base to compile statewide data on health services rendered by health care practitioners and office facilities selected by the Commission.

(b) In addition to any other information the Commission may require by regulation, the medical care data base shall:

(1) Collect for each type of patient encounter with a health care practitioner or office facility designated by the Commission:

(i) The demographic characteristics of the patient;

(ii) The principal diagnosis;

(iii) The procedure performed;

(iv) The date and location of where the procedure was performed;

(v) The charge for the procedure;

(vi) If the bill for the procedure was submitted on an assigned or nonassigned basis; and

(vii) If applicable, a health care practitioner's universal identification number;

(2) Collect appropriate information relating to prescription drugs for each type of patient encounter with a pharmacist designated by the Commission; and

(3) Collect appropriate information relating to health care costs, utilization, or resources from payors and governmental agencies.

(c) (1) The Commission shall adopt regulations governing the access and retrieval of all medical claims data and other information collected and stored in the medical care data base and any claims clearinghouse licensed by the Commission and may set reasonable fees covering the costs of accessing and retrieving the stored data.

(2) These regulations shall ensure that confidential or privileged patient information is kept confidential.

(3) Records or information protected by the privilege between a health care practitioner and a patient, or otherwise required by law to be held confidential, shall be filed in a manner that does not disclose the identity of the person protected.

(d) (1) To the extent practicable, when collecting the data required under subsection (b) of this section, the Commission shall utilize any standardized claim form or electronic transfer system being used by health care practitioners, office facilities, and payors.

(2) The Commission shall develop appropriate methods for collecting the data required under subsection (b) of this section on subscribers or enrollees of health maintenance organizations.

(e) Until the provisions of [§ 19-1508] § 19-135 of this subtitle are fully implemented, where appropriate, the Commission may limit the data collection under this section.

(f) By October 1, 1995 and each year thereafter, the Commission shall publish an annual report on those health care services selected by the Commission that:

(1) Describes the variation in fees charged by health care practitioners and office facilities on a statewide basis and in each health service area for those health care services; and

(2) Describes the geographic variation in the utilization of those health care services.

(g) In developing the medical care data base, the Commission shall consult with[:

(1) Representatives of] REPRESENTATIVES OF THE HEALTH SERVICES COST REVIEW COMMISSION, health care practitioners, payors, and hospitals[; and

(2) Representatives of the Health Services Cost Review Commission and the Health Resources Planning Commission to ensure that the medical care data base is compatible with, may be merged with, and does not duplicate information collected by the Health Services Cost Review Commission hospital discharge data base, or data collected by the Health Resources Planning Commission as authorized in § 19-107 of this title] TO ENSURE THAT THE MEDICAL CARE DATA BASE IS COMPATIBLE WITH, MAY BE MERGED WITH, AND DOES NOT DUPLICATE INFORMATION COLLECTED BY THE HEALTH SERVICES COST REVIEW COMMISSION.

(h) Repealed.

(i) The Commission, in consultation with the Insurance Commissioner, payors, health care practitioners, and hospitals, may adopt by regulation standards for the electronic submission of data and submission and transfer of the uniform claims forms established under § 15-1003 of the Insurance Article.

[19-1508.] 19-135.

(a) (1) In order to more efficiently establish a medical care data base under [§ 19-1507] § 19-134 of this subtitle, the Commission shall establish standards for the operation of one or more medical care electronic claims clearinghouses in Maryland and may license those clearinghouses meeting those standards.

(2) In adopting regulations under this subsection, the Commission shall consider appropriate national standards.

(3) The Commission may limit the number of licensed claims clearinghouses to assure maximum efficiency and cost effectiveness.

(4) The Commission, by regulation, may charge a reasonable licensing fee to operate a licensed claims clearinghouse.

(5) Health care practitioners in Maryland, as designated by the Commission, shall submit, and payors of health care services in Maryland as designated by the Commission shall receive claims for payment and any other information reasonably related to the medical care data base electronically in a

standard format as required by the Commission whether by means of a claims clearinghouse or other method approved by the Commission.

(6) The Commission shall establish reasonable deadlines for the phasing in of electronic transmittal of claims from those health care practitioners designated under paragraph (5) of this subsection.

(7) As designated by the Commission, payors of health care services in Maryland and Medicaid and Medicare shall transmit explanations of benefits and any other information reasonably related to the medical care data base electronically in a standard format as required by the Commission whether by means of a claims clearinghouse or other method approved by the Commission.

(b) The Commission may collect the medical care claims information submitted to any licensed claims clearinghouse for use in the data base established under [§ 19-1507] § 19-134 of this subtitle.

(c) (1) The Commission shall:

(i) On or before January 1, 1994, establish and implement a system to comparatively evaluate the quality of care outcomes and performance measurements of health maintenance organization benefit plans and services on an objective basis; and

(ii) Annually publish the summary findings of the evaluation.

(2) The purpose of a comparable performance measurement system established under this section is to assist health maintenance organization benefit plans to improve the quality of care provided by establishing a common set of performance measurements and disseminating the findings of the performance measurements to health maintenance organizations and interested parties.

(3) The system, where appropriate, shall solicit performance information from enrollees of health maintenance organizations.

(4) (i) The Commission shall adopt regulations to establish the system of evaluation provided under this section.

(ii) Before adopting regulations to implement an evaluation system under this section, the Commission shall consider any recommendations of the quality of care subcommittee of the Group Health Association of America and the National Committee for Quality Assurance.

(5) The Commission may contract with a private, nonprofit entity to implement the system required under this subsection provided that the entity is not an insurer.

[19-1509.] 19-136.

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

(2) "Code" means the applicable Current Procedural Terminology (CPT) code as adopted by the American Medical Association or other applicable code under an appropriate uniform coding scheme approved by the Commission.

(3) "Payor" means:

(i) A health insurer or nonprofit health service plan that holds a certificate of authority and provides health insurance policies or contracts in the State in accordance with the Insurance Article or the Health - General Article; or

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

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

(b) (1) By January 1, 1999, the Commission shall implement a payment system for all health care practitioners in the State.

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

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

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

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

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

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

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

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

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

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

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

(ii) Shall consider:

1. The cost of professional liability insurance;

2. The cost of complying with all federal, State, and local regulatory requirements;

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

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

5. The geographic variations in practice costs;

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

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

8. Any other factors deemed appropriate by the Commission.

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

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

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

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

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

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

(i) A payor's standard for reimbursement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Consult with appropriate health care practitioners, payors, the [Maryland Hospital Association] ASSOCIATION OF MARYLAND HOSPITALS AND HEALTH SYSTEMS, the Health Services Cost Review Commission, the Department of Health and Mental Hygiene, and the Department of Business and Economic Development; and

(2) Take into consideration:

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

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

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

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

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

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

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

[19-1516.] 19-137.

(a) The Commission may implement a system to encourage health care practitioners to voluntarily control the costs of health care services.

(b) The Commission may require health care practitioners of selected health care specialties to cooperate with licensed operators of clinical resource management systems that allow health care practitioners to critically analyze their charges and utilization of services in comparison to their peers.

(c) If the Commission determines that clinical resource management systems are not available in the private sector, the Commission, in consultation with interested parties including payors, health care practitioners, and the [Maryland Hospital Association] ASSOCIATION OF MARYLAND HOSPITALS AND HEALTH SYSTEMS, may develop a clinical resource management system.

(d) The Commission may adopt regulations to govern the licensing of clinical resource management systems to ensure the accuracy and confidentiality of information provided by the system.

[19-1513.] 19-138.

In any matter that relates to the utilization or cost of health care services rendered by health care practitioners or office facilities, the Commission may:

(1) Hold a public hearing;

(2) Conduct an investigation; or

(3) Require the filing of any reasonable information.

[19-1514.] 19-139.

If the Commission considers a further investigation necessary or desirable to authenticate information in a report that a health care practitioner or office facility files under this subtitle, the Commission may make necessary further examination of the records or accounts of the health care practitioner or office facility, in accordance with the regulations of the Commission.

19-140. RESERVED.

19-141. RESERVED.

Subtitle 2. Health Services Cost Review Commission.

PART I. DEFINITIONS; GENERAL PROVISIONS.

19-201.

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

(b) "Commission" means the State Health Services Cost Review Commission.

(c) "Facility" means, whether operated for a profit or not:

(1) Any hospital; or

(2) Any related institution.

(d) (1) "Hospital services" means:

(i) Inpatient hospital services as enumerated in Medicare Regulation 42 C.F.R. § 409.10, as amended;

(ii) Emergency services;

(iii) Outpatient services provided at the hospital; and

(iv) Identified physician services for which a facility has Commission-approved rates on June 30, 1985.

(2) "Hospital services" does not include outpatient renal dialysis services.

(e) (1) "Related institution" means an institution that is licensed by the Department as:

(i) A comprehensive care facility that is currently regulated by the Commission; or

(ii) An intermediate care facility -- mental retardation.

(2) "Related institution" includes any institution in paragraph (1) of this subsection, as reclassified from time to time by law.

19-202.

There is a State Health Services Cost Review Commission. The Commission is an independent Commission that functions in the Department.

19-203.

(a) (1) The Commission consists of 7 members appointed by the Governor.

(2) Of the 7 members, 4 shall be individuals who do not have any connection with the management or policy of any facility.

(b) Each member shall be interested in problems of health care.

(c) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on July 1, 1982. The terms of those members end as follows:

(i) 2 in 1983;

(ii) 1 in 1984;

(iii) 2 in 1985; and

(iv) 2 in 1986.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member who serves 2 consecutive full 4-year terms may not be reappointed for 4 years after completion of those terms.

19-204.

Annually, from among the members of the Commission:

(1) The Governor shall appoint a chairman; and

(2) The chairman shall appoint a vice chairman.

19-205.

(a) With the approval of the Governor, the Commission shall appoint an executive director, who is the chief administrative officer of the Commission.

(b) The Executive Director serves at the pleasure of the Commission.

(c) Under the direction of the Commission, the Executive Director shall perform any duty or function that the Commission requires.

19-206.

(a) A majority of the full authorized membership of the Commission is a quorum. However, the Commission may not act on any matter unless at least 4 members in attendance concur.

(b) The Commission shall meet at least 6 times a year, at the times and places that it determines.

(c) Each member of the Commission is entitled to:

(1) Compensation in accordance with the State budget; and

(2) Reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) (1) The Commission may employ a staff in accordance with the State budget.

~~(2) STAFF HIRED AFTER SEPTEMBER 30, 1999, ARE IN THE UNCLASSIFIED SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.~~

(2) (I) STAFF HIRED AFTER SEPTEMBER 30, 1999, ARE IN THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(II) THE COMMISSION, IN CONSULTATION WITH THE SECRETARY, SHALL DETERMINE THE APPROPRIATE JOB CLASSIFICATIONS AND GRADES FOR ALL STAFF.

[(2)] (3) The Deputy Director and each principal section chief of the Commission serve at the pleasure of the Commission.

[(3)] (4) The Commission, in consultation with the Secretary, may determine the appropriate job classifications and, subject to the State budget, the compensation for the Executive Director, Deputy Director, and each principal section chief of the Commission.

19-207.

(a) In addition to the powers set forth elsewhere in this subtitle, the Commission may:

(1) Adopt rules and regulations to carry out the provisions of this subtitle;

(2) Create committees from among its members;

(3) Appoint advisory committees, which may include individuals and representatives of interested public or private organizations;

(4) Apply for and accept any funds, property, or services from any person or government agency;

(5) Make agreements with a grantor or payor of funds, property, or services, including an agreement to make any study, plan, demonstration, or project;

(6) Publish and give out any information that relates to the financial aspects of health care and is considered desirable in the public interest; and

(7) Subject to the limitations of this subtitle, exercise any other power that is reasonably necessary to carry out the purposes of this subtitle.

(b) In addition to the duties set forth elsewhere in this subtitle, the Commission shall:

(1) Adopt rules and regulations that relate to its meetings, minutes, and transactions;

(2) Keep minutes of each meeting;

(3) Prepare annually a budget proposal that includes the estimated income of the Commission and proposed expenses for its administration and operation;

(4) Within a reasonable time after the end of each facility's fiscal year or more often as the Commission determines, prepare from the information filed with the Commission any summary, compilation, or other supplementary report that will advance the purposes of this subtitle;

(5) Periodically participate in or do analyses and studies that relate to:

(i) Health care costs;

(ii) The financial status of any facility; or

(iii) Any other appropriate matter; and

(6) On or before October 1 of each year, submit to the Governor, to the Secretary, and, subject to § 2-1246 of the State Government Article, to the General Assembly an annual report on the operations and activities of the Commission during the preceding fiscal year, including:

(i) A copy of each summary, compilation, and supplementary report required by this subtitle; and

(ii) Any other fact, suggestion, or policy recommendation that the Commission considers necessary.

(c) (1) The Commission shall set deadlines for the filing of reports required under this subtitle.

(2) The Commission may adopt rules or regulations that impose penalties for failure to file a report as required.

(3) The amount of any penalty under paragraph (2) of this subsection may not be included in the costs of a facility in regulating its rates.

(d) Except for privileged medical information, the Commission shall make:

(1) Each report filed and each summary, compilation, and report required under this subtitle available for public inspection at the office of the Commission during regular business hours; and

(2) Each summary, compilation, and report available to any agency on request.

(e) (1) The Commission may contract with a qualified, independent third party for any service necessary to carry out the powers and duties of the Commission.

(2) Unless permission is granted specifically by the Commission, a third party hired by the Commission may not release, publish, or otherwise use any information to which the third party has access under its contract.

19-208.

(a) The power of the Secretary over plans, proposals, and projects of units in the Department does not include the power to disapprove or modify any decision or determination that the Commission makes under authority specifically delegated by law to the Commission.

(b) The power of the Secretary to transfer by rule, regulation, or written directive, any staff, functions, or funds of units in the Department does not apply to any staff, function, or funds of the Commission.

(C) (1) THE POWER OF THE SECRETARY OVER THE PROCUREMENT PROCEDURE FOR UNITS IN THE DEPARTMENT DOES NOT APPLY TO THE PROCUREMENT PROCEDURE FOR THE COMMISSION.

(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, ANY PROCUREMENT FOR SERVICES TO BE PERFORMED OR FOR SUPPLIES TO BE DELIVERED TO THE COMMISSION IS SUBJECT TO THE PURPOSES AND REQUIREMENTS OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

19-209. RESERVED.

19-210. RESERVED.

PART II. HEALTH CARE FACILITY RATE SETTING.

[19-209.] 19-211.

(a) (1) Except for a facility that is operated or is listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts, the Commission has jurisdiction over hospital services offered by or through all facilities.

(2) The jurisdiction of the Commission over any identified physician service shall terminate for a facility on the request of the facility.

(3) The rate approved for an identified physician service may not exceed the rate on June 30, 1985, adjusted by an appropriate index of inflation.

(b) The Commission may not set rates for related institutions until:

(1) State law authorizes the State Medical Assistance Program to reimburse related institutions at Commission rates; and

(2) The United States Department of Health and Human Services agrees to accept Commission rates as a method of providing federal financial participation in the State Medical Assistance Program.

[19-210.] 19-212.

The Commission shall:

(1) Require each facility to disclose publicly:

(i) Its financial position; and

(ii) As computed by methods that the Commission determines, the verified total costs incurred by the facility in providing health services;

(2) Review for reasonableness and certify the rates of each facility;

(3) Keep informed as to whether a facility has enough resources to meet its financial requirements;

(4) Concern itself with solutions if a facility does not have enough resources; and

(5) Assure each purchaser of health care facility services that:

(i) The total costs of all hospital services offered by or through a facility are reasonable;

(ii) The aggregate rates of the facility are related reasonably to the aggregate costs of the facility; and

(iii) Rates are set equitably among all purchasers of services without undue discrimination.

[19-207.1.] 19-213.

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

(2) "Facilities" means hospitals and related institutions whose rates have been approved by the Commission.

(b) The Commission shall assess and collect user fees on facilities as defined in this section.

(c) (1) The total user fees assessed by the Commission may not exceed $3,000,000 in any fiscal year.

(2) The total user fees assessed by the Commission may not exceed the Special Fund appropriation for the Commission by more than 20%.

(3) The user fees assessed by the Commission shall be used exclusively to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Commission in accordance with the provisions of this subtitle.

(4) The Commission shall pay all funds collected from fees assessed in accordance with this section into the Health Services Cost Review Commission Fund.

(5) The user fees assessed by the Commission may be expended only for purposes authorized by the provisions of this subtitle.

(d) (1) There is a Health Services Cost Review Commission Fund.

(2) The Fund is a special continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(3) The Treasurer shall separately hold, and the Comptroller shall account for, the Fund.

(4) The Fund shall be invested and reinvested in the same manner as other State funds.

(5) Any investment earnings shall be retained to the credit of the Fund.

(6) The Fund shall be subject to an audit by the Office of Legislative Audits as provided for in § 2-1220 of the State Government Article.

(7) This section may not be construed to prohibit the Fund from receiving funds from any other source.

(8) The Fund shall be used only to provide funding for the Commission and for the purposes authorized under this subtitle.

(e) The Commission shall:

(1) Assess user fees for each facility equal to the sum of:

(i) The amount equal to one half of the total user fees times the ratio of admissions of the facility to total admissions of all facilities; and

(ii) The amount equal to one half of the total user fees times the ratio of gross operating revenue of each facility to total gross operating revenues of all facilities;

(2) Establish minimum and maximum assessments; and

(3) Assess each facility on or before June 30 of each year.

(f) On or before September 1 of each year, each facility assessed under this section shall make payment to the Commission. The Commission shall make provision for partial payments.

(g) Any bill not paid within 30 days of an agreed payment date may be subject to an interest penalty to be determined by the Commission.

(h) (1) This section shall terminate and be of no effect on the first day of July following the cessation of a waiver by law or agreement for Medicare and Medicaid between the State of Maryland and the federal government.

(2) If notice of intent to terminate is made by the federal government to this State prior to the first day of an intervening session of the Maryland General Assembly, this section shall expire June 30 of the following calendar year. However, under no circumstances shall less than seven calendar months occur between notice of termination and expiration of this section.

[19-207.3.] 19-214.

(a) The Commission shall assess the underlying causes of hospital uncompensated care and make recommendations to the General Assembly on the most appropriate alternatives to:

(1) Reduce uncompensated care; and

(2) Assure the integrity of the payment system.

(b) The Commission may adopt regulations establishing alternative methods for financing the reasonable total costs of hospital uncompensated care provided that the alternative methods:

(1) Are in the public interest;

(2) Will equitably distribute the reasonable costs of uncompensated care;

(3) Will fairly determine the cost of reasonable uncompensated care included in hospital rates;

(4) Will continue incentives for hospitals to adopt efficient and effective credit and collection policies; and

(5) Will not result in significantly increasing costs to Medicare or the loss of Maryland's Medicare Waiver under § 1814(b) of the Social Security Act.

(c) Any funds generated through hospital rates under an alternative method adopted by the Commission in accordance with subsection (b) of this section may only be used to finance the delivery of hospital uncompensated care.

[19-211.] 19-215.

(a) (1) After public hearings and consultation with any appropriate advisory committee, the Commission shall adopt, by rule or regulation, a uniform accounting and financial reporting system that:

(i) Includes any cost allocation method that the Commission determines; and

(ii) Requires each facility to record its income, revenues, assets, expenses, outlays, liabilities, and units of service.

(2) Each facility shall adopt the uniform accounting and financial reporting system.

(b) In conformity with this subtitle, the Commission may allow and provide for modifications in the uniform accounting and financial reporting system to reflect correctly any differences among facilities in their type, size, financial structure, or scope or type of service.

[19-212.] 19-216.

(a) At the end of the fiscal year for a facility at least 120 days following a merger or a consolidation and at any other interval that the Commission sets, the facility shall file:

(1) A balance sheet that details its assets, liabilities, and net worth;

(2) A statement of income and expenses; and

(3) Any other report that the Commission requires about costs incurred in providing services.

(b) (1) A report under this section shall:

(i) Be in the form that the Commission requires;

(ii) Conform to the uniform accounting and financial reporting system adopted under this subtitle; and

(iii) Be certified as follows:

1. For the University of Maryland Hospital, by the Legislative Auditor; or

2. For any other facility, by its certified public accountant.

(2) If the Commission requires, responsible officials of a facility also shall attest that, to the best of their knowledge and belief, the report has been prepared in conformity with the uniform accounting and financial reporting system adopted under § 19-211 OF this subtitle.

[19-212.1.] 19-217.

(a) Except as provided in subsection (c) of this section, a facility shall notify the Commission at least 30 days prior to executing any financial transaction, contract, or other agreement that would:

(1) Pledge more than 50% of the operating assets of the facility as collateral for a loan or other obligation; or

(2) Result in more than 50% of the operating assets of the facility being sold, leased, or transferred to another person or entity.

(b) Except as provided in subsection (c) of this section, the Commission shall publish a notice of the proposed financial transaction, contract, or other agreement reported by a facility in accordance with subsection (a) of this section in a newspaper of general circulation in the area where the facility is located.

(c) The provisions of this section do not apply to any financial transaction, contract, or other agreement made by a facility with any issuer of tax exempt bonds, including the Maryland Health and Higher Education Facilities Authority, the State, or any county or municipal corporation of the State, if a notice of the proposed issuance of revenue bonds that meets the requirements of § 147(f) of the Internal Revenue Code has been published.

[19-213.] 19-218.

(A) The Commission shall require each facility to give the Commission information that:

(1) Concerns the total financial needs of the facility;

(2) Concerns its current and expected resources to meet its total financial needs;

(3) Includes the effect of any proposal made, under Subtitle 1 of this title, on comprehensive health planning; and

(4) Includes physician information sufficient to identify practice patterns of individual physicians across all facilities.

(B) The names of individual physicians are confidential and are not discoverable or admissible in evidence in a civil or criminal proceeding, and may only be disclosed to the following:

[(i)] (1) The utilization review committee of a Maryland hospital;

[(ii)] (2) The Medical and Chirurgical Faculty of the State of Maryland; or

[(iii)] (3) The State Board of Physician Quality Assurance.

[19-216.] 19-219.

(a) The Commission may review costs and rates and make any investigation that the Commission considers necessary to assure each purchaser of health care facility services that:

(1) The total costs of all hospital services offered by or through a facility are reasonable;

(2) The aggregate rates of the facility are related reasonably to the aggregate costs of the facility; and

(3) The rates are set equitably among all purchasers or classes of purchasers without undue discrimination or preference.

(b) (1) To carry out its powers under subsection (a) of this section, the Commission may review and approve or disapprove the reasonableness of any rate that a facility sets or requests.

(2) A facility shall charge for services only at a rate set in accordance with this subtitle.

(3) In determining the reasonableness of rates, the Commission may take into account objective standards of efficiency and effectiveness.

(c) To promote the most efficient and effective use of health care facility services and, if it is in the public interest and consistent with this subtitle, the Commission may promote and approve alternate methods of rate determination and payment that are of an experimental nature.

[19-217.] 19-220.

(a) (1) To have the statistical information needed for rate review and approval, the Commission shall compile all relevant financial and accounting information.

(2) The information shall include:

(i) Necessary operating expenses;

(ii) Appropriate expenses that are incurred in providing services to patients who cannot or do not pay;

(iii) Incurred interest charges; and

(iv) Reasonable depreciation expenses that are based on the expected useful life of property or equipment.

(b) The Commission shall define, by [rule or] regulation, the types and classes of charges that may not be changed, except as specified in [§ 19-219] § 19-222 of this subtitle.

(c) The Commission shall obtain from each facility its current rate schedule and each later change in the schedule that the Commission requires.

(d) The Commission shall:

(1) Permit a nonprofit facility to charge reasonable rates that will permit the facility to provide, on a solvent basis, effective and efficient service that is in the public interest; and

(2) Permit a proprietary profit-making facility to charge reasonable rates that:

(i) Will permit the facility to provide effective and efficient service that is in the public interest; and

(ii) Based on the fair value of the property and investments that are related directly to the facility, include enough allowance for and provide a fair return to the owner of the facility.

(e) In the determination of reasonable rates for each facility, as specified in this section, the Commission shall take into account all of the cost of complying with recommendations made, under Subtitle 1 of this title, on comprehensive health planning.

(f) In reviewing rates or charges or considering a request for change in rates or charges, the Commission shall permit a facility to charge rates that, in the aggregate, will produce enough total revenue to enable the facility to meet reasonably each requirement specified in this section.

(g) Except as otherwise provided by law, in reviewing rates or charges or considering a request for changes in rates or charges, the Commission may not hold executive sessions.

[19-218.] 19-221.

The Commission shall use any reasonable, relevant, or generally accepted accounting principles to determine reasonable rates for each facility.

[19-219.] 19-222.

(a) (1) A facility may not change any rate schedule or charge of any type or class defined under [§ 19-217(b)] § 19-220(B) of this subtitle, unless the facility files with the Commission a written notice of the proposed change that is supported by any information that the facility considers appropriate.

(2) Unless the Commission orders otherwise in conformity to this section, a change in the rate schedule or charge is effective on the date that the notice specifies. That effective date shall be at least 30 days after the date on which the notice is filed.

(b) (1) Commission review of a proposed change may not exceed 150 days after the notice is filed.

(2) The Commission may hold a public hearing to consider the notice.

(3) If the Commission decides to hold a public hearing, the Commission:

(i) Within 65 days after the filing of the notice, shall set a place and date for the hearing; and

(ii) May suspend the effective date of any proposed change until 30 days after conclusion of the hearing.

(4) If the Commission suspends the effective date of a proposed change, the Commission shall give the facility a written statement of the reasons for the suspension.

(5) The Commission:

(i) May conduct the public hearing without complying with formal rules of evidence; and

(ii) Shall allow any interested party to introduce evidence that relates to the proposed change, including testimony by witnesses.

(c) (1) The Commission may permit a facility to change any rate or charge temporarily, if the Commission considers it to be in the public interest.

(2) An approved temporary change becomes effective immediately on filing.

(3) Under the review procedures of this section, the Commission promptly shall consider the reasonableness of the temporary change.

(d) If the Commission modifies a proposed change or approves only part of a proposed change, a facility, without losing its right to appeal the part of the Commission order that denies full approval of the proposed change, may:

(1) Charge its patients according to the decision of the Commission; and

(2) Accept any benefits under that decision.

(e) If a change in any rate or charge increase becomes effective because a final determination is delayed because of an appeal or otherwise, the Commission may order the facility:

(1) To keep a detailed and accurate account of:

(i) Funds received because of the change; and

(ii) The persons from whom these funds were collected; and

(2) As to any funds received because of a change that later is held excessive or unreasonable:

(i) To refund the funds with interest; or

(ii) If a refund of the funds is impracticable, to charge over and amortize the funds through a temporary decrease in charges or rates.

(f) A decision by the Commission on any contested change under this section shall comply with the Administrative Procedure Act and shall be only prospective in effect.

(g) (1) The State Health Services Cost Review Commission shall provide incentives for merger, consolidation, and conversion and for the implementation of the institution-specific plan developed [by the Health Resources Planning Commission] IN ACCORDANCE WITH § 19-122 OF THIS TITLE.

(2) Notwithstanding any of the provisions in this section, on notification of a merger or consolidation by 2 or more hospitals, the Commission shall review the rates of those hospitals that are directly involved in the merger or consolidation in accordance with the rate review and approval procedures provided in [§ 19-217] § 19-220 of this subtitle and the regulations of the Commission.

(3) The Commission may provide, as appropriate, for temporary adjustment of the rates of those hospitals that are directly involved in the merger or consolidation, closure, or delicensure in order to provide sufficient funds for an orderly transition. These funds may include:

(i) Allowances for those employees who are or would be displaced;

(ii) Allowances to permit a surviving institution in a merger to generate capital to convert a closed facility to an alternate use;

(iii) Any other closure costs as defined in § 16A of Article 43C of the Code; or

(iv) Agreements to allow retention of a portion of the savings that result for a designated period of time.

[19-207.2.] 19-223.

The Commission shall assess a fee on all hospitals whose rates have been approved by the Commission to pay for:

(1) The amounts required by subsection (j) of § 16A of Article 43C of the Code with respect to public body obligations or closure costs of a closed or delicensed hospital as defined in Article 43C, § 16A of the Code; and

(2) Funding the Hospital Employees Retraining Fund.

[19-220.] 19-224.

(a) This section applies to each person [who] THAT is concurrently:

(1) A trustee, director, or officer of any nonprofit facility in this State; and

(2) An employee, partner, director, officer, or beneficial owner of 3 percent or more of the capital account or stock of:

(i) A partnership;

(ii) A firm;

(iii) A corporation; or

(iv) Any other business entity.

(b) Each person specified in subsection (a) of this section shall file with the Commission an annual report that discloses, in detail, each business transaction between any business entity specified in subsection (a)(2) of this section and any facility that the person serves as specified in subsection (a)(1) of this section, if any of the following is $10,000 or more a year:

(1) The actual or imputed value or worth to the business entity of any transaction between it and the facility[.]; OR

(2) The amount of the contract price, consideration, or other advances by the facility as part of the transaction.

(c) A report under this section shall be:

(1) Signed and verified; and

(2) Filed in accordance with the procedures and on the form that the Commission requires.

(d) A person [who] THAT willfully fails to file any report required by this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

[19-214.] 19-225.

(a) In any matter that relates to the cost of services in facilities, the Commission may:

(1) Hold a public hearing;

(2) Conduct an investigation;

(3) Require the filing of any information; or

(4) Subpoena any witness or evidence.

(b) The Executive Director of the Commission may administer oaths in connection with any hearing or investigation under this section.

[19-215.] 19-226.

(a) If the Commission considers a further investigation necessary or desirable to authenticate information in a report that a facility files under this subtitle, the

Commission may make any necessary further examination of the records or accounts of the facility, in accordance with the rules or regulations of the Commission.

(b) The examination under this section may include a full or partial audit of the records or accounts of the facility that is:

(1) Provided by the facility; or

(2) Performed by:

(i) The staff of the Commission;

(ii) A third party for the Commission; or

(iii) The Legislative Auditor.

[19-221.] 19-227.

(a) (1) Any person aggrieved by a final decision of the Commission under this subtitle may not appeal to the Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(b) (1) An appeal from a final decision of the Commission under this section shall be taken in the name of the person aggrieved as appellant and against the Commission as appellee.

(2) The Commission is a necessary party to an appeal at all levels of the appeal.

(3) The Commission may appeal any decision that affects any of its final decisions to a higher level for further review.

(4) On grant of leave by the appropriate court, any aggrieved party or interested person may intervene or participate in an appeal at any level.

(c) Any person, government agency, or nonprofit health service plan that contracts with or pays a facility for health care services has standing to participate in Commission hearings and shall be allowed to appeal final decisions of the Commission.

Article 43C - Maryland Health and Higher Educational Facilities Authority

16A.

(a) In this section, the following terms have the meanings indicated.

(1) "Closure costs" means the reasonable costs determined by the Health Services Cost Review Commission to be incurred in connection with the closure or

delicensure of a hospital, including expenses of operating the hospital, payments to employees, employee benefits, fees of consultants, insurance, security services, utilities, legal fees, capital costs, costs of terminating contracts with vendors, suppliers of goods and services and others, debt service, contingencies and other necessary or appropriate costs and expenses.

(2) (i) "Public body obligation" means any bond, note, evidence of indebtedness or other obligation for the payment of borrowed money issued by the Authority, any public body as defined in Article 31, § 9 of the Code, the Mayor and City Council of Baltimore, or any municipal corporation subject to the provisions of Article XI-E of the Maryland Constitution.

(ii) "Public body obligation" does not include any obligation, or portion of any such obligation, if:

1. The principal of and interest on the obligation or such portion thereof is:

A. Insured by an effective municipal bond insurance policy; and

B. Issued on behalf of a hospital that voluntarily closed in accordance with [§ 19-115(l)] § 19-123(L) of the Health - General Article;

2. The proceeds of the obligation or such portion thereof were used for the purpose of financing or refinancing a facility or part thereof which is used primarily to provide outpatient services at a location other than the hospital; or

3. The proceeds of the obligation or such portion thereof were used to finance or refinance a facility or part thereof which is primarily used by physicians who are not employees of the hospital for the purpose of providing services to nonhospital patients.

(b) (1) The General Assembly finds that the failure to provide for the payment of public body obligations of a closed or delicensed hospital could have a serious adverse effect on the ability of Maryland health care facilities, and potentially the ability of the State and local governments, to secure subsequent financing through the issuance of tax-exempt bonds.

(2) The purpose of this section is to preserve the access of Maryland's health care facilities to adequate financing by establishing a program to facilitate the refinancing and payment of public body obligations of a closed or delicensed hospital.

(c) The Maryland Hospital Bond Program is hereby created within the Maryland Health and Higher Educational Facilities Authority. The Program shall provide for the payment and refinancing of public body obligations of a hospital, as defined in § 19-301 of the Health - General Article, if:

(1) The closure of a hospital is in accordance with [§ 19-115(l)] § 19-123(L) of the Health - General Article or the delicensure of a hospital is in accordance with § 19-325 of the Health - General Article;

(2) There are public body obligations issued on behalf of the hospital outstanding;

(3) The closure of the hospital is not the result of a merger or consolidation with 1 or more other hospitals; and

(4) The hospital plan for closure or delicensure and the related financing or refinancing plan is acceptable to the Secretary of Health and Mental Hygiene and the Authority.

(d) (1) The [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION shall give:

(i) The Authority and the Health Services Cost Review Commission written notification of the filing by a hospital with the [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION of any written notice of intent to close under[§ 19-115(l)] § 19-123(L) of the Health - General Article; or

(ii) The Authority written notification of the filing with the Secretary of Health and Mental Hygiene of a petition for the delicensure of a hospital under § 19-325 of the Health - General Article.

(2) The notice required by this subsection shall be given within 10 days after the filing of the notice or petition.

(e) (1) The [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION and the Secretary of Health and Mental Hygiene shall give the Authority and the Health Services Cost Review Commission written notification of:

(i) A determination by the [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION to exempt a hospital closure from the certificate of need requirement pursuant to [§ 19-115(l)] § 19-123(L) of the Health - General Article; or

(ii) A determination by the Secretary of Health and Mental Hygiene to delicense a hospital pursuant to § 19-325 of the Health - General Article.

(2) The [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION and the Secretary of Health and Mental Hygiene shall submit the written notification required in paragraph (1) of this subsection no later than 150 days prior to the scheduled date of the hospital closure or delicensure and shall include the name and location of the hospital, and the scheduled date of hospital closure or delicensure.

(f) (1) A hospital that intends to close or is scheduled to be delicensed shall provide the Authority and the Health Services Cost Review Commission with a written statement of any outstanding public body obligations issued on behalf of the hospital, which shall include:

(i) The name of each issuer of a public body obligation on behalf of the hospital;

(ii) The outstanding principal amount of each public body obligation and the due dates for payment or any mandatory redemption or purchase thereof;

(iii) The due dates for the payment of interest on each public body obligation and the interest rates; and

(iv) Any documents and information pertaining to the public body obligations as the Authority or the Health Services Cost Review Commission may request.

(2) The statement required in paragraph (1) of this subsection shall be filed by the hospital:

(i) In the case of closure pursuant to [§ 19-115(l)] § 19-123(L) of the Health - General Article, within 10 days after the date of filing with the [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION of written notice of intent to close; or

(ii) In the case of delicensure pursuant to § 19-325 of the Health - General Article, at least 150 days prior to the scheduled date of delicensure.

(g) (1) The Health Services Cost Review Commission may determine to provide for the payment of all or any portion of the closure costs of a hospital having outstanding public body obligations if the Health Services Cost Review Commission determines that payment of the closing costs is necessary or appropriate to:

(i) Encourage and assist the hospital to close; or

(ii) Implement the program created by this section.

(2) In making the determinations under this subsection, the Health Services Cost Review Commission shall consider:

(i) The amount of the system-wide savings to the State health care system expected to result from the closure or delicensure of the hospital over:

1. The period during which the fee to provide for the payment of the closure costs or any bonds or notes issued to finance the closure costs will be assessed; or

2. A period ending 5 years after the date of closure or delicensure, whichever is the longer; and

(ii) The recommendations of the [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION and the Authority.

(3) Within 60 days after receiving the notice of closure or delicensure required by subsection (e) OF THIS SECTION, the Health Services Cost Review Commission shall:

(i) Determine whether to provide for the payment of all or any portion of the closure costs of the hospital in accordance with this subsection; and

(ii) Give written notification of such determination to the [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION and the Authority.

(4) The provisions of this subsection may not be construed to require the Health Services Cost Review Commission to make provision for the payment of any closure costs of a closed or delicensed hospital.

(5) In any suit, action or proceeding involving the validity or enforceability of any bond or note issued to finance any closure costs or any security for a bond or note, the determinations of the Health Services Cost Review Commission under this subsection shall be conclusive and binding.

(h) (1) Within 60 days after receiving the written statement required by subsection (f) of this section, the Authority shall prepare a schedule of payments necessary to meet the public body obligations of the hospital.

(2) As soon as practicable after receipt of the notice of closure or delicensure required by subsection (e) OF THIS SECTION and after consultation with the issuer of each public body obligation and the Health Services Cost Review Commission, the Authority shall prepare a proposed plan to finance, refinance or otherwise provide for the payment of public body obligations. The proposed plan may include any tender, redemption, advance refunding or other technique deemed appropriate by the Authority.

(3) As soon as practicable after receipt of written notification that the Health Services Cost Review Commission has determined to provide for the payment of any closure costs of a hospital pursuant to subsection (g) of this section, the Authority shall prepare a proposed plan to finance, refinance or otherwise provide for the payment of the closure costs set forth in the notice.

(4) Upon the request of the Health Services Cost Review Commission, the Authority may begin preparing the plan or plans required by this subsection before:

(i) The final determination by the [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION to exempt a hospital

closure from the certificate of need requirement pursuant to [§ 19-115(l)] § 19-123(L) of the Health - General Article;

(ii) Any final determination of delicensure by the Secretary of Health and Mental Hygiene pursuant to § 19-325 of the Health - General Article; or

(iii) Any final determination by the Health Services Cost Review Commission to provide for the payment of any closure costs of the hospital.

(5) The Authority shall promptly submit the schedule of payments and the proposed plan or plans required by this subsection to the Health Services Cost Review Commission.

(i) (1) The Authority may issue negotiable bonds or notes for the purpose of financing, refinancing or otherwise providing for the payment of public body obligations or any closure costs of a hospital in accordance with any plan developed pursuant to subsection (h) of this section.

(2) The bonds or notes shall be payable from the fees provided pursuant to subsection (j) of this section or from other sources as may be provided in the plan.

(3) The bonds or notes shall be authorized, sold, executed and delivered as provided for in this article and shall have terms consistent with all existing constitutional and legal requirements.

(4) In connection with the issuance of any bond or note, the Authority may assign its rights under any loan, lease or other financing agreement between the Authority or any other issuer of a public body obligation and the closed or delicensed hospital to the State or appropriate agency in consideration for the payment of any public body obligation as provided in this section.

(j) (1) On the date of closure or delicensure of any hospital for which a financing or refinancing plan has been developed in accordance with subsection (h) of this section, the Health Services Cost Review Commission shall assess a fee on all hospitals as provided in [§ 19-207.2] § 19-223 of the Health - General Article in an amount sufficient to:

(i) Pay the principal and interest on any public body obligations, or any bonds or notes issued by the Authority pursuant to subsection (i) of this section to finance or refinance public body obligations;

(ii) Pay any closure costs or the principal and interest on any bonds or notes issued by the Authority pursuant to subsection (i) of this section to finance or refinance any closure costs;

(iii) Maintain any reserve required in the resolution, trust agreement or other financing agreement securing public body obligations, bonds, or notes;

(iv) Pay any required financing fees or other similar charges; and

(v) Maintain reserves deemed appropriate by the Authority to ensure that the amounts provided in this subsection are satisfied in the event any hospital defaults in paying the fees.

(2) The fee assessed each hospital shall be equal to that portion of the total fees required to be assessed that is equal to the ratio of the actual gross patient revenues of the hospital to the total gross patient revenues of all hospitals, determined as of the date or dates deemed appropriate by the Authority after consultation with the Health Services Cost Review Commission.

(3) Each hospital shall pay the fee directly to the Authority, any trustee for the holders of any bonds or notes issued by the Authority pursuant to subsection (i) of this section, or as otherwise directed by the Authority. The fee may be assessed at any time necessary to meet the payment requirements of this subsection.

(4) The fees assessed may not be subject to supervision or regulation by any department, commission, board, body or agency of this State. Any pledge of these fees to any bonds or notes issued pursuant to this section or to any other public body obligations, shall immediately subject such fees to the lien of the pledge without any physical delivery or further act. The lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Authority or any closed or delicensed hospital, irrespective of whether the parties have notice.

(5) In the event the Health Services Cost Review Commission shall terminate by law, the Secretary of Health and Mental Hygiene, in accordance with the provisions of this subsection, shall impose a fee on all hospitals licensed pursuant to § 19-318 of the Health - General Article.

(k) (1) Notwithstanding any other provision of this article, any action taken by the Authority to provide for the payment of public body obligations shall be for the purpose of maintaining the credit rating of this State, its agencies, instrumentalities, and political subdivisions, ensuring their access to the credit markets, and may not constitute any payment by or on behalf of a closed or delicensed hospital. A hospital is not relieved of its obligations with respect to the payment of public body obligations. The Authority shall be subrogated to the rights of any holders or issuers of public body obligations, as if the payment or provision for payment had not been made.

(2) The Authority may proceed against any guaranty or other collateral securing the payment of public body obligations of a closed or delicensed hospital which was provided by any entity associated with the hospital if such action is determined by the Authority to be:

(i) Necessary to protect the interests of the holders of the public body obligations; or

(ii) Consistent with the public purpose of encouraging and assisting the hospital to close.

(3) In making the determination required under paragraph (2) of this subsection, the Authority shall consider:

(i) The circumstances under which the guaranty or other collateral was provided; and

(ii) The recommendations of the Health Services Cost Review Commission and the [Health Resources Planning Commission] HEALTH CARE ACCESS AND COST COMMISSION.

(4) Any amount realized by the Authority or any assignee of the Authority in the enforcement of any claim against a hospital for which a plan has been developed in accordance with subsection (h) of this section shall be applied to offset the amount of the fee required to be assessed by the Health Services Cost Review Commission pursuant to subsection (j) of this section. The costs and expenses of enforcing the claim, including any costs for maintaining the property prior to its disposition, shall be deducted from this amount.

(l) It is the purpose and intent of this section that the Health Services Cost Review Commission, the [Health Resources Planning Commission,] HEALTH CARE ACCESS AND COST COMMISSION, and the Authority consult with each other and take into account each others' recommendations in making the determinations required to be made under this section.

(m) Notwithstanding any other provision of this section, in any suit, action or proceeding involving the validity or enforceability of any bond or note or any security for a bond or note, the determinations of the Authority under this section shall be conclusive and binding.

(n) The Health Services Cost Review Commission, the [Health Resources Planning Commission,] HEALTH CARE ACCESS AND COST COMMISSION, or the Authority may waive any notice required to be given to it under this section.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Health - General

19-111.

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

(2) "FUND" MEANS THE HEALTH CARE ACCESS AND COST COMMISSION FUND.

(3) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15-201 OF THE INSURANCE ARTICLE.

~~(3)~~ (4) "HEALTH CARE PRACTITIONER" MEANS ANY INDIVIDUAL WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.

~~(4)~~ (5) "NURSING HOME" MEANS A RELATED INSTITUTION THAT IS CLASSIFIED AS A NURSING HOME.

~~(5)~~ (6) "PAYOR" MEANS:

(I) A HEALTH INSURER OR NONPROFIT HEALTH SERVICE PLAN THAT HOLDS A CERTIFICATE OF AUTHORITY AND PROVIDES HEALTH INSURANCE POLICIES OR CONTRACTS IN THE STATE IN ACCORDANCE WITH THIS ARTICLE OR THE INSURANCE ARTICLE; OR

(II) A HEALTH MAINTENANCE ORGANIZATION THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE.

(B) SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL ASSESS A FEE ON:

(1) ALL HOSPITALS;

(2) ALL NURSING HOMES;

(3) ALL PAYORS; AND

(4) ALL HEALTH CARE PRACTITIONERS.

(C) (1) THE TOTAL FEES ASSESSED BY THE COMMISSION MAY NOT EXCEED $8,250,000 IN ANY FISCAL YEAR.

(2) THE FEES ASSESSED BY THE COMMISSION SHALL BE USED EXCLUSIVELY TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE COMMISSION IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(3) THE COMMISSION SHALL PAY ALL FUNDS COLLECTED FROM THE FEES ASSESSED IN ACCORDANCE WITH THIS SECTION INTO THE FUND.

(4) THE FEES ASSESSED MAY BE EXPENDED ONLY FOR PURPOSES AUTHORIZED BY THE PROVISIONS OF THIS SUBTITLE.

(D) OF THE TOTAL FEES ASSESSED BY THE COMMISSION UNDER THIS SECTION IN ANY FISCAL YEAR, THE COMMISSION:

(1) IN LIEU OF THE APPLICATION FEES PROVIDED FOR IN § 19-123 OF THIS SUBTITLE, SHALL ASSESS:

(I) HOSPITALS AND SPECIAL HOSPITALS FOR AN AMOUNT NOT EXCEEDING 36% OF THE TOTAL AMOUNT ASSESSED; AND

(II) NURSING HOMES FOR AN AMOUNT NOT EXCEEDING 5% OF THE TOTAL AMOUNT ASSESSED;

(2) SHALL ASSESS PAYORS FOR AN AMOUNT NOT EXCEEDING 40% OF THE TOTAL AMOUNT ASSESSED; AND

(3) SHALL ASSESS HEALTH CARE PRACTITIONERS FOR AN AMOUNT NOT EXCEEDING 19% OF THE TOTAL AMOUNT ASSESSED.

(E) (1) THE FEES ASSESSED IN ACCORDANCE WITH THIS SECTION ON HEALTH CARE PRACTITIONERS SHALL BE:

(I) INCLUDED IN THE LICENSING FEE PAID TO THE HEALTH CARE PRACTITIONER'S LICENSING BOARD; AND

(II) TRANSFERRED BY THE HEALTH CARE PRACTITIONER'S LICENSING BOARD TO THE COMMISSION ON A QUARTERLY BASIS.

(2) THE COMMISSION MAY ADOPT REGULATIONS THAT WAIVE THE FEE ASSESSED UNDER THIS SECTION FOR A SPECIFIC CLASS OF HEALTH CARE PRACTITIONERS.

(F) (1) THERE IS A HEALTH CARE ACCESS AND COST COMMISSION FUND.

(2) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) THE TREASURER SHALL SEPARATELY HOLD, AND THE COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

(4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT OF THE FUND.

(6) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED FOR IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

(7) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE FUND FROM RECEIVING FUNDS FROM ANY OTHER SOURCE.

(8) THE FUND SHALL BE USED ONLY TO PROVIDE FUNDING FOR THE COMMISSION AND FOR THE PURPOSES AUTHORIZED UNDER THIS SUBTITLE.

(G) ON OR BEFORE MAY 30 OF EACH YEAR, THE INSURANCE COMMISSIONER SHALL NOTIFY THE COMMISSION OF THE TOTAL PREMIUMS COLLECTED IN THE STATE FOR HEALTH BENEFIT PLANS OF ALL PAYORS IN THE STATE DURING THE PRIOR CALENDAR YEAR AND EACH PAYOR'S TOTAL PREMIUMS IN THE STATE FOR HEALTH BENEFIT PLANS FOR THE SAME CALENDAR YEAR.

~~(G)~~ (H) THE COMMISSION SHALL:

(1) (I) ASSESS FEES ON PAYORS ~~IN ACCORDANCE WITH § 15-111 OF THE INSURANCE ARTICLE AND~~ IN A MANNER THAT APPORTIONS THE TOTAL AMOUNT OF THE FEES TO BE ASSESSED ON PAYORS UNDER SUBSECTION (D)(2) OF THIS SECTION AMONG EACH PAYOR BASED ON THE RATIO OF EACH PAYOR'S TOTAL PREMIUMS COLLECTED IN THE STATE FOR HEALTH BENEFIT PLANS TO THE TOTAL COLLECTED PREMIUMS OF ALL PAYORS COLLECTED IN THE STATE; AND

(II) ~~ON OR BEFORE JUNE 1 OF EACH YEAR, NOTIFY THE INSURANCE COMMISSIONER BY MEMORANDUM OF THE TOTAL ASSESSMENT ON PAYORS FOR THAT YEAR; AND~~ ON OR BEFORE JUNE 30 OF EACH YEAR, ASSESS EACH PAYOR A FEE IN ACCORDANCE WITH ITEM (I) OF THIS ITEM;

(2) (I) ASSESS FEES FOR EACH HOSPITAL EQUAL TO THE SUM OF:

1. THE AMOUNT EQUAL TO ONE-HALF OF THE TOTAL FEES TO BE ASSESSED ON HOSPITALS UNDER SUBSECTION (D)(1)(I) OF THIS SECTION TIMES THE RATIO OF ADMISSIONS OF THE HOSPITAL TO TOTAL ADMISSIONS OF ALL HOSPITALS; AND

2. THE AMOUNT EQUAL TO ONE-HALF OF THE TOTAL FEES TO BE ASSESSED ON HOSPITALS UNDER SUBSECTION (D)(1)(I) OF THIS SECTION TIMES THE RATIO OF GROSS OPERATING REVENUE OF EACH HOSPITAL TO TOTAL GROSS OPERATING REVENUES OF ALL HOSPITALS;

(II) ESTABLISH MINIMUM AND MAXIMUM ASSESSMENTS; AND

(III) ON OR BEFORE JUNE 30 OF EACH YEAR, ASSESS EACH HOSPITAL A FEE IN ACCORDANCE WITH ITEM (I) OF THIS ITEM; AND

(3) ~~(II)~~ (I) ASSESS FEES FOR EACH NURSING HOME EQUAL TO THE SUM OF:

1. THE AMOUNT EQUAL TO ONE-HALF OF THE TOTAL FEES TO BE ASSESSED ON NURSING HOMES UNDER SUBSECTION (D)(1)(II) OF THIS SECTION TIMES THE RATIO OF ADMISSIONS OF THE NURSING HOME TO TOTAL ADMISSIONS OF ALL NURSING HOMES; AND

2. THE AMOUNT EQUAL TO ONE-HALF OF THE TOTAL FEES TO BE ASSESSED ON NURSING HOMES UNDER SUBSECTION (D)(1)(II) OF THIS SECTION TIMES THE RATIO OF GROSS OPERATING REVENUE OF EACH NURSING HOME TO TOTAL GROSS OPERATING REVENUES OF ALL NURSING HOMES;

~~(III)~~ (II) ESTABLISH MINIMUM AND MAXIMUM ASSESSMENTS; ~~AND~~

~~(IV) ASSESS EACH HOSPITAL AND NURSING HOME ON OR BEFORE JUNE 30 OF EACH FISCAL YEAR~~.

(III) ON OR BEFORE JUNE 30 OF EACH YEAR, ASSESS EACH NURSING HOME A FEE IN ACCORDANCE WITH ITEM (I) OF THIS ITEM; AND

~~(II)~~ (I) (1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH ~~HOSPITAL AND NURSING HOME~~ PAYOR, HOSPITAL, AND NURSING HOME ASSESSED UNDER THIS SECTION SHALL MAKE PAYMENT TO THE COMMISSION.

(2) THE COMMISSION SHALL MAKE PROVISIONS FOR PARTIAL PAYMENTS.

~~(I)~~ (J) ANY BILL NOT PAID WITHIN 30 DAYS OF THE ~~AGREED~~ PAYMENT DUE DATE MAY BE SUBJECT TO AN INTEREST PENALTY TO BE DETERMINED AND COLLECTED BY THE COMMISSION.

[Subtitle 15. Maryland Health Care Access and Cost Commission.]

[19-1515.

(a) (1) The Commission shall assess a fee on:

(i) All payors; and

(ii) All health care practitioners.

(2) (i) The total fees assessed by the Commission shall be derived one-third from health care practitioners and two-thirds from payors.

(ii) The Commission may adopt a regulation that waives the fee assessed under this section for a specific class of health care practitioners.

(3) The total fees assessed by the Commission may not exceed $5,000,000 in any fiscal year.

(4) The Commission shall pay all funds collected from fees assessed in accordance with this section into the Health Care Access and Cost Fund.

(5) The fees assessed in accordance with this section shall be used only for the purposes authorized under this subtitle.

(b) The fees assessed in accordance with this section on health care practitioners shall be:

(1) Included in the licensing fee paid to the Board; and

(2) Transferred to the Commission on a quarterly basis.

(c) (1) The fees assessed on payors in accordance with § 15-111 of the Insurance Article shall be apportioned among each payor based on the ratio of each such payor's total premiums collected in the State to the total collected premiums of all such payors in the State.

(2) On or before June 1 of each year, the Commission shall notify the State Insurance Commissioner by memorandum of the total assessment on payors for that year.

(d) (1) There is a Health Care Access and Cost Fund.

(2) The Fund is a special continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(3) The Treasurer shall separately hold, and the Comptroller shall account for, the Fund.

(4) The Fund shall be invested and reinvested in the same manner as other State funds.

(5) Any investment earnings shall be retained to the credit of the Fund.

(6) The Fund shall be subject to an audit by the Office of Legislative Audits as provided for in § 2-1220 of the State Government Article.

(7) This section may not be construed to prohibit the Fund from receiving funds from any other source.

(8) The Fund shall be used only to provide funding for the Commission and for the purposes authorized under this subtitle.]

Article - Insurance

15-111.

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

(2) "Health benefit plan" has the meaning stated in § 15-1201 of this title.

(3) "Payor" means:

(i) a health insurer or nonprofit health service plan that holds a certificate of authority and provides health insurance policies or contracts in the State under this article;

(ii) a health maintenance organization that is authorized by the Commissioner to operate in the State; or

(iii) a third party administrator.

(4) "Third party administrator" means a person that is registered as an administrator under this article.

(b) (1) On or before June 30 of each year, the Commissioner shall assess each payor a fee for the next fiscal year.

(2) The fee shall be established in accordance with this section and § 19-1515 of the Health - General Article.

(c) (1) For each fiscal year, the total assessment for all payors shall be:

(i) set by a memorandum from the Maryland Health Care Access and Cost Commission; and

(ii) apportioned equitably by the Maryland Health Care Access and Cost Commission among the classes of payors described in subsection (a)(3) of this section as determined by the Maryland Health Care Access and Cost Commission.

(2) Of the total assessment apportioned under paragraph (1) of this subsection to payors described in subsection (a)(3)(i) and (ii) of this section, the Commissioner shall assess each payor a fraction:

(i) the numerator of which is the payor's total premiums collected in the State for health benefit plans for an appropriate prior 12-month period as determined by the Commissioner; and

(ii) the denominator of which is the total premiums collected in the State for the same period for health benefit plans of all payors described in subsection (a)(3)(i) and (ii) of this section.

(3) Of the total assessment apportioned under paragraph (1) of this subsection to payors described in subsection (a)(3)(iii) of this section, the Commissioner shall assess each payor a fraction:

(i) the numerator of which is one; and

(ii) the denominator of which is the total number of all payors described in subsection (a)(3)(iii) of this section.

(4) Notwithstanding any other provision of this subsection, the fee assessed on a third party administrator may not exceed 0.5% of the total administrative fees for health benefit plans collected in the State by the third party administrator for the previous calendar year.

(d) (1) Subject to paragraph (2) of this subsection, each payor that is assessed a fee under this section shall pay the fee to the Commissioner on or before September 1 of each year.

(2) The Commissioner, in cooperation with the Maryland Health Care Access and Cost Commission, may provide for partial payments.

(e) The Commissioner shall distribute the fees collected under this section to the Health Care Access and Cost Fund established under § 19-1515 of the Health - General Article.]

[(f)] (A) Each payor shall cooperate fully in submitting reports and claims data and providing any other information to the Maryland Health Care Access and Cost Commission in accordance with Title 19, Subtitle [15] 1 of the Health - General Article.

[(g)] (B) The Commissioner shall report to the Maryland Health Care and Cost Commission in a timely manner the name and address of each payor that is assessed a fee under [this section] § 19-111 OF THE HEALTH - GENERAL ARTICLE AND THE INFORMATION REQUIRED UNDER § 19-111(G) OF THE HEALTH - GENERAL ARTICLE [and the amount of the assessment.

(h) Each payor shall pay for health care services in accordance with the payment system adopted under § 19-1509 of the Health - General Article.]

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) All property of any kind, including personal property, records, fixtures, appropriations, credits, assets, liabilities, obligations, rights, and privileges, held prior to October 1, 1999, by the State Health Resources Planning Commission shall be and hereby are transferred to the Maryland Health Care Access and Cost Commission;

(b) Except as otherwise provided by law, all contracts, agreements, grants, or other obligations entered into prior to October 1, 1999, by the State Health Resources Planning Commission and which by their terms are to continue in effect on or after October 1, 1999, shall be valid, legal, and binding obligations of the Maryland Health Care Access and Cost Commission, under the terms of the obligations;

(c) Any transaction affected by any change of nomenclature under this Act, and validly entered into before October 1, 1999, and every right, duty, or interest flowing from the transaction, remains valid on and after October 1, 1999, as if the change of nomenclature had not occurred; and

(d) All employees who are transferred to the Maryland Health Care Access and Cost Commission from the State Health Resources Planning Commission on October 1, 1999, shall be so transferred without diminution of their rights, benefits, or employment or retirement status.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The publishers of the Annotated Code of Maryland, subject to the approval of the Department of Legislative Services, shall propose the correction of any agency names and titles throughout the Code that are rendered incorrect by this Act; and

(b) Subject to the approval of the Director of the Department of Legislative Services, the publishers of the Annotated Code of Maryland shall correct any cross-references that are rendered incorrect by this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) Notwithstanding the repeal of § 19-122 of the Health - General Article under Section 1 of this Act, until the end of May 31, 2000, the Health Care Access and Cost Commission shall continue to assess and collect user fees from hospitals and nursing homes in the same manner and with the same authority as did the Health Resources Planning Commission in accordance with the provisions of § 19-122 of the Health - General Article as it was in effect on September 30, 1999; and

(b) All fees assessed and collected by the Health Care Access and Cost Commission in accordance with subsection (a) of this section shall be paid into the Health Care Access and Cost Fund established under § 19-1515 of the Health - General Article and shall be used only to provide funding for the Health Care Access and Cost Commission and for the purposes authorized under this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That any balance remaining in the Health Resources Planning Commission Fund, as provided in § 19-122 of the Health - General Article at the end of September 30, 1999 shall be transferred to the Health Care Access and Cost Fund, as established under § 19-1515 of the Health - General Article.

SECTION 8. AND BE IT FURTHER ENACTED, That any balance remaining in the Health Care Access and Cost Fund, as provided in § 19-1515 of the Health - General Article at the end of May 31, 2000 shall be transferred to the Health Care Access and Cost Commission Fund, as enacted by Section 3 of this Act.

SECTION 9. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect June 1, 2000.

SECTION 10. AND BE IT FURTHER ENACTED, That, beginning on October 1, 1999, the Chairman and the Executive Director of the Health Care Access and Cost Commission shall meet regularly, and at least once every three months, with the Chairman and Executive Director of the Health Services Cost Review Commission to foster the coordination of functions between the two commissions and to evaluate the feasibility, desirability, and best method of reorganizing the duties and responsibilities of the two commissions under one commission.

SECTION 11. AND BE IT FURTHER ENACTED, That, on or before January 1, 2000, the Health Care Access and Cost Commission and the Health Services Cost Review Commission, shall review and provide a preliminary report, and on or before July 1, 2000, a final report, to the General Assembly on:

(a) the reorganization of the Health Resources Planning Commission into the Health Care Access and Cost Commission as of the date of the report;

(b) the feasibility, desirability, and most efficient method of reorganizing the duties and responsibilities of the Health Care Access and Cost Commission and Health Services Cost Review Commission under one commission; and

(c) an estimate as to the amount of time necessary to reorganize the Health Care Access and Cost Commission and the Health Services Cost Review Commission under one commission.

SECTION 12. AND BE IT FURTHER ENACTED, That the Maryland Health Care Access and Cost Commission shall conduct a study and make recommendations on the appropriate funding level for the Commission and user fee allocation among those currently assessed user fees to fund the Commission. The findings of the study and recommendations shall be reported to the General Assembly on or before September 1, 2000.

SECTION 13. AND BE IT FURTHER ENACTED, That § 19-131 of the Health - General Article as enacted by Section 2 of this Act shall remain in effect for a period of 3 years and, at the end of September 30, 2002, with no further action required by the General Assembly, shall be abrogated and of no further force.

SECTION 14. AND BE IT FURTHER ENACTED, That the Governor shall appoint members to fill the two open vacancies that existed as of March 1, 1999 on the Maryland Health Care Access and Cost Commission from among the current members of the Health Resources Planning Commission.

SECTION 15. AND BE IT FURTHER ENACTED, That Section 14 of this Act shall take effect June 1, 1999.

SECTION ~~12~~ 16. AND BE IT FURTHER ENACTED, That, except as provided in ~~Section~~ Sections 9 and 15 of this Act, this Act shall take effect October 1, 1999.