

HOUSE BILL 5

Unofficial Copy  
C3

2000 Regular Session  
0lr0951

(PRE-FILED)

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By: **Delegates Taylor, Dewberry, Hurson, Arnick, Busch, Guns, Harrison,  
Hixson, Howard, Kopp, Menes, Montague, Owings, Rawlings,  
Rosenberg, Vallario, and Wood**

Requested: November 15, 1999  
Introduced and read first time: January 12, 2000  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 22, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Maintenance Organizations - Responsibility for and Regulation of**  
3 **Downstream Risk Assumption Contracts - Member and Provider Protection**

4 FOR the purpose of requiring health maintenance organizations and certain other  
5 entities that enter into administrative service provider contracts ~~and~~  
6 ~~downstream risk assumption contracts~~ to meet certain requirements; clarifying  
7 the responsibility of certain health maintenance organizations for certain claims  
8 and payments for health care services under an administrative service provider  
9 contract; specifying that certain requirements concerning administrative service  
10 provider contracts ~~and downstream risk assumption contracts~~ apply to managed  
11 care organizations under the Maryland Medical Assistance Program;  
12 ~~authorizing the Maryland Insurance Commissioner to impose a certain~~  
13 ~~additional penalty on a health maintenance organization; making the provisions~~  
14 ~~of this Act applicable to certain provider sponsored organizations under certain~~  
15 ~~circumstances; specifying that certain provisions of law apply to a licensed~~  
16 ~~health services contractor and officers, directors, and trustees of a licensed~~  
17 ~~health services contractor; requiring the Commissioner, in consultation with the~~  
18 ~~Secretary of Health and Mental Hygiene, to adopt certain regulations for a~~  
19 ~~certain methodology; prohibiting a health maintenance organization from~~  
20 ~~entering into a downstream risk assumption contract with a person unless the~~  
21 ~~person is a licensed health services contractor; prohibiting a licensed health~~  
22 ~~services contractor from entering into a downstream risk assumption contract~~  
23 ~~with another licensed health services contractor under certain circumstances;~~  
24 ~~specifying the application content and requirements for an applicant for~~  
25 ~~licensure as a health services contractor; specifying certain additional~~

1 information to be submitted to the Commissioner by an applicant for licensure  
2 as a health services contractor; requiring an applicant for licensure as a health  
3 services contractor to satisfy the Commissioner that the applicant has a certain  
4 capacity and will meet certain requirements; requiring the Commissioner to  
5 establish and adopt by regulation certain minimum capital and surplus  
6 requirements for licensed health services contractors, certain requirements for  
7 an insolvency plan, and certain requirements for the creation of a segregated  
8 fund or availability of certain resources; authorizing the Commissioner to  
9 require that a health maintenance organization and a licensed health services  
10 contractor file and receive approval of a certain plan; requiring a licensed health  
11 services contractor to meet certain requirements of law regarding payment and  
12 denial of claims; specifying the type of financial statement that a certain  
13 contracting provider must provide to a certain health maintenance organization;  
14 requiring a certain health maintenance organization to establish a certain fund;  
15 requiring a certain contracting provider to submit monthly reports to a certain  
16 health maintenance organization on the status of certain payments and  
17 compliance with certain laws; specifying the frequency of certain audits;  
18 specifying that a health maintenance organization shall meet certain  
19 requirements regardless of the existence of a certain fund or certain contract  
20 provisions; ~~clarifying that with certain exemptions, members and subscribers~~  
21 ~~are not liable to a licensed health services contractor for certain services;~~  
22 ~~requiring a licensed health services contractor to file certain reports with the~~  
23 ~~Commissioner and certain health maintenance organizations by certain dates;~~  
24 ~~authorizing the Commissioner to require certain quarterly reports; specifying~~  
25 ~~certain provisions of law relating to financial impairment, liquidation, and~~  
26 ~~rehabilitation of an insurer apply to a licensed health services contractor;~~  
27 ~~prohibiting certain entities from entering into an administrative service~~  
28 ~~contract unless a certain plan is filed and approved by the Commissioner;~~  
29 ~~specifying the contents of a certain plan to be filed and approved by the~~  
30 ~~Commissioner; requiring certain health maintenance organizations to file~~  
31 ~~certain information with the Commissioner; requiring certain entities to follow a~~  
32 ~~certain plan; requiring certain entities to monitor a contracting provider for~~  
33 ~~compliance with a certain plan and to notify a contracting provider of failure to~~  
34 ~~comply with the plan; specifying the responsibilities of certain entities upon a~~  
35 ~~contracting provider's failure to comply with a certain plan; specifying the~~  
36 ~~responsibility of a health maintenance organization upon the failure of a~~  
37 ~~licensed health services contractor to meet certain requirements; specifying that~~  
38 ~~a certain plan and certain documentation are confidential; providing for the~~  
39 ~~expiration and renewal of a license for a health services contractor; prohibiting~~  
40 ~~a licensed health services contractor from violating certain provisions of law or~~  
41 ~~committing certain acts; specifying that the failure of a certain health~~  
42 maintenance organization to comply with the terms of a certain contract is a  
43 violation of certain provisions of law; providing that a certain segregated fund is  
44 not the asset of a certain contracting provider; establishing a certain  
45 registration system for certain contracting providers; prohibiting a health  
46 maintenance organization from contracting with a certain unregistered  
47 contracting provider; providing for certain application requirements;  
48 authorizing the Commissioner to adopt certain regulations; establishing certain

1 penalties; ~~requiring the Commissioner to issue a certain notice to the Secretary;~~  
 2 ~~altering certain definitions; defining certain terms; requiring the Commissioner~~  
 3 ~~to submit a certain report to the Governor and the General Assembly on or~~  
 4 ~~before a certain date; and generally relating to health maintenance~~  
 5 ~~organizations, licensed health services contractors, contracting providers, and~~  
 6 ~~regulation of administrative service provider contracts and downstream risk~~  
 7 ~~assumption contracts.~~

8 BY renumbering

9 Article - Health - General  
 10 Section 19-713.3 and 19-713.4, respectively  
 11 to be Section 19-713.4 and 19-713.5, respectively  
 12 Annotated Code of Maryland  
 13 (1996 Replacement Volume and 1999 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article - Health - General  
 16 Section 15-102.3  
 17 Annotated Code of Maryland  
 18 (1994 Replacement Volume and 1999 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article - Health - General  
 21 ~~Section 19-706(y), 19-712(b), 19-713.2, 19-729, and 19-730, and 19-7A-03~~  
 22 Annotated Code of Maryland  
 23 (1996 Replacement Volume and 1999 Supplement)

24 BY adding to

25 Article - Health - General  
 26 Section 19-712(c) and 19-713.3  
 27 Annotated Code of Maryland  
 28 (1996 Replacement Volume and 1999 Supplement)

29 ~~BY repealing~~

30 ~~Article - Health - General~~  
 31 ~~Section 19-713.2~~  
 32 ~~Annotated Code of Maryland~~  
 33 ~~(1996 Replacement Volume and 1999 Supplement)~~

34 BY repealing and reenacting, with amendments,

35 Article - Insurance  
 36 ~~Section 9-231 and 15-605(a)~~  
 37 Annotated Code of Maryland  
 38 (1997 Volume and 1999 Supplement)

1 ~~BY adding to~~  
 2 ~~Article - Insurance~~  
 3 ~~Section 15-10D-01 through 15-10D-11, inclusive, to be under the new subtitle~~  
 4 ~~"Subtitle 10D. Regulation of Administrative Service Provider Contracts~~  
 5 ~~and Downstream Risk Assumption Contracts"~~  
 6 ~~Annotated Code of Maryland~~  
 7 ~~(1997 Volume and 1999 Supplement)~~

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 9 MARYLAND, That Section(s) 19-713.3 and 19-713.4, respectively, of Article - Health  
 10 - General of the Annotated Code of Maryland be renumbered to be Section(s)  
 11 19-713.4 and 19-713.5, respectively.

12 ~~SECTION 1. 2. AND BE IT FURTHER ENACTED BY THE GENERAL~~  
 13 ~~ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:~~

14 **Article - Health - General**

15 15-102.3.

16 (a) The provisions of § 15-112 of the Insurance Article (Provider panels) shall  
 17 apply to managed care organizations in the same manner they apply to carriers.

18 (b) The provisions of § 15-1005 of the Insurance Article shall apply to  
 19 managed care organizations in the same manner they apply to health maintenance  
 20 organizations.

21 (c) ~~THE PROVISIONS OF TITLE 15, SUBTITLE 10D OF THE INSURANCE ARTICLE~~  
 22 ~~SHALL §§ 19-712, 19-713.2, AND 19-713.3 OF THIS ARTICLE APPLY TO MANAGED CARE~~  
 23 ~~ORGANIZATIONS IN THE SAME MANNER THEY APPLY TO HEALTH MAINTENANCE~~  
 24 ~~ORGANIZATIONS.~~

25 (D) (1) Except as otherwise provided in this subsection, the provisions of §  
 26 19-718 of this article (Financial affairs examination) shall apply to managed care  
 27 organizations in the same manner they apply to health maintenance organizations.

28 (2) The Insurance Commissioner or an agent of the Commissioner shall  
 29 examine the financial affairs and status of each managed care organization at least  
 30 once every 5 years.

31 ~~19-706.~~

32 ~~(y) The provisions of Title 15, Subtitles 10A, [and] 10C, AND 10D of the~~  
 33 ~~Insurance Article shall apply to health maintenance organizations.~~

34 19-712.

35 (b) (1) A person who holds a certificate of authority to operate a health  
 36 maintenance organization under this subtitle and who enters into any administrative

1 service provider contract, as defined in [§ 19-713.1] § 19-713.2 of this subtitle, with  
 2 a person or entity for the provision of health care services to subscribers shall be  
 3 responsible for all claims or payments for health care services:

4 (i) Covered under the subscriber's contract; and

5 (ii) Rendered by a provider, who is not the person or entity which  
 6 entered into the administrative service provider contract with the health  
 7 maintenance organization, pursuant to a referral by a person or entity which entered  
 8 into the administrative service provider contract with the health maintenance  
 9 organization.

10 (2) Responsibility for claims and payments under this subsection is  
 11 subject to the provisions of [§ 19-712.1 of this subtitle] § 15-1005 OF THE INSURANCE  
 12 ARTICLE.

13 (C) THE RESPONSIBILITY OF A HEALTH MAINTENANCE ORGANIZATION FOR  
 14 CLAIMS OR PAYMENTS FOR HEALTH CARE SERVICES IN ACCORDANCE WITH  
 15 SUBSECTION (B) OF THIS SECTION UNDER AN ADMINISTRATIVE SERVICE PROVIDER  
 16 CONTRACT:

17 (1) IS NOT LIMITED BY THE AMOUNT IN A SEGREGATED FUND  
 18 ESTABLISHED UNDER § 19-713.2 OF THIS TITLE;

19 (2) EXISTS IRRESPECTIVE OF THE INSOLVENCY OR OTHER INABILITY OR  
 20 FAILURE OF A CONTRACTING PROVIDER, AS DEFINED IN § 19-713.2 OF THIS  
 21 SUBTITLE, TO PAY;

22 (3) EXISTS IRRESPECTIVE OF THE DELEGATION OR FURTHER  
 23 SUBCONTRACTING OF HEALTH CARE SERVICES BY A CONTRACTING PROVIDER TO AN  
 24 EXTERNAL PROVIDER, AS DEFINED IN § 19-713.2 OF THIS SUBTITLE;

25 (4) MAY NOT BE ALTERED BY CONTRACT; AND

26 (5) APPLIES TO ALL HEALTH CARE SERVICES, INCLUDING THOSE  
 27 PROVIDED UNDER STATE AND FEDERAL PROGRAMS, UNLESS PREEMPTED BY  
 28 FEDERAL LAW.

29 {19-713.2.

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

31 (2) "Administrative service provider contract" means a contract or  
 32 capitation agreement between a health maintenance organization and a contracting  
 33 provider which includes requirements that:

34 (i) The contracting provider accept payments from a health  
 35 maintenance organization for health care services to be provided to members of the  
 36 health maintenance organization that the contracting provider arranges to be  
 37 provided by external providers; and

1 (ii) The contracting provider administer payments pursuant to the  
 2 contract ~~within~~ WITH the health maintenance organization for the health care  
 3 services to the external providers.

4 (3) "Contracting provider" means a ~~physician or other health care~~  
 5 ~~provider~~ PERSON who enters into an administrative service provider contract with a  
 6 health maintenance organization.

7 (4) "External provider" means a ~~health care provider~~ PERSON, including  
 8 a physician or hospital, who is not:

9 (i) A contracting provider; or

10 (ii) An employee, shareholder, or partner of a contracting provider.

11 (b) A health maintenance organization may not enter into an administrative  
 12 service provider contract unless:

13 (1) The health maintenance organization files with the Insurance  
 14 Commissioner a plan that satisfies the requirements of subsection (c) of this section;  
 15 and

16 (2) The Insurance Commissioner does not disapprove the filing within 30  
 17 days after the plan is filed.

18 (c) The plan required under subsection (b) of this section shall:

19 (1) Require the contracting provider to provide the health maintenance  
 20 organization with regular reports, at least quarterly, that identify payments made or  
 21 owed to external providers in sufficient detail to determine if the payments are being  
 22 made in compliance with law;

23 (2) Require the contracting provider to provide to the health  
 24 maintenance organization a current, AUDITED annual financial statement of the  
 25 contracting provider each year;

26 (3) Require the ~~creation by the contracting provider, or on the~~  
 27 ~~contracting provider's behalf, of~~ HEALTH MAINTENANCE ORGANIZATION TO  
 28 ESTABLISH a segregated fund, IN A FORM APPROVED BY THE COMMISSIONER, THAT  
 29 IS:

30 (I) ~~(which may include withheld funds, escrow accounts, letters of~~  
 31 ~~credit, or similar arrangements), or require the availability of other resources that are~~  
 32 sufficient to satisfy the contracting provider's obligations to external providers for  
 33 services rendered to members of the health maintenance organization; AND

34 (II) EQUAL TO AT LEAST 3 MONTHS OF CAPITATION AND OTHER  
 35 PAYMENTS FOR HEALTH CARE SERVICES BY THE HEALTH MAINTENANCE  
 36 ORGANIZATION TO THE CONTRACTING PROVIDER;

1 (4) Require an explanation of how the fund ~~or resources required~~  
2 ESTABLISHED under ~~paragraph ITEM(3) of this subsection~~ ~~create funds or other~~  
3 ~~resources~~ IS sufficient to satisfy the contracting provider's obligations to external  
4 providers for services rendered to members of the health maintenance organization;  
5 ~~and~~

6 (5) ~~Permit~~ REQUIRE the health maintenance organization, ~~at mutually~~  
7 ~~agreed upon times and upon reasonable prior notice~~ AT LEAST QUARTERLY, to audit  
8 and inspect the contracting provider's books, records, and operations relevant to the  
9 provider's contract for the purpose of determining the contracting provider's  
10 compliance with the plan;

11 (6) REQUIRE THE HEALTH MAINTENANCE ORGANIZATION TO INCLUDE  
12 A COPY OF THE FINANCIAL STATEMENT REQUIRED UNDER ITEM (2) OF THIS  
13 SUBSECTION IN ITS ANNUAL REPORT UNDER § 19-717 OF THIS SUBTITLE; AND

14 (7) REQUIRE THE CONTRACTING PROVIDER TO SUBMIT MONTHLY  
15 REPORTS TO THE HEALTH MAINTENANCE ORGANIZATION ON THE STATUS OF THE  
16 PAYMENTS MADE AND OWED TO EXTERNAL PROVIDERS AND THE COMPLIANCE BY  
17 THE CONTRACTING PROVIDER WITH § 15-1005 OF THE INSURANCE ARTICLE.

18 (d) The health maintenance organization and the contracting provider shall  
19 comply with the plan.

20 (E) (1) THE HEALTH MAINTENANCE ORGANIZATION SHALL FILE WITH THE  
21 COMMISSIONER THE RESULTS OF EACH QUARTERLY AUDIT REQUIRED UNDER  
22 SUBSECTION (C)(5) OF THIS SECTION.

23 (2) AT LEAST ANNUALLY, THE HEALTH MAINTENANCE ORGANIZATION  
24 SHALL FILE THE FOLLOWING INFORMATION WITH THE COMMISSIONER IN A FORM  
25 APPROVED BY THE COMMISSIONER:

26 (I) A COPY OR SUMMARY OF EACH ADMINISTRATIVE SERVICE  
27 PROVIDER CONTRACT;

28 (II) DOCUMENTATION OF CAPITATION AND OTHER PAYMENTS  
29 MADE UNDER EACH ADMINISTRATIVE SERVICE PROVIDER CONTRACT;

30 (III) THE NUMBER OF LIVES COVERED UNDER EACH  
31 ADMINISTRATIVE SERVICE PROVIDER CONTRACT;

32 (IV) THE FUNDING AND STATUS OF EACH SEGREGATED FUND; AND

33 (V) ANY OTHER INFORMATION THE COMMISSIONER DETERMINES  
34 TO BE APPROPRIATE.

35 (e) (F) (1) The health maintenance organization shall monitor the  
36 contracting provider to assure compliance with the plan, and the health maintenance  
37 organization shall notify the contracting provider whenever a failure to comply with  
38 the plan occurs.

1 (2) Upon the failure of the contracting provider to comply with the plan  
2 following notice of noncompliance, or upon termination of the administrative service  
3 provider contract for any reason, the health maintenance organization shall NOTIFY  
4 THE COMMISSIONER AND SHALL assume the administration of any payments due  
5 from the contracting provider to external providers on behalf of the contracting  
6 provider, AS REQUIRED UNDER § 19-712 OF THIS SUBTITLE.

7 ~~(F)~~ (G) The plan and all supporting documentation submitted in connection  
8 with the plan shall be treated as confidential and proprietary, and may not be  
9 disclosed except as otherwise required by law.

10 ~~(E)~~ (H) On July 1, 1991, any health maintenance organization which has  
11 existing contracts or arrangements subject to this section shall file a plan under this  
12 section within 120 days.}

13 (I) THE SEGREGATED FUND ESTABLISHED UNDER SUBSECTION (C) OF THIS  
14 SECTION MAY NOT BE CONSIDERED AN ASSET OF A CONTRACTING PROVIDER FOR  
15 THE PURPOSE OF DETERMINING THE ASSETS OF A CONTRACTING PROVIDER.

16 (J) IT IS A VIOLATION OF THIS SECTION FOR A HEALTH MAINTENANCE  
17 ORGANIZATION TO FAIL TO COMPLY WITH THE TERMS OF AN ADMINISTRATIVE  
18 SERVICE PROVIDER CONTRACT.

19 19-713.3.

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
21 INDICATED.

22 (2) "ADMINISTRATIVE SERVICE PROVIDER CONTRACT" HAS THE  
23 MEANING STATED IN § 19-713.2 OF THIS SUBTITLE.

24 (3) "CONTRACTING PROVIDER" HAS THE MEANING STATED IN § 19-713.2  
25 OF THIS SUBTITLE.

26 (B) (1) A PERSON MUST REGISTER WITH THE COMMISSIONER BEFORE THE  
27 PERSON ACTS AS A CONTRACTING PROVIDER IN THIS STATE.

28 (2) A HEALTH MAINTENANCE ORGANIZATION MAY NOT ENTER INTO AN  
29 ADMINISTRATIVE SERVICE PROVIDER CONTRACT WITH A CONTRACTING PROVIDER  
30 THAT HAS NOT REGISTERED WITH THE COMMISSIONER.

31 (C) (1) AN APPLICANT FOR REGISTRATION SHALL:

32 (I) SUBMIT AN APPLICATION TO THE COMMISSIONER IN A FORM  
33 APPROVED BY THE COMMISSIONER AND INCLUDE ANY INFORMATION REQUIRED  
34 UNDER SUBSECTION (D) OF THIS SECTION; AND

35 (II) PAY TO THE COMMISSIONER AN APPLICATION FEE  
36 ESTABLISHED BY THE COMMISSIONER BY REGULATION SUFFICIENT TO COVER THE



1 COSTS ASSOCIATED WITH CARRYING OUT THE PROVISIONS OF THIS SECTION AND §  
2 19-713.2 OF THIS SUBTITLE.

3 (2) (I) A REGISTRATION UNDER THIS SECTION EXPIRES 2 YEARS FROM  
4 THE DATE THE APPLICATION IS APPROVED.

5 (D) THE REGISTRATION APPLICATION MAY REQUIRE THE FOLLOWING  
6 INFORMATION:

7 (1) THE AMOUNT OF CAPITATION AND OTHER PAYMENTS RECEIVED BY  
8 THE CONTRACTING PROVIDER UNDER ALL ADMINISTRATIVE SERVICE PROVIDER  
9 CONTRACTS ON AN ANNUAL BASIS, INCLUDING AMOUNTS RECEIVED UNDER STATE  
10 AND FEDERAL PROGRAMS;

11 (2) THE NUMBER OF LIVES COVERED BY THE CONTRACTING PROVIDER  
12 UNDER ALL ADMINISTRATIVE SERVICE PROVIDER CONTRACTS;

13 (3) INFORMATION RELATING TO THE CONTROL OF THE APPLICANT,  
14 INCLUDING THE IDENTITY OF:

15 (I) MANAGEMENT;

16 (II) THE BOARD OF DIRECTORS; AND

17 (III) CONTROLLING OWNERS;

18 (4) A DESCRIPTION OF THE MEDICAL CARE DELIVERY SYSTEM OF THE  
19 CONTRACTING PROVIDER, INCLUDING A COPY OF ANY CONTRACT RELATED TO THE  
20 PROVISION OF ANY SERVICE REQUIRED UNDER THE ADMINISTRATIVE SERVICE  
21 PROVIDER CONTRACT; AND

22 (5) A COPY OF THE MOST RECENT AUDITED ANNUAL FINANCIAL  
23 STATEMENT REQUIRED UNDER § 19-713.2(C)(2) OF THIS SUBTITLE.

24 (E) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE  
25 REQUIREMENTS OF THIS SECTION.

26 19-729.

27 (a) A health maintenance organization may not:

28 (1) Violate any provision of this subtitle or any rule or regulation  
29 adopted under it;

30 (2) Fail to fulfill its obligations to provide the health care services  
31 specified in its contracts with subscribers;

32 (3) Make any false statement with respect to any report or statement  
33 required by this subtitle or by the Commissioner under this subtitle;

1 (4) Advertise, merchandise, or attempt to merchandise its services in a  
2 way that misrepresents its services or capacity for service;

3 (5) Engage in a deceptive, misleading, unfair, or unauthorized practice  
4 as to advertising or merchandising;

5 (6) Prevent or attempt to prevent the Commissioner or the Department  
6 from performing any duty imposed by this subtitle;

7 (7) Fraudulently obtain or fraudulently attempt to obtain any benefit  
8 under this subtitle;

9 (8) Fail to fulfill the basic requirements to operate as a health  
10 maintenance organization as provided in § 19-710 of this subtitle;

11 (9) Violate any applicable provision of Title 15, Subtitle 12 of the  
12 Insurance Article;

13 (10) Fail to provide services to a member in a timely manner as provided  
14 in § 19-705.1(b)(1) of this subtitle;

15 (11) Fail to comply with the provisions of Title 15, Subtitle 10A, 10B, ~~for~~  
16 10C, ~~10D~~, or § 2-112.2 of the Insurance Article; or

17 (12) Violate any provision of § 19-712.5 of this subtitle.

18 (b) If any health maintenance organization violates this section, the  
19 Commissioner may pursue any one or more of the courses of action described in §  
20 19-730 of this subtitle.

21 19-730.

22 (a) If any person violates any provision of § 19-729 of this subtitle, the  
23 Commissioner may:

24 (1) Issue an administrative order that requires the health maintenance  
25 organization to:

26 (i) Cease inappropriate conduct or practices by it or any of the  
27 personnel employed or associated with it;

28 (ii) Fulfill its contractual obligations;

29 (iii) Provide a service that has been denied improperly;

30 (iv) Take appropriate steps to restore its ability to provide a service  
31 that is provided under a contract;

32 (v) Cease the enrollment of any additional enrollees except  
33 newborn children or other newly acquired dependents or existing enrollees; or

1 (vi) Cease any advertising or solicitation;

2 (2) [~~Impose~~] ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS~~  
3 ~~SECTION, IMPOSE~~ a penalty of not more than \$5,000 for each unlawful act committed;

4 (3) Impose any penalty that could be imposed on an insurer under §  
5 4-113(d) of the Insurance Article;

6 (4) Suspend, revoke, or refuse to renew the certificate of authority to do  
7 business as a health maintenance organization;

8 (5) Suspend, revoke, or refuse to renew the certificate of a medical  
9 director of a health maintenance organization; OR

10 (6) ~~Impose any penalty that could be imposed on an insurer under §~~  
11 ~~4-113(d) of the Insurance Article; or~~

12 (7) (6) Apply to any court for legal or equitable relief considered  
13 appropriate by the Commissioner or the Department, in accordance with the joint  
14 internal procedures.

15 (b) IN ADDITION TO THE ACTIONS AVAILABLE TO THE COMMISSIONER IN  
16 SUBSECTION (A) OF THIS SECTION, IF A PERSON VIOLATES ANY PROVISION OF ~~TITLE~~  
17 ~~15, SUBTITLE 10D OF THE INSURANCE ARTICLE § 19-712, § 19-713.2, OR § 19-713.3 OF~~  
18 THIS SUBTITLE, THE COMMISSIONER MAY IMPOSE A PENALTY OF NOT MORE THAN  
19 \$125,000 FOR EACH VIOLATION.

20 (C) If the Commissioner issues an order or imposes any penalty under this  
21 section, the Commissioner immediately shall provide written notice of the order or  
22 penalty to the Secretary.

23 ~~19-7A-03.~~

24 (a) (1) ~~Before an entity may operate as a provider-sponsored organization~~  
25 ~~under the federal Medicare+Choice Program, the entity must obtain a license from~~  
26 ~~the Commissioner.~~

27 (2) ~~The Commissioner shall issue a license under paragraph (1) of this~~  
28 ~~subsection to any entity to operate as a provider-sponsored organization that meets~~  
29 ~~the requirements of subsection (b) of this section.~~

30 (b) ~~To operate as a provider-sponsored organization under the federal~~  
31 ~~Medicare+Choice Program in this State, an entity shall:~~

32 (1) ~~Meet the definition of a provider-sponsored organization under §~~  
33 ~~19-7A-01 of this subtitle; and~~

34 (2) ~~Meet the requirements applicable to a health maintenance~~  
35 ~~organization under Subtitle 7 of this title AND TITLE 15, SUBTITLE 10D OF THE~~

1 ~~INSURANCE ARTICLE~~ to the extent those requirements are not preempted by federal  
2 law.

3

### Article - Insurance

4 ~~9-231.~~

5 (a) ~~In this section, "chief executive officer" means a person charged by the~~  
6 ~~board of directors or trustees of an insurer to administer and implement policies and~~  
7 ~~procedures of the insurer.~~

8 (b) The provisions of this section that apply to insurers also apply to:

9 (1) a corporation that operates a nonprofit health service plan under  
10 Title 14, Subtitle 1 of this article;

11 (2) a dental plan organization, as defined in § 14-401 of this article;

12 (3) a surplus lines insurer; [and]

13 (4) a health maintenance organization; AND

14 (5) ~~A LICENSED HEALTH SERVICES CONTRACTOR AS DEFINED IN §~~  
15 ~~15-10D-01 OF THIS ARTICLE.~~

16 (c) (1) A chief executive officer shall immediately provide the Commissioner  
17 and all members of the board of directors or the trustees of an insurer with written  
18 notice that the insurer is an impaired insurer, if the chief executive officer:

19 (i) knows that the insurer is an impaired insurer; and

20 (ii) for a period of 60 days, has been unable to remedy the  
21 impairment.

22 (2) A director, officer, or trustee of an insurer who knows that the insurer  
23 is an impaired insurer shall immediately notify the chief executive officer of the  
24 impairment.

25 (d) Notice provided to the Commissioner under this section has the  
26 confidentiality specified in § 7-106 of this article.

27 (e) If a person knows that the action will result in or contribute to an insurer  
28 becoming an impaired insurer, the person may not:

29 (1) conceal property that belongs to the insurer;

30 (2) transfer or conceal property of the person or property that belongs to  
31 the insurer in contemplation of a delinquency proceeding;

32 (3) conceal, destroy, mutilate, alter, or falsify a document that relates to  
33 the property of the insurer;

1           (4)     withhold a document from a receiver, trustee, or other officer of the  
2 court entitled to its possession under this subtitle; or

3           (5)     give, obtain, or receive anything of value for acting or forbearing to  
4 act in a delinquency proceeding.

5     ~~(f)     (1)     In addition to any other applicable penalty provided in this article, a  
6 person that violates subsection (e) of this section is guilty of a misdemeanor and on  
7 conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 3  
8 years or both.~~

9           (2)     In addition to any other applicable penalty provided in this article, a  
10 person that violates subsection (e) of this section is subject to a civil penalty not  
11 exceeding \$50,000.

12     ~~(g)     THE REQUIREMENTS AND PENALTIES OF THIS SECTION THAT APPLY TO A  
13 CHIEF EXECUTIVE OFFICER OF AN INSURER APPLY IN THE SAME MANNER TO A  
14 DIRECTOR, OFFICER, OR TRUSTEE OF A LICENSED HEALTH SERVICES CONTRACTOR.~~

15     ~~(H)     The Commissioner may issue a cease and desist order in accordance with §  
16 27-103 of this article against a person that violates subsection (c) or subsection (e) of  
17 this section.~~

18 15-605.

19     (a)     (1)     On or before March 1 of each year, an annual report that meets the  
20 specifications of paragraph (2) of this subsection shall be submitted to the  
21 Commissioner by:

22                     (i)     each authorized insurer that provides health insurance in the  
23 State;

24                     (ii)    each nonprofit health service plan that is authorized by the  
25 Commissioner to operate in the State;

26                     (iii)   each health maintenance organization that is authorized by the  
27 Commissioner to operate in the State; and

28                     (iv)    as applicable in accordance with regulations adopted by the  
29 Commissioner, each managed care organization that is authorized to receive Medicaid  
30 prepaid capitation payments under Title 15, Subtitle 1 of the Health - General  
31 Article.

32           (2)     The annual report required under this subsection shall:

33                     (i)     be submitted in a form required by the Commissioner; and

34                     (ii)    include for the preceding calendar year the following data for all  
35 health benefit plans specific to the State:

36                             1.     premiums written;

- 1    2.        premiums earned;
- 2    3.        total amount of incurred claims including reserves for
- 3 claims incurred but not reported at the end of the previous year;
- 4    4.        total amount of incurred expenses, including commissions,
- 5 acquisition costs, general expenses, taxes, licenses, and fees, estimated if necessary;
- 6    5.        loss ratio; and
- 7    6.        expense ratio.

8                    (3)        The data required under paragraph (2) of this subsection shall be  
9 reported:

- 10                    (i)        by product delivery system for health benefit plans that are
- 11 issued under Subtitle 12 of this title;
- 12                    (ii)        in the aggregate for health benefit plans that are issued to
- 13 individuals;
- 14                    (iii)        in the aggregate for a managed care organization that operates
- 15 under Title 15, Subtitle 1 of the Health - General Article; and
- 16                    (iv)        in a manner determined by the Commissioner in accordance
- 17 with this subsection for all other health benefit plans.

18                    (4)        THE COMMISSIONER, IN CONSULTATION WITH THE SECRETARY OF  
19 HEALTH AND MENTAL HYGIENE, SHALL ESTABLISH AND ADOPT BY REGULATION A  
20 METHODOLOGY TO BE UTILIZED USED IN THE ANNUAL REPORT THAT ENSURES A  
21 CLEAR SEPARATION OF ALL MEDICAL AND ADMINISTRATIVE EXPENSES WHETHER  
22 INCURRED DIRECTLY OR THROUGH A SUBCONTRACTOR.

23                    (5)        The Commissioner may conduct an examination to ensure that an  
24 annual report submitted under this subsection is accurate.

25                    [(5)]      (6)        Failure of an insurer, nonprofit health service plan, or health  
26 maintenance organization to submit the information required under this subsection  
27 in a timely manner shall result in a penalty of \$500 for each day after March 1 that  
28 the information is not submitted.

29                    ~~SUBTITLE 10D. REGULATION OF ADMINISTRATIVE SERVICE PROVIDER CONTRACTS~~  
30                    ~~AND DOWNSTREAM RISK ASSUMPTION CONTRACTS.~~

31 ~~15-10D-01.~~

32                    (A)        ~~IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~  
33 ~~INDICATED.~~

1       (B)     ~~"ADMINISTRATIVE SERVICE PROVIDER CONTRACT" MEANS A CONTRACT~~  
2 ~~OR CAPITATION AGREEMENT BETWEEN A HEALTH MAINTENANCE ORGANIZATION~~  
3 ~~AND A CONTRACTING PROVIDER OR BETWEEN A LICENSED HEALTH SERVICES~~  
4 ~~CONTRACTOR AND A CONTRACTING PROVIDER THAT INCLUDES REQUIREMENTS~~  
5 ~~THAT:~~

6           (1)     ~~THE CONTRACTING PROVIDER ACCEPT PAYMENTS FROM A HEALTH~~  
7 ~~MAINTENANCE ORGANIZATION FOR HEALTH CARE SERVICES TO BE PROVIDED TO~~  
8 ~~MEMBERS OF A HEALTH MAINTENANCE ORGANIZATION THAT THE CONTRACTING~~  
9 ~~PROVIDER ARRANGES TO BE PROVIDED BY EXTERNAL PROVIDERS; AND~~

10          (2)     ~~THE CONTRACTING PROVIDER ADMINISTER PAYMENTS PURSUANT~~  
11 ~~TO THE CONTRACT WITHIN THE HEALTH MAINTENANCE ORGANIZATION FOR THE~~  
12 ~~HEALTH CARE SERVICES TO THE EXTERNAL PROVIDERS.~~

13       (C)     ~~"CAPITATED BASIS" MEANS A FIXED MEMBER PER MONTH PAYMENT OR~~  
14 ~~FIXED PERCENTAGE OF PREMIUM PAYMENT WHERE THE PROVIDER OR~~  
15 ~~CONTRACTING PROVIDER ASSUMES THE RISK FOR THE COST OF THE CONTRACTED~~  
16 ~~HEALTH CARE SERVICE.~~

17       (D)     ~~"CONTRACTING PROVIDER" MEANS A PHYSICIAN OR OTHER HEALTH CARE~~  
18 ~~PROVIDER WHO ENTERS INTO AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT~~  
19 ~~WITH A HEALTH MAINTENANCE ORGANIZATION OR A LICENSED HEALTH SERVICES~~  
20 ~~CONTRACTOR.~~

21       (E)     ~~"DOWNSTREAM RISK ASSUMPTION CONTRACT" MEANS A CONTRACT OR~~  
22 ~~AGREEMENT, INCLUDING AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT, FOR~~  
23 ~~HEALTH CARE SERVICES TO BE PROVIDED TO A MEMBER OF A HEALTH~~  
24 ~~MAINTENANCE ORGANIZATION WITH PAYMENT TO BE MADE ON A CAPITATED BASIS~~  
25 ~~THAT INCLUDES REQUIREMENTS THAT:~~

26           (1)     ~~THE NUMBER OF MEMBERS TO RECEIVE HEALTH CARE SERVICES~~  
27 ~~PER MONTH EXCEEDS 100 INDIVIDUALS; OR~~

28           (2)     ~~THE CAPITATION AMOUNT TO BE RECEIVED MEETS OR EXCEEDS~~  
29 ~~\$50,000 PER MONTH.~~

30       (F)     ~~"EXTERNAL PROVIDER" MEANS A HEALTH CARE PROVIDER, INCLUDING A~~  
31 ~~PHYSICIAN OR HOSPITAL, WHO IS NOT:~~

32           (1)     ~~A CONTRACTING PROVIDER; OR~~

33           (2)     ~~AN EMPLOYEE, SHAREHOLDER, OR PARTNER OF A CONTRACTING~~  
34 ~~PROVIDER.~~

35       (G)     ~~"HEALTH CARE SERVICES" HAS THE MEANING STATED IN § 19-701(E) OF~~  
36 ~~THE HEALTH GENERAL ARTICLE AND INCLUDES ANY HEALTH OR MEDICAL~~  
37 ~~PROCEDURE OR SERVICE RENDERED BY A HEALTH CARE PROVIDER THAT:~~

1           (1)     PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN  
2 DISEASE OR DYSFUNCTION; OR

3           (2)     DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES, OR  
4 MEDICAL GOODS FOR THE TREATMENT OF A HUMAN DISEASE OR DYSFUNCTION.

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

7     (I)     "LICENSED HEALTH SERVICES CONTRACTOR" MEANS AN ENTITY OR  
8 PROVIDER THAT IS LICENSED BY THE COMMISSIONER IN ACCORDANCE WITH THE  
9 REQUIREMENTS OF THIS SUBTITLE.

10    (J)     "MEMBER" HAS THE MEANING STATED IN § 19-701(G) OF THE HEALTH-  
11 GENERAL ARTICLE.

12    (K)     "PROVIDER" MEANS ANY PERSON, INCLUDING A PHYSICIAN OR HOSPITAL,  
13 THAT IS LICENSED OR OTHERWISE AUTHORIZED IN THIS STATE TO PROVIDE HEALTH  
14 CARE SERVICES.

15 15-10D-02.

16    (A)     A HEALTH MAINTENANCE ORGANIZATION MAY NOT ENTER INTO A  
17 DOWNSTREAM RISK ASSUMPTION CONTRACT WITH A PERSON UNLESS THE PERSON  
18 IS A LICENSED HEALTH SERVICES CONTRACTOR IN ACCORDANCE WITH THIS  
19 SUBTITLE.

20    (B)     (1)     EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
21 LICENSED HEALTH SERVICES CONTRACTOR MAY NOT ENTER INTO A DOWNSTREAM  
22 RISK ASSUMPTION CONTRACT WITH ANOTHER LICENSED HEALTH SERVICES  
23 CONTRACTOR.

24           (2)     A HEALTH MAINTENANCE ORGANIZATION THAT IS ALSO A LICENSED  
25 HEALTH SERVICES CONTRACTOR MAY ENTER INTO A DOWNSTREAM RISK  
26 ASSUMPTION CONTRACT WITH A LICENSED HEALTH SERVICES CONTRACTOR FOR  
27 HEALTH CARE SERVICES TO BE PROVIDED TO MEMBERS OF THE HEALTH  
28 MAINTENANCE ORGANIZATION.

29 15-10D-03.

30    (A)     AN APPLICANT FOR LICENSURE AS A HEALTH SERVICES CONTRACTOR  
31 SHALL:

32           (1)     SUBMIT AN APPLICATION TO THE COMMISSIONER ON THE FORM  
33 THAT THE COMMISSIONER REQUIRES; AND

34           (2)     PAY TO THE COMMISSIONER THE APPLICATION FEE ESTABLISHED  
35 BY THE COMMISSIONER THROUGH REGULATION.

36    (B)     THE APPLICATION SHALL:



1           (1)     ~~BE ON A FORM AND ACCOMPANIED BY ANY SUPPORTING~~  
2 ~~DOCUMENTS THE COMMISSIONER REQUIRES; AND~~

3           (2)     ~~BE SIGNED AND VERIFIED BY THE APPLICANT.~~

4     (C)     ~~THE APPLICATION FEE REQUIRED UNDER SUBSECTION (A) OF THIS~~  
5 ~~SECTION SHALL BE SUFFICIENT TO PAY FOR THE ADMINISTRATIVE COSTS OF THE~~  
6 ~~LICENSURE PROGRAM AND ANY OTHER COSTS ASSOCIATED WITH CARRYING OUT~~  
7 ~~THE PROVISIONS OF THIS SUBTITLE.~~

8 ~~15-10D-04.~~

9     (A)     ~~IN CONJUNCTION WITH THE APPLICATION, AN APPLICANT FOR~~  
10 ~~LICENSURE AS A HEALTH SERVICES CONTRACTOR SHALL SUBMIT ADDITIONAL~~  
11 ~~INFORMATION TO THE COMMISSIONER, INCLUDING:~~

12           (1)     ~~A STATEMENT OF THE FINANCIAL CONDITION OF THE HEALTH~~  
13 ~~SERVICES CONTRACTOR, INCLUDING:~~

14                   (I)     ~~SOURCES OF FINANCIAL SUPPORT;~~

15                   (II)    ~~A BALANCE SHEET SHOWING ASSETS, LIABILITIES, AND~~  
16 ~~MINIMUM TANGIBLE NET WORTH; AND~~

17                   (III)   ~~ANY OTHER FINANCIAL INFORMATION THE COMMISSIONER~~  
18 ~~REQUIRES FOR ADEQUATE FINANCIAL EVALUATION;~~

19           (2)     ~~COPIES OF DOWNSTREAM RISK ASSUMPTION CONTRACTS PROPOSED~~  
20 ~~TO BE MADE BETWEEN THE APPLICANT FOR LICENSURE AS A HEALTH SERVICES~~  
21 ~~CONTRACTOR AND A HEALTH MAINTENANCE ORGANIZATION; AND~~

22           (3)     ~~COPIES OF ADMINISTRATIVE SERVICE PROVIDER CONTRACTS~~  
23 ~~PROPOSED TO BE MADE BETWEEN THE APPLICANT FOR LICENSURE AS A HEALTH~~  
24 ~~SERVICES CONTRACTOR AND A CONTRACTING PROVIDER.~~

25     (B)     ~~AN APPLICANT FOR LICENSURE AS A HEALTH SERVICES CONTRACTOR~~  
26 ~~SHALL SATISFY TO THE COMMISSIONER THAT THE APPLICANT HAS A~~  
27 ~~DEMONSTRATED CAPACITY TO ASSUME FINANCIAL RISK UNDER THE PROPOSED~~  
28 ~~DOWNSTREAM RISK ASSUMPTION CONTRACT AND WILL MEET THE REQUIREMENTS~~  
29 ~~OF THIS SUBTITLE.~~

30 ~~15-10D-05.~~

31     (A)     ~~THE COMMISSIONER SHALL ESTABLISH AND ADOPT BY REGULATION:~~

32           (1)     ~~MINIMUM CAPITAL AND SURPLUS REQUIREMENTS FOR LICENSED~~  
33 ~~HEALTH SERVICES CONTRACTORS; AND~~

34           (2)     ~~REQUIREMENTS THAT A LICENSED HEALTH SERVICES CONTRACTOR~~  
35 ~~MAINTAIN AN INSOLVENCY PLAN APPROVED BY THE COMMISSIONER.~~

1       ~~(B)   (1)   THE COMMISSIONER SHALL ESTABLISH AND ADOPT BY REGULATION~~  
2 ~~REQUIREMENTS FOR THE CREATION AND MAINTENANCE, BY THE LICENSED HEALTH~~  
3 ~~SERVICES CONTRACTOR OR ON THE LICENSED HEALTH SERVICES CONTRACTOR'S~~  
4 ~~BEHALF, OF A SEGREGATED FUND OR THE AVAILABILITY OF OTHER RESOURCES.~~

5               ~~(2)   THE REGULATIONS SHALL:~~

6                       ~~(I)   REQUIRE A SUFFICIENT AMOUNT TO BE HELD IN THE~~  
7 ~~SEGREGATED FUND TO SATISFY THE OBLIGATIONS OF THE LICENSED HEALTH~~  
8 ~~SERVICES CONTRACTOR TO EXTERNAL PROVIDERS FOR SERVICES RENDERED TO~~  
9 ~~MEMBERS OF THE HEALTH MAINTENANCE ORGANIZATION;~~

10                      ~~(II)   SPECIFY THE METHODOLOGY FOR DETERMINING A~~  
11 ~~SUFFICIENT AMOUNT TO BE HELD IN THE SEGREGATED FUND;~~

12                      ~~(III)   PROVIDE THAT THE SEGREGATED FUND MAY INCLUDE~~  
13 ~~WITHHELD FUNDS, ESCROW ACCOUNTS, LETTERS OF CREDIT, OR SIMILAR~~  
14 ~~ARRANGEMENTS;~~

15                      ~~(IV)   REQUIRE AN ANNUAL REPORTING OF THE STATUS OF THE~~  
16 ~~SEGREGATED FUND; AND~~

17                      ~~(V)   REQUIRE THAT ANY CHANGES MADE TO A DOWNSTREAM RISK~~  
18 ~~ASSUMPTION CONTRACT SHALL BE REVIEWED BY THE COMMISSIONER TO~~  
19 ~~DETERMINE THE SUFFICIENCY OF THE SEGREGATED FUND BASED ON THE CHANGES~~  
20 ~~MADE TO THE DOWNSTREAM RISK ASSUMPTION CONTRACT.~~

21       ~~(C)   UPON THE BANKRUPTCY OR INSOLVENCY OF A LICENSED HEALTH~~  
22 ~~SERVICES CONTRACTOR, THE SEGREGATED FUND CREATED UNDER THE~~  
23 ~~REGULATIONS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE THE~~  
24 ~~RESPONSIBILITY OF THE HEALTH MAINTENANCE ORGANIZATION AND SHALL BE~~  
25 ~~USED FOR PAYMENTS OWED BY THE LICENSED HEALTH SERVICES CONTRACTOR TO~~  
26 ~~EXTERNAL PROVIDERS AND MAY NOT BE CONSIDERED TO BE AN ASSET OR ACCOUNT~~  
27 ~~OF THE LICENSED HEALTH SERVICES CONTRACTOR.~~

28       ~~(D)   THE COMMISSIONER MAY REQUIRE THAT A HEALTH MAINTENANCE~~  
29 ~~ORGANIZATION AND A LICENSED HEALTH SERVICES CONTRACTOR, PRIOR TO~~  
30 ~~ENTERING INTO A DOWNSTREAM RISK ASSUMPTION CONTRACT, FILE AND RECEIVE~~  
31 ~~APPROVAL FROM THE COMMISSIONER OF A PLAN THAT SATISFIES ANY OF THE~~  
32 ~~REQUIREMENTS OF A PLAN TO BE FILED UNDER § 15-10D-08 OF THIS SUBTITLE.~~

33       ~~(E)   A LICENSED HEALTH SERVICES CONTRACTOR SHALL COMPLY WITH THE~~  
34 ~~PROVISIONS OF §§ 15-1005 AND 15-1008 OF THIS TITLE AS TO THE CLAIMS OF~~  
35 ~~EXTERNAL PROVIDERS.~~

36       ~~(F)   (1)   UPON THE FAILURE OF A LICENSED HEALTH SERVICES~~  
37 ~~CONTRACTOR TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE OR UPON~~  
38 ~~THE TERMINATION OF THE DOWNSTREAM RISK ASSUMPTION CONTRACT FOR ANY~~  
39 ~~REASON, THE HEALTH MAINTENANCE ORGANIZATION SHALL:~~

1                   (1)     ~~BE FINANCIALLY AND ADMINISTRATIVELY RESPONSIBLE FOR~~  
2 ~~PAYMENT DUE FROM THE LICENSED HEALTH CARE SERVICES CONTRACTOR TO~~  
3 ~~EXTERNAL PROVIDERS ON BEHALF OF THE LICENSED HEALTH CARE SERVICES~~  
4 ~~CONTRACTOR; AND~~

5                   (II)    ~~MAKE ALL PAYMENTS TO EXTERNAL PROVIDERS IN~~  
6 ~~ACCORDANCE WITH THE REQUIREMENTS OF § 15-1005 OF THIS TITLE.~~

7                   (2)     ~~A HEALTH MAINTENANCE ORGANIZATION SHALL MEET THE~~  
8 ~~REQUIREMENTS OF THIS SUBSECTION, REGARDLESS OF THE EXISTENCE OF THE~~  
9 ~~SEGREGATED FUND OR A CONTRARY PROVISION IN A DOWNSTREAM RISK~~  
10 ~~ASSUMPTION CONTRACT.~~

11                  (3)     ~~NOTHING IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION MAY BE~~  
12 ~~CONSTRUED TO PROHIBIT A HEALTH MAINTENANCE ORGANIZATION FROM SEEKING~~  
13 ~~PAYMENT FROM A LICENSED HEALTH SERVICES CONTRACTOR OR FROM AMOUNTS~~  
14 ~~HELD IN THE SEGREGATED FUND FOR PAYMENTS MADE TO EXTERNAL PROVIDERS~~  
15 ~~ON BEHALF OF THE LICENSED HEALTH SERVICES CONTRACTOR.~~

16                  (G)     ~~EXCEPT AS OTHERWISE PROVIDED BY LAW, INDIVIDUAL MEMBERS AND~~  
17 ~~SUBSCRIBERS OF HEALTH MAINTENANCE ORGANIZATIONS SHALL NOT BE LIABLE TO~~  
18 ~~A LICENSED HEALTH SERVICES CONTRACTOR FOR ANY COVERED SERVICES~~  
19 ~~PROVIDED TO THE ENROLLEE OR SUBSCRIBER.~~

20 ~~15-10D-06.~~

21                  (A)     ~~UNLESS, FOR GOOD CAUSE SHOWN, THE COMMISSIONER EXTENDS THE~~  
22 ~~TIME FOR A REASONABLE PERIOD:~~

23                  (1)     ~~ON OR BEFORE MARCH 1 OF EACH YEAR, EACH LICENSED HEALTH~~  
24 ~~SERVICES CONTRACTOR SHALL FILE WITH THE COMMISSIONER A REPORT THAT~~  
25 ~~SHOWS THE FINANCIAL CONDITION OF THE LICENSED HEALTH SERVICES~~  
26 ~~CONTRACTOR ON THE LAST DAY OF THE PRECEDING CALENDAR YEAR AND ANY~~  
27 ~~OTHER INFORMATION THAT THE COMMISSIONER REQUIRES BY RULE OR~~  
28 ~~REGULATION; AND~~

29                  (2)     ~~ON OR BEFORE JUNE 1 OF EACH YEAR, EACH LICENSED HEALTH~~  
30 ~~SERVICES CONTRACTOR SHALL FILE, WITH THE COMMISSIONER AND ANY HEALTH~~  
31 ~~MAINTENANCE ORGANIZATIONS WITH WHICH THE LICENSED HEALTH SERVICES~~  
32 ~~CONTRACTOR HAS ENTERED INTO ONE OR MORE DOWNSTREAM RISK ASSUMPTION~~  
33 ~~CONTRACTS, AN AUDITED FINANCIAL REPORT FOR THE PRECEDING CALENDAR~~  
34 ~~YEAR.~~

35                  (B)     ~~THE ANNUAL REPORT SHALL:~~

36                   (1)     ~~BE ON THE FORMS THAT THE COMMISSIONER REQUIRES; AND~~

37                   (2)     ~~INCLUDE A DESCRIPTION OF ANY CHANGES IN THE INFORMATION~~  
38 ~~SUBMITTED UNDER THIS SUBTITLE.~~

1     ~~(C)     THE AUDITED FINANCIAL REPORT SHALL:~~

2             ~~(1)     BE ON THE FORMS THAT THE COMMISSIONER REQUIRES;~~

3             ~~(2)     DEMONSTRATE EXISTENCE OF THE REQUIRED MINIMUM CAPITAL~~  
4 ~~AND SURPLUS REQUIREMENTS; AND~~

5             ~~(3)     BE CERTIFIED BY AN AUDIT OF A CERTIFIED PUBLIC ACCOUNTING~~  
6 ~~FIRM.~~

7     ~~(D)     EACH FINANCIAL REPORT FILED UNDER THIS SECTION IS A PUBLIC~~  
8 ~~RECORD.~~

9     ~~(E)     THE COMMISSIONER MAY REQUIRE A LICENSED HEALTH SERVICES~~  
10 ~~CONTRACTOR TO PROVIDE QUARTERLY CLAIMS PAYMENT REPORTS ON THE STATUS~~  
11 ~~OF PAYMENTS MADE OR OWED TO PROVIDERS IN SUFFICIENT DETAIL TO~~  
12 ~~DETERMINE IF THE PAYMENTS ARE BEING MADE IN COMPLIANCE WITH THE LAW.~~

13 ~~15-10D-07.~~

14     ~~(A)     SUBJECT TO THIS SECTION, THE PROVISIONS OF TITLE 9, SUBTITLE 2 OF~~  
15 ~~THIS ARTICLE REGARDING THE REHABILITATION AND LIQUIDATION OF INSURERS~~  
16 ~~ARE APPLICABLE TO LICENSED HEALTH SERVICES CONTRACTORS.~~

17     ~~(B)     THE REHABILITATION OR LIQUIDATION OF A LICENSED HEALTH~~  
18 ~~SERVICES CONTRACTOR SHALL BE SUBJECT TO § 19-706.1 OF THE HEALTH-~~  
19 ~~GENERAL ARTICLE AND SHALL BE CONDUCTED BY THE COMMISSIONER IN THE~~  
20 ~~SAME MANNER AS REHABILITATION OR LIQUIDATION OF A HEALTH MAINTENANCE~~  
21 ~~ORGANIZATION.~~

22     ~~(C)     THE FOLLOWING PROVISIONS SHALL APPLY TO LICENSED HEALTH~~  
23 ~~SERVICES CONTRACTORS IN THE SAME MANNER THAT THEY APPLY TO INSURERS:~~

24             ~~(1)     § 9-231 OF THIS ARTICLE REGARDING NOTICE OF IMPAIRMENT OF AN~~  
25 ~~INSURER AND PROHIBITION ON CONTRIBUTION TO IMPAIRMENT OF AN INSURER;~~  
26 ~~AND~~

27             ~~(2)     TITLE 9, SUBTITLE 1 OF THIS ARTICLE REGARDING IMPAIRED~~  
28 ~~ENTITIES.~~

29 ~~15-10D-08.~~

30     ~~(A)     A HEALTH MAINTENANCE ORGANIZATION OR A LICENSED HEALTH~~  
31 ~~SERVICES CONTRACTOR MAY NOT ENTER INTO AN ADMINISTRATIVE SERVICE~~  
32 ~~PROVIDER CONTRACT WITH A CONTRACTING PROVIDER UNLESS:~~

33             ~~(1)     THE HEALTH MAINTENANCE ORGANIZATION OR THE LICENSED~~  
34 ~~HEALTH SERVICES CONTRACTOR FILES WITH THE COMMISSIONER A PLAN THAT~~  
35 ~~SATISFIES THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION; AND~~

1           (2)     ~~THE COMMISSIONER DOES NOT DISAPPROVE THE FILING WITHIN 30~~  
2 ~~DAYS AFTER THE PLAN IS FILED.~~

3     (B)     ~~THE PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL:~~

4           (1)     ~~REQUIRE THE CONTRACTING PROVIDER TO PROVIDE THE HEALTH~~  
5 ~~MAINTENANCE ORGANIZATION OR THE LICENSED HEALTH SERVICES CONTRACTOR~~  
6 ~~WITH REGULAR REPORTS, AT LEAST QUARTERLY, THAT IDENTIFY PAYMENTS MADE~~  
7 ~~OR OWED TO EXTERNAL PROVIDERS IN SUFFICIENT DETAIL TO DETERMINE IF THE~~  
8 ~~PAYMENTS ARE BEING MADE IN COMPLIANCE WITH LAW;~~

9           (2)     ~~REQUIRE THE CONTRACTING PROVIDER TO PROVIDE TO THE~~  
10 ~~HEALTH MAINTENANCE ORGANIZATION OR THE LICENSED HEALTH SERVICES~~  
11 ~~CONTRACTOR A CURRENT ANNUAL FINANCIAL STATEMENT OF THE CONTRACTING~~  
12 ~~PROVIDER EACH YEAR;~~

13          (3)     ~~REQUIRE THE CREATION AND MAINTENANCE BY THE CONTRACTING~~  
14 ~~PROVIDER, OR ON THE CONTRACTING PROVIDER'S BEHALF, OF A SEGREGATED FUND~~  
15 ~~IN COMPLIANCE WITH THE REGULATIONS ADOPTED BY THE COMMISSIONER;~~

16          (4)     ~~REQUIRE AN EXPLANATION OF HOW THE FUND OR RESOURCES~~  
17 ~~REQUIRED UNDER ITEM (3) OF THIS SUBSECTION CREATE FUNDS OR OTHER~~  
18 ~~RESOURCES SUFFICIENT TO SATISFY THE CONTRACTING PROVIDER'S OBLIGATIONS~~  
19 ~~TO EXTERNAL PROVIDERS FOR SERVICES RENDERED TO MEMBERS OF THE HEALTH~~  
20 ~~MAINTENANCE ORGANIZATION;~~

21          (5)     ~~REQUIRE THE CONTRACTING PROVIDER TO COMPLY WITH THE~~  
22 ~~PROVISIONS OF §§ 15-1005 AND 15-1008 OF THIS TITLE; AND~~

23          (6)     ~~PERMIT THE HEALTH MAINTENANCE ORGANIZATION OR LICENSED~~  
24 ~~HEALTH SERVICES CONTRACTOR, AT MUTUALLY AGREED UPON TIMES AND UPON~~  
25 ~~REASONABLE PRIOR NOTICE, TO AUDIT AND INSPECT THE CONTRACTING~~  
26 ~~PROVIDER'S BOOKS, RECORDS, AND OPERATIONS RELEVANT TO THE PROVIDER'S~~  
27 ~~CONTRACT FOR THE PURPOSE OF DETERMINING THE CONTRACTING PROVIDER'S~~  
28 ~~COMPLIANCE WITH THE PLAN.~~

29     (C)     ~~THE COMMISSIONER SHALL ADOPT REGULATIONS THAT:~~

30          (1)     ~~REQUIRE THE SEGREGATED FUND TO CONTAIN A SUFFICIENT~~  
31 ~~AMOUNT TO SATISFY THE OBLIGATIONS OF THE CONTRACTING PROVIDER TO~~  
32 ~~EXTERNAL PROVIDERS FOR SERVICES RENDERED TO MEMBERS OF THE HEALTH~~  
33 ~~MAINTENANCE ORGANIZATION;~~

34          (2)     ~~SPECIFY THE METHODOLOGY FOR DETERMINING A SUFFICIENT~~  
35 ~~AMOUNT TO BE HELD IN THE SEGREGATED FUND;~~

36          (3)     ~~PROVIDE THAT THE SEGREGATED FUND MAY INCLUDE WITHHELD~~  
37 ~~FUNDS, ESCROW ACCOUNTS, LETTERS OF CREDIT, OR SIMILAR ARRANGEMENTS;~~

1           (4)     ~~REQUIRE AN ANNUAL REPORTING OF THE STATUS OF THE~~  
2 ~~SEGREGATED FUND; AND~~

3           (5)     ~~REQUIRE THAT ANY CHANGES MADE TO AN ADMINISTRATIVE~~  
4 ~~SERVICES PROVIDER CONTRACT SHALL BE REVIEWED BY THE COMMISSIONER TO~~  
5 ~~DETERMINE THE SUFFICIENCY OF THE SEGREGATED FUND BASED ON THE CHANGES~~  
6 ~~MADE TO THE ADMINISTRATIVE SERVICES PROVIDER CONTRACT.~~

7     ~~(D)     UPON THE BANKRUPTCY OR INSOLVENCY OF A CONTRACTING PROVIDER,~~  
8 ~~THE SEGREGATED FUND CREATED UNDER THE REGULATIONS REQUIRED UNDER~~  
9 ~~SUBSECTION (C) OF THIS SECTION SHALL BE THE RESPONSIBILITY OF THE HEALTH~~  
10 ~~MAINTENANCE ORGANIZATION OR THE LICENSED HEALTH SERVICES CONTRACTOR~~  
11 ~~AND SHALL BE USED FOR PAYMENTS OWED BY THE CONTRACTING PROVIDER TO~~  
12 ~~EXTERNAL PROVIDERS AND MAY NOT BE CONSIDERED TO BE AN ASSET OR ACCOUNT~~  
13 ~~OF THE CONTRACTING PROVIDER.~~

14     ~~(E)     THE HEALTH MAINTENANCE ORGANIZATION OR THE LICENSED HEALTH~~  
15 ~~SERVICES CONTRACTOR AND THE CONTRACTING PROVIDER SHALL COMPLY WITH~~  
16 ~~THE PLAN.~~

17     ~~(F)     THE HEALTH MAINTENANCE ORGANIZATION OR THE LICENSED HEALTH~~  
18 ~~SERVICES CONTRACTOR SHALL MONITOR THE CONTRACTING PROVIDER TO ASSURE~~  
19 ~~COMPLIANCE WITH THE PLAN, AND THE HEALTH MAINTENANCE ORGANIZATION OR~~  
20 ~~THE LICENSED HEALTH SERVICES CONTRACTOR SHALL NOTIFY THE CONTRACTING~~  
21 ~~PROVIDER WHENEVER A FAILURE TO COMPLY WITH THE PLAN OCCURS.~~

22     ~~(G)     (1)     UPON THE FAILURE OF A CONTRACTING PROVIDER TO COMPLY~~  
23 ~~WITH THE PLAN FOLLOWING A NOTICE OF NONCOMPLIANCE, OR UPON A~~  
24 ~~TERMINATION OF THE ADMINISTRATIVE SERVICE PROVIDER CONTRACT FOR ANY~~  
25 ~~REASON, THE HEALTH MAINTENANCE ORGANIZATION OR LICENSED HEALTH~~  
26 ~~SERVICES CONTRACTOR SHALL:~~

27                     ~~(I)     BE FINANCIALLY AND ADMINISTRATIVELY RESPONSIBLE FOR~~  
28 ~~PAYMENT DUE FROM THE CONTRACTING PROVIDER TO EXTERNAL PROVIDERS ON~~  
29 ~~BEHALF OF THE CONTRACTING PROVIDER; AND~~

30                     ~~(II)    MAKE ALL PAYMENTS TO EXTERNAL PROVIDERS IN~~  
31 ~~ACCORDANCE WITH THE REQUIREMENTS OF § 15-1005 OF THIS TITLE.~~

32           ~~(2)     A HEALTH MAINTENANCE ORGANIZATION OR LICENSED HEALTH~~  
33 ~~SERVICES CONTRACTOR SHALL MEET THE REQUIREMENTS OF PARAGRAPH (1) OF~~  
34 ~~THIS SUBSECTION, REGARDLESS OF THE EXISTENCE OF THE SEGREGATED FUND OR~~  
35 ~~A CONTRARY PROVISION IN AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT.~~

36           ~~(3)     NOTHING IN PARAGRAPH (1) OR PARAGRAPH (2) OF THIS SUBSECTION~~  
37 ~~MAY BE CONSTRUED TO PROHIBIT A HEALTH MAINTENANCE ORGANIZATION OR~~  
38 ~~LICENSED HEALTH SERVICES CONTRACTOR FROM SEEKING PAYMENT FROM THE~~  
39 ~~CONTRACTING PROVIDER OR FROM AMOUNTS HELD IN THE SEGREGATED FUND IN~~  
40 ~~ACCORDANCE WITH THIS SECTION FOR PAYMENTS MADE TO EXTERNAL PROVIDERS~~  
41 ~~ON BEHALF OF THE CONTRACTING PROVIDER.~~

1           (4)     UPON THE FAILURE OF THE LICENSED HEALTH SERVICES  
2 CONTRACTOR TO ACCEPT FINANCIAL AND ADMINISTRATIVE RESPONSIBILITY FOR  
3 PAYMENT DUE TO EXTERNAL PROVIDERS ON BEHALF OF THE CONTRACTING  
4 PROVIDER IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE  
5 HEALTH MAINTENANCE ORGANIZATION THAT HAS ENTERED INTO A DOWNSTREAM  
6 RISK CONTRACT WITH THE LICENSED HEALTH CARE PROVIDER SHALL:

7           (I)     BE FINANCIALLY AND ADMINISTRATIVELY RESPONSIBLE FOR  
8 PAYMENT DUE FROM THE CONTRACTING PROVIDER TO EXTERNAL PROVIDERS ON  
9 BEHALF OF THE CONTRACTING PROVIDER; AND

10          (II)    MAKE ALL PAYMENTS TO EXTERNAL PROVIDERS IN  
11 ACCORDANCE WITH THE REQUIREMENTS OF § 15-1005 OF THIS TITLE.

12          (5)     A HEALTH MAINTENANCE ORGANIZATION SHALL MEET THE  
13 REQUIREMENTS OF PARAGRAPH (4) OF THIS SUBSECTION, REGARDLESS OF THE  
14 EXISTENCE OF THE SEGREGATED FUND OR A CONTRARY PROVISION IN A  
15 DOWNSTREAM RISK ASSUMPTION CONTRACT OR AN ADMINISTRATIVE SERVICE  
16 PROVIDER CONTRACT.

17          (6)     NOTHING IN PARAGRAPH (4) OR PARAGRAPH (5) OF THIS SUBSECTION  
18 MAY BE CONSTRUED TO PROHIBIT A HEALTH MAINTENANCE ORGANIZATION FROM  
19 SEEKING PAYMENT FROM THE CONTRACTING PROVIDER, THE LICENSED HEALTH  
20 SERVICES CONTRACTOR, OR FROM AMOUNTS HELD IN THE SEGREGATED FUND IN  
21 ACCORDANCE WITH THIS SUBTITLE FOR PAYMENTS MADE TO EXTERNAL PROVIDERS  
22 ON BEHALF OF THE CONTRACTING PROVIDER.

23          (H)     THE PLAN AND ALL SUPPORTING DOCUMENTATION SUBMITTED IN  
24 CONNECTION WITH THE PLAN SHALL BE TREATED AS CONFIDENTIAL AND  
25 PROPRIETARY, AND MAY NOT BE DISCLOSED EXCEPT AS OTHERWISE REQUIRED BY  
26 LAW.

27 15-10D-09.

28          (A)     THE LICENSE OF A LICENSED HEALTH SERVICES PROVIDER EXPIRES ON  
29 THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE UNLESS THE LICENSE IS  
30 RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

31          (B)     BEFORE THE LICENSE EXPIRES, A LICENSE MAY BE RENEWED FOR AN  
32 ADDITIONAL 2-YEAR TERM IF THE APPLICANT:

33           (1)     OTHERWISE IS ENTITLED TO THE LICENSE;

34           (2)     PAYS TO THE COMMISSIONER THE RENEWAL FEE SET BY THE  
35 COMMISSIONER THROUGH REGULATION; AND

36           (3)     SUBMITS TO THE COMMISSIONER:

37           (I)     A RENEWAL APPLICATION ON THE FORM THAT THE  
38 COMMISSIONER REQUIRES; AND

1                   (H)     SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY  
2 ~~REQUIREMENT UNDER THIS SUBTITLE FOR LICENSE RENEWAL.~~

3     (C)     ~~IF THE REQUIREMENTS OF THIS SECTION ARE MET, THE COMMISSIONER  
4 SHALL RENEW A LICENSE.~~

5 ~~15-10D-10.~~

6     (A)     ~~A LICENSED HEALTH SERVICES CONTRACTOR MAY NOT:~~

7                   (1)     ~~VIOLATE ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION  
8 ADOPTED UNDER IT;~~

9                   (2)     ~~FAIL TO FULFILL ITS OBLIGATIONS TO PROVIDE THE HEALTH CARE  
10 SERVICES SPECIFIED IN ITS CONTRACTS WITH HEALTH MAINTENANCE  
11 ORGANIZATIONS OR LICENSED HEALTH SERVICES CONTRACTORS;~~

12                   (3)     ~~MAKE ANY FALSE STATEMENT WITH RESPECT TO ANY REPORT OR  
13 STATEMENT REQUIRED BY THIS SUBTITLE OR BY THE COMMISSIONER UNDER THIS  
14 SUBTITLE;~~

15                   (4)     ~~PREVENT OR ATTEMPT TO PREVENT THE COMMISSIONER OR  
16 SECRETARY OF HEALTH AND MENTAL HYGIENE FROM PERFORMING ANY DUTY  
17 IMPOSED BY THIS SUBTITLE; OR~~

18                   (5)     ~~VIOLATE ANY APPLICABLE PROVISION OF § 9-231 OF THIS ARTICLE.~~

19     (B)     ~~IF A LICENSED HEALTH SERVICES CONTRACTOR VIOLATES THIS SECTION,  
20 THE COMMISSIONER MAY PURSUE ANY ONE OR MORE OF THE COURSES OF ACTION  
21 DESCRIBED IN § 15-10D-11 OF THIS SUBTITLE.~~

22 ~~15-10D-11.~~

23     (A)     ~~IF ANY PERSON VIOLATES ANY PROVISION OF § 15-10D-10 OF THIS  
24 SUBTITLE, THE COMMISSIONER MAY:~~

25                   (1)     ~~ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE LICENSED  
26 HEALTH SERVICES CONTRACTOR TO:~~

27                           (I)     ~~CEASE INAPPROPRIATE CONDUCT OR PRACTICES BY IT OR ANY  
28 OF THE PERSONNEL EMPLOYED OR ASSOCIATED WITH IT;~~

29                           (II)     ~~FULFILL ITS CONTRACTUAL OBLIGATIONS;~~

30                           (III)     ~~PROVIDE A SERVICE THAT HAS BEEN DENIED IMPROPERLY;~~

31                           (IV)     ~~TAKE APPROPRIATE STEPS TO RESTORE ITS ABILITY TO  
32 PROVIDE A SERVICE THAT IS PROVIDED UNDER A CONTRACT;~~

33                   (2)     ~~IMPOSE A PENALTY OF NOT MORE THAN \$125,000 FOR EACH  
34 VIOLATION;~~



1           ~~(3)       SUSPEND, REVOKE, OR REFUSE TO RENEW THE LICENSE OF A~~  
2 ~~LICENSED HEALTH SERVICES CONTRACTOR; OR~~

3           ~~(4)       APPLY TO ANY COURT FOR LEGAL OR EQUITABLE RELIEF~~  
4 ~~CONSIDERED APPROPRIATE BY THE COMMISSIONER.~~

5       ~~(B)       IF THE COMMISSIONER ISSUES AN ORDER OR IMPOSES ANY PENALTY~~  
6 ~~UNDER THIS SECTION, THE COMMISSIONER IMMEDIATELY SHALL PROVIDE WRITTEN~~  
7 ~~NOTICE OF THE ORDER OR PENALTY TO THE SECRETARY OF HEALTH AND MENTAL~~  
8 ~~HYGIENE.~~

9       SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 1,  
10 2002, the Insurance Commissioner, after reviewing the information obtained from  
11 registrants under § 19-713.3 of the Insurance Article, as enacted by Section 2 of this  
12 Act, shall submit a report to the Governor and the General Assembly, in accordance  
13 with § 2-1246 of the State Government Article, on the Commissioner's  
14 recommendations as to whether, and to what extent, contracting providers should be  
15 subject to additional regulation for the protection of health care providers and  
16 consumers. The report shall include recommendations relating to licensing standards,  
17 solvency requirements, and the application of State receivership laws.

18       SECTION ~~2:~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
19 effect July 1, 2000.