

HOUSE BILL 15

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HB 4/00 - ECM

2001 Regular Session
11r1292

(PRE-FILED)

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

Requested: November 15, 2000

Introduced and read first time: January 10, 2001

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Nonprofit Health Entity Accountability**

3 FOR the purpose of requiring nonprofit hospitals to consider a certain assessment, if
4 available, in identifying certain health care needs; allowing nonprofit hospitals
5 to consult with certain individuals in identifying certain health care needs;
6 requiring nonprofit hospitals to submit a certain report to the Health Services
7 Cost Review Commission; specifying the contents of a certain report; requiring
8 the Commission to prepare a certain report; requiring the Commission to make
9 a certain report available to the public; requiring the Commission to submit a
10 certain report to the House Economic Matters Committee and the Senate
11 Finance Committee annually; requiring the Commission to establish a format
12 for reporting certain information; expressing a certain public policy; imposing
13 certain requirements on certain nonprofit health service plans; making a certain
14 tax exemption subject to certain requirements; requiring certain nonprofit
15 health service plans to submit an annual report; providing that a nonprofit
16 health service plan can satisfy certain requirements by establishing certain
17 facts; providing that a specific activity does not satisfy certain requirements;
18 altering a certain standard for determining excess surplus for nonprofit health
19 service plans; requiring the Maryland Insurance Commissioner to issue a
20 certain order; defining certain terms; providing certain penalties; providing for a
21 certain hearing; and generally relating to nonprofit health entities.

22 BY adding to
23 Article - Health - General
24 Section 19-303
25 Annotated Code of Maryland
26 (2000 Replacement Volume)

27 BY repealing and reenacting, with amendments,
28 Article - Insurance
29 Section 6-101

1 Annotated Code of Maryland
2 (1997 Volume and 2000 Supplement)

3 BY adding to
4 Article - Insurance
5 Section 14-106 and 14-107
6 Annotated Code of Maryland
7 (1997 Volume and 2000 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - Insurance
10 Section 14-117(e)
11 Annotated Code of Maryland
12 (1997 Volume and 2000 Supplement)

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

15 **Article - Health - General**

16 19-303.

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) "COMMISSION" MEANS THE HEALTH SERVICES COST REVIEW
20 COMMISSION.

21 (3) "COMMUNITY BENEFIT" MEANS AN ACTIVITY THAT IS INTENDED TO
22 ADDRESS COMMUNITY NEEDS AND PRIORITIES PRIMARILY THROUGH DISEASE
23 PREVENTION AND IMPROVEMENT OF HEALTH STATUS, INCLUDING:

24 (I) HEALTH SERVICES PROVIDED TO VULNERABLE OR
25 UNDERSERVED POPULATIONS SUCH AS MEDICAID, MEDICARE, OR MARYLAND
26 CHILDREN'S HEALTH PROGRAM ENROLLEES;

27 (II) FINANCIAL OR IN KIND SUPPORT OF PUBLIC HEALTH
28 PROGRAMS;

29 (III) DONATIONS OF FUNDS, PROPERTY, OR OTHER RESOURCES
30 THAT CONTRIBUTE TO A COMMUNITY PRIORITY;

31 (IV) HEALTH CARE COST CONTAINMENT ACTIVITIES; AND

32 (V) HEALTH EDUCATION, SCREENING, AND PREVENTION
33 SERVICES.

1 (4) "COMMUNITY NEEDS ASSESSMENT" MEANS THE PROCESS BY WHICH
2 UNMET COMMUNITY HEALTH CARE NEEDS AND PRIORITIES ARE IDENTIFIED.

3 (B) IN IDENTIFYING COMMUNITY HEALTH CARE NEEDS, A NONPROFIT
4 HOSPITAL:

5 (1) SHALL CONSIDER, IF AVAILABLE, THE MOST RECENT COMMUNITY
6 NEEDS ASSESSMENT DEVELOPED BY THE DEPARTMENT OR THE LOCAL HEALTH
7 DEPARTMENT FOR THE COUNTY IN WHICH THE NONPROFIT HOSPITAL IS LOCATED;

8 (2) MAY CONSULT WITH COMMUNITY LEADERS AND LOCAL HEALTH
9 CARE PROVIDERS; AND

10 (3) MAY CONSULT WITH ANY APPROPRIATE PERSON THAT CAN ASSIST
11 THE HOSPITAL IN IDENTIFYING COMMUNITY HEALTH NEEDS.

12 (C) (1) EACH NONPROFIT HOSPITAL SHALL SUBMIT AN ANNUAL
13 COMMUNITY BENEFIT REPORT TO THE HEALTH SERVICES COST REVIEW
14 COMMISSION DETAILING THE COMMUNITY BENEFITS PROVIDED BY THE HOSPITAL
15 DURING THE PRECEDING YEAR.

16 (2) THE COMMUNITY BENEFIT REPORT SHALL INCLUDE:

17 (I) THE MISSION STATEMENT OF THE HOSPITAL;

18 (II) A LIST OF THE INITIATIVES THAT WERE UNDERTAKEN BY THE
19 HOSPITAL;

20 (III) THE COST TO THE HOSPITAL OF EACH COMMUNITY BENEFIT
21 INITIATIVE;

22 (IV) THE OBJECTIVES OF EACH COMMUNITY BENEFIT INITIATIVE;

23 (V) AN EVALUATION OF THE EFFECTIVENESS OF EACH INITIATIVE;
24 AND

25 (VI) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

26 (D) (1) THE COMMISSION SHALL COMPILE THE REPORTS REQUIRED UNDER
27 SUBSECTION (C) OF THIS SECTION AND ISSUE AN ANNUAL NONPROFIT HOSPITAL
28 COMMUNITY HEALTH BENEFIT REPORT.

29 (2) IN ADDITION TO THE INFORMATION REQUIRED UNDER PARAGRAPH
30 (1) OF THIS SUBSECTION, THE NONPROFIT HOSPITAL COMMUNITY HEALTH BENEFIT
31 REPORT SHALL CONTAIN A LIST OF THE UNMET COMMUNITY HEALTH CARE NEEDS
32 IDENTIFIED IN THE MOST RECENT COMMUNITY NEEDS ASSESSMENT PREPARED BY
33 THE DEPARTMENT OR LOCAL HEALTH DEPARTMENT FOR EACH COUNTY.

34 (3) THE NONPROFIT HOSPITAL COMMUNITY BENEFIT REPORT SHALL BE
35 MADE AVAILABLE TO THE PUBLIC FREE OF CHARGE.

(4) THE COMMISSION SHALL SUBMIT A COPY OF THE ANNUAL NONPROFIT HOSPITAL COMMUNITY BENEFIT REPORT, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE TO THE HOUSE ECONOMIC MATTERS COMMITTEE AND THE SENATE FINANCE COMMITTEE.

(E) THE COMMISSION SHALL, IN CONSULTATION WITH REPRESENTATIVES OF NONPROFIT HOSPITALS, ESTABLISH A STANDARD FORMAT FOR REPORTING THE INFORMATION REQUIRED UNDER THIS SECTION.

Article - Insurance

6-101.

(a) The following persons are subject to taxation under this subtitle:

(1) a person engaged as principal in the business of writing insurance contracts, surety contracts, guaranty contracts, or annuity contracts;

(2) an attorney in fact for a reciprocal insurer;

(3) the Maryland Automobile Insurance Fund; and

(4) a credit indemnity company.

(b) The following persons are not subject to taxation under this subtitle:

(1) a nonprofit health service plan corporation THAT MEETS THE REQUIREMENTS ESTABLISHED UNDER §§ 14-106 AND 14-107 OF THIS ARTICLE;

(2) a fraternal benefit society;

(3) a health maintenance organization authorized by Title 19, Subtitle 7 of the Health - General Article;

(4) a surplus lines broker, who is subject to taxation in accordance with Title 3, Subtitle 3 of this article;

(5) an unauthorized insurer, who is subject to taxation in accordance with Title 4, Subtitle 2 of this article; or

(6) the Short-Term Prescription Drug Subsidy Plan created under Title 15, Subtitle 6 of the Health - General Article.

14-106.

(A) IT IS THE PUBLIC POLICY OF THIS STATE THAT THE EXEMPTION FROM TAXATION FOR NONPROFIT HEALTH SERVICE PLANS UNDER § 6-101(B)(1) OF THIS ARTICLE IS GRANTED SO THAT FUNDS WHICH WOULD OTHERWISE BE COLLECTED BY THE STATE AND SPENT FOR A PUBLIC PURPOSE SHALL BE USED IN A LIKE MANNER AND AMOUNT BY THE NONPROFIT HEALTH SERVICE PLAN.

1 (B) BY MARCH 1 OF EACH YEAR OR A DEADLINE OTHERWISE IMPOSED BY THE
2 COMMISSIONER FOR GOOD CAUSE, EACH NONPROFIT HEALTH SERVICE PLAN SHALL
3 FILE WITH THE COMMISSIONER A PREMIUM TAX EXEMPTION REPORT THAT:

4 (1) IS IN A FORM APPROVED BY THE COMMISSIONER; AND

5 (2) DEMONSTRATES THAT THE PLAN HAS USED FUNDS EQUAL TO THE
6 VALUE OF THE PREMIUM TAX EXEMPTION PROVIDED TO THE PLAN UNDER § 6-101(B)
7 OF THIS ARTICLE, IN A MANNER THAT SERVES THE PUBLIC INTEREST IN
8 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

9 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A NONPROFIT
10 HEALTH SERVICE PLAN MAY SATISFY THE PUBLIC SERVICE REQUIREMENT IN
11 SUBSECTION (B)(2) OF THIS SECTION BY ESTABLISHING THAT THE PLAN HAS:

12 (1) INCREASED ACCESS TO, OR THE AFFORDABILITY OF, ONE OR MORE
13 HEALTH CARE PRODUCTS OR SERVICES BY OFFERING AND SELLING HEALTH CARE
14 PRODUCTS OR SERVICES THAT ARE NOT REQUIRED OR PROVIDED FOR BY LAW;

15 (2) THROUGH PRICING POLICIES DESIGNED TO ENHANCE THE
16 AFFORDABILITY OF HEALTH CARE PRODUCTS OR SERVICES THAT ARE REQUIRED OR
17 PROVIDED FOR BY LAW, USED A GREATER PERCENTAGE OF PREMIUMS COLLECTED
18 FOR MEDICAL CARE THAN A COMPARABLE FOR PROFIT HEALTH INSURER AS
19 DETERMINED BY THE COMMISSIONER;

20 (3) USED UNDERWRITING STANDARDS NOT REQUIRED BY LAW TO
21 INCREASE THE AVAILABILITY OF ONE OR MORE HEALTH CARE SERVICES OR
22 PRODUCTS; OR

23 (4) SERVED THE PUBLIC INTEREST BY ANY METHOD OR PRACTICE
24 APPROVED BY THE COMMISSIONER.

25 (D) THE COMMISSIONER MAY NOT CONSIDER THE FACT THAT A NONPROFIT
26 HEALTH SERVICE PLAN OFFERS A PRODUCT THROUGH THE SUBSTANTIAL,
27 AVAILABLE, AFFORDABLE COVERAGE PROGRAM WHEN DETERMINING WHETHER
28 THE PLAN HAS SATISFIED THE REQUIREMENTS OF SUBSECTION (B)(2) OF THIS
29 SECTION.

30 (E) EACH REPORT FILED WITH THE COMMISSIONER UNDER SUBSECTION (B)
31 OF THIS SECTION IS A PUBLIC RECORD.

32 14-107.

33 (A) BY NOVEMBER 1 OF EACH YEAR, THE COMMISSIONER SHALL ISSUE AN
34 ORDER NOTIFYING EACH NONPROFIT HEALTH SERVICE PLAN OF WHETHER THE
35 PLAN HAS SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS SUBTITLE.

36 (B) (1) IF THE COMMISSIONER DETERMINES THAT A NONPROFIT HEALTH
37 SERVICE PLAN HAS NOT SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS
38 SUBTITLE, THE NONPROFIT HEALTH SERVICE PLAN SHALL HAVE 1 YEAR FROM THE

1 DATE THE COMMISSIONER ISSUED THE ORDER UNDER SUBSECTION (A) OF THIS
2 SECTION TO COMPLY WITH THE REQUIREMENTS OF § 14-106 OF THIS SUBTITLE.

3 (2) IF AFTER THE TIME PERIOD PROVIDED UNDER PARAGRAPH (1) OF
4 THIS SUBSECTION THE COMMISSIONER DETERMINES THAT A NONPROFIT HEALTH
5 SERVICE PLAN HAS NOT SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS
6 SUBTITLE, THE NONPROFIT HEALTH SERVICE PLAN SHALL BE SUBJECT TO THE
7 PREMIUM TAX UNDER TITLE 6, SUBTITLE 1 OF THIS ARTICLE, BEGINNING IN THE
8 NEXT CALENDAR YEAR.

9 (C) A NONPROFIT HEALTH SERVICE PLAN THAT FAILS TO TIMELY FILE THE
10 REPORT REQUIRED UNDER § 14-106 OF THIS SUBTITLE:

11 (1) SHALL PAY THE PENALTIES UNDER § 14-121 OF THIS SUBTITLE; AND

12 (2) MAY BE SUBJECT TO AN ORDER REQUIRING THE PLAN TO PAY THE
13 PREMIUM TAX.

14 (D) A PARTY AGGRIEVED BY AN ORDER OF THE COMMISSIONER ISSUED
15 UNDER THIS SECTION HAS A RIGHT TO A HEARING IN ACCORDANCE WITH §§ 2-210
16 THROUGH 2-215 OF THIS ARTICLE.

17 14-117.

18 (e) (1) The surplus of a corporation authorized under this subtitle may be
19 considered to be excessive only if:

20 (i) the surplus is greater than [30% of the total earned premium
21 received by the corporation in] THE APPLICABLE RISK BASED CAPITAL
22 REQUIREMENTS AS DETERMINED BY THE COMMISSIONER FOR the immediately
23 preceding calendar year; and

24 (ii) after a hearing, the Commissioner determines that the surplus
25 is unreasonably large.

26 (2) After the Commissioner has determined the surplus of a corporation
27 authorized under this subtitle to be excessive, the Commissioner:

28 (i) may order the corporation to submit a plan for distribution of
29 the excess in a fair and equitable manner; or

30 (ii) if the corporation fails to submit a plan of distribution within 60
31 days, may compile a plan and order the corporation to implement it.

32 (3) A distribution ordered under paragraph (2) of this subsection may be
33 made only to subscribers who are covered by the corporation's nonprofit health
34 service plan at the time the distribution is made.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2001.

