
By: **Delegates Taylor and Busch**

Introduced and read first time: February 8, 2002

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Nonprofit Health Service Plans - Reform**

3 FOR the purpose of altering certain provisions relating to the regulation of nonprofit
4 health service plans; specifying the purpose of a certain provision of law;
5 specifying that certain nonprofit health service plans are exempt from certain
6 taxes; exempting certain nonprofit health service plans from certain public
7 service requirements; specifying the manner in which certain nonprofit health
8 service plans can satisfy certain requirements; repealing a provision prohibiting
9 the Insurance Commissioner from considering certain information when
10 making a certain determination; requiring certain nonprofit health service
11 plans to perform certain functions; providing that a nonprofit health service
12 plan may satisfy a certain requirement in a manner; repealing a requirement
13 that the Insurance Commissioner follow certain procedures after making a
14 certain determination; specifying the use of certain premium tax revenue
15 collected by the Maryland Insurance Administration; specifying information
16 that certain applicants for a certificate of authority must submit; specifying
17 certain criteria that the Insurance Commissioner shall consider when issuing a
18 certain certificate of authority; prohibiting the Insurance Commissioner from
19 renewing a certain certificate of authority except under certain circumstances;
20 specifying certain activities that a certain corporation is authorized to engage in;
21 specifying that certain members of a certain board of directors are fiduciaries on
22 behalf of certain individuals and entities; specifying the manner in which
23 certain board members shall act; specifying the principal functions of a certain
24 board; requiring each member of a certain board to be a State resident;
25 specifying the maximum number of members on a certain board; altering the
26 appointment process for certain consumer members to a certain board;
27 specifying the manner in which certain board members shall be chosen; altering
28 the term of certain board members beginning on a certain date; altering the
29 maximum term of certain board members; altering the number of consumer
30 members appointed to a certain board; specifying that the compensation of
31 certain directors and officers shall meet a certain requirement; altering the
32 maximum representation of certain individuals on a certain board; clarifying the
33 authority of the Insurance Commissioner to take into account certain funds
34 when reviewing certain rates and forms; altering a certain definition; and
35 generally relating to nonprofit health service plans.

1 BY repealing and reenacting, with amendments,
2 Article 43C - Maryland Health and Higher Educational Facilities Authority
3 Section 3(h)
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2001 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Health - General
8 Section 19-713(b)
9 Annotated Code of Maryland
10 (2000 Replacement Volume and 2001 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Insurance
13 Section 12-205(b), 14-102, 14-106, 14-107, 14-109 through 14-111, 14-115,
14 and 14-126
15 Annotated Code of Maryland
16 (1997 Volume and 2001 Supplement)

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

19 **Article 43C - Maryland Health and Higher Educational Facilities Authority**

20 3.

21 As used in this article, the following words and terms shall have the following
22 meanings unless the context indicates another or different meaning or intent:

23 (h) (1) "Hospital" means a hospital, a related institution or a combination of
24 a hospital and a related institution, located within this State and either meeting the
25 requirements of and having a license or licenses as required by § 19-318 of the Health
26 - General Article or, in the case of a new institution, having a prelicensing
27 certification or recertification from the State Health Planning and Development
28 Agency and being or to be, in fact, a health care facility available to the general public
29 maintained and operated as a nonprofit institution by some person, association,
30 municipal or other corporation, or other agency, or a nonprofit corporation organized
31 for the purpose of constructing or acquiring such a hospital, related institution or
32 combination of a hospital and a related institution.

33 (2) "Hospital" includes:

34 (i) Nonprofit comprehensive health centers providing out-patient
35 primary health services available to the general public, but does not include any
36 facility as described in this item which is owned and operated by the State, except
37 that with the approval of the Board of Public Works and the Joint Audit Committee of

1 the General Assembly the term includes medical or health care facilities of the
2 University System of Maryland;

3 (ii) Nonprofit life care or continuing care communities providing
4 self-contained residence facilities for the retired or elderly, but does not include any
5 facility as described in this item which is owned and operated by the State unless
6 approved by the Board of Public Works and the Joint Audit Committee of the General
7 Assembly;

8 (iii) Any combination of any of the facilities and centers enumerated
9 in items (i) and (ii) of this paragraph; [and]

10 (iv) Any entity affiliated or associated with a hospital, as defined in
11 paragraph (1) of this subsection or item (i), (ii), or (iii) of this paragraph, provided that
12 the Authority determines by resolution that the financing of a project for that entity
13 serves the public purposes of the hospital; AND

14 (V) A NONPROFIT HEALTH SERVICE PLAN THAT HOLDS A
15 CERTIFICATE OF AUTHORITY AND PROVIDES HEALTH INSURANCE POLICIES OR
16 CONTRACTS IN THE STATE IN ACCORDANCE WITH THE INSURANCE ARTICLE.

17 (3) Facilities of the University of Maryland Medical System Corporation
18 shall not be deemed to be owned and operated by the State.

19 **Article - Health - General**

20 19-713.

21 (b) (1) Rates of a health maintenance organization may not be excessive,
22 inadequate, or unfairly discriminatory in relation to the services offered.

23 (2) A health maintenance organization that includes a subrogation
24 provision in its contract as authorized under § 19-713.1(d) of this subtitle shall:

25 (i) Use in its rating methodology an adjustment that reflects the
26 subrogation; and

27 (ii) Identify in its rate filing with the Maryland Insurance
28 Administration, and annually in a form approved by the Insurance Commissioner, all
29 amounts recovered through subrogation.

30 (3) A HEALTH MAINTENANCE ORGANIZATION SHALL USE IN ITS RATING
31 METHODOLOGY AN ADJUSTMENT THAT REFLECTS THE VALUE OF ANY FUNDS
32 AVAILABLE OR INTENDED TO SUBSIDIZE RATES OR OFFSET LOSSES.

33 **Article - Insurance**

34 12-205.

35 (b) A form may not:

- 1 (1) in any respect violate or fail to comply with this article;
 - 2 (2) contain or incorporate by reference, if the incorporation is otherwise
3 permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and
4 conditions that deceptively affect the risk purported to be assumed in the general
5 coverage of the contract;
 - 6 (3) have a title, heading, or other indication of its provisions that is likely
7 to mislead the policyholder or certificate holder;
 - 8 (4) contain an inequitable provision of insurance without substantial
9 benefit to the policyholder;
 - 10 (5) be printed or otherwise reproduced so as to make a provision of the
11 form substantially illegible;
 - 12 (6) provide benefits in a health insurance policy that are unreasonable in
13 relation to the premium charged;
 - 14 (7) contain, irrespective of the premium charged, a benefit that is not
15 sufficient to be of real economic value to the insured;
 - 16 (8) fail to provide minimum benefits or coverages that the Commissioner
17 considers necessary to meet the minimum needs of the insured; [or]
 - 18 (9) in a health insurance application form, contain inquiries about:
 - 19 (i) a preexisting condition, illness, or disease for which the
20 applicant has not received medical care or advice from a licensed health care provider
21 during the 7 years immediately before the date of the application; or
 - 22 (ii) medical screening, testing, monitoring, or any other similar
23 medical procedure that the Commissioner specifies and that the applicant received
24 more than 7 years before the date of application; OR
 - 25 (10) CHARGE A PREMIUM THAT APPEARS EXCESSIVE IN CONSIDERATION
26 OF FUNDS AVAILABLE OR INTENDED TO SUBSIDIZE RATES OR OFFSET LOSSES.
- 27 14-102.
- 28 (A) THE PURPOSE OF THIS SUBTITLE IS:
- 29 (1) TO REGULATE THE FORMATION AND OPERATION OF NONPROFIT
30 HEALTH SERVICE PLANS IN THE STATE; AND
 - 31 (2) TO PROMOTE THE FORMATION AND EXISTENCE OF NONPROFIT
32 HEALTH SERVICE PLANS IN THE STATE THAT:
 - 33 (I) ARE COMMITTED TO A NONPROFIT CORPORATE STRUCTURE;

1 (II) SEEK TO PROVIDE INDIVIDUALS AND BUSINESSES WITH THE
2 MOST AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE POSSIBLE; AND

3 (III) RECOGNIZE A RESPONSIBILITY TO CONTRIBUTE TO THE
4 IMPROVEMENT OF THE OVERALL HEALTH STATUS OF MARYLAND RESIDENTS.

5 (B) A NONPROFIT HEALTH SERVICE PLAN THAT COMPLIES WITH THE
6 PROVISIONS OF THIS SUBTITLE IS DECLARED TO BE A PUBLIC BENEFIT
7 ORGANIZATION THAT IS EXEMPT FROM STATE AND LOCAL TAXES AS PROVIDED
8 UNDER § 6-101(B) OF THIS ARTICLE.

9 (C) A corporation without capital stock organized for the purpose of
10 establishing, maintaining, and operating a nonprofit health service plan through
11 which health care providers provide health care services to subscribers to the plan
12 under contracts that entitle each subscriber to certain health care services shall be
13 governed and regulated by:

14 (1) this subtitle;

15 (2) Title 2, Subtitle 2 of this article and §§ 1-206, 3-127, and 12-210 of
16 this article;

17 (3) Title 2, Subtitle 5 of this article;

18 (4) §§ 4-113 and 4-114 of this article;

19 (5) Title 5, Subtitles 1, 2, 3, 4, and 5 of this article;

20 (6) Title 7 of this article, except for § 7-706 and Subtitle 2 of Title 7;

21 (7) Title 9, Subtitles 1, 2, and 4 of this article;

22 (8) Title 10, Subtitle 1 of this article;

23 (9) Title 27 of this article; and

24 (10) any other provision of this article that:

25 (i) is expressly referred to in this subtitle;

26 (ii) expressly refers to this subtitle; or

27 (iii) expressly refers to nonprofit health service plans or persons
28 subject to this subtitle.

29 14-106.

30 (a) It is the public policy of this State that the exemption from taxation for
31 nonprofit health service plans under § 6-101(b)(1) of this article is granted so that
32 funds which would otherwise be collected by the State and spent for a public purpose
33 shall be used in a like manner and amount by the nonprofit health service plan.

1 (b) This section does not apply to:

2 (1) a nonprofit health service plan that insures fewer than 10,000
3 covered lives in Maryland; OR

4 (2) A NONPROFIT HEALTH SERVICE PLAN THAT ISSUES CONTRACTS FOR
5 ONLY ONE OF THE FOLLOWING SERVICES:

6 (I) PODIATRIC;

7 (II) CHIROPRACTIC;

8 (III) PHARMACEUTICAL;

9 (IV) DENTAL;

10 (V) PSYCHOLOGICAL; OR

11 (VI) OPTOMETRIC.

12 (c) By March 1 of each year or a deadline otherwise imposed by the
13 Commissioner for good cause, each nonprofit health service plan shall file with the
14 Commissioner a premium tax exemption report that:

15 (1) is in a form approved by the Commissioner; and

16 (2) demonstrates that the plan has used funds equal to the value of the
17 premium tax exemption provided to the plan under § 6-101(b) of this article, in a
18 manner that serves the public interest in accordance with [subsection (d) of] this
19 section.

20 (d) [Except as provided in subsection (e) of this section, a] A nonprofit health
21 service plan may satisfy the public service requirement [in subsection (c)(2)] of this
22 section by establishing that the plan has:

23 (1) increased access to, or the affordability of, one or more health care
24 products or services by offering and selling health care products or services that are
25 not required or provided for by law; [or]

26 (2) PROVIDED FINANCIAL OR IN-KIND SUPPORT FOR PUBLIC HEALTH
27 PROGRAMS;

28 (3) EMPLOYED UNDERWRITING STANDARDS IN A MANNER THAT
29 INCREASES THE AVAILABILITY OF ONE OR MORE HEALTH CARE SERVICES OR
30 PRODUCTS;

31 (4) EMPLOYED PRICING POLICIES THAT ENHANCE THE AFFORDABILITY
32 OF HEALTH CARE SERVICES OR PRODUCTS AND RESULT IN A HIGHER MEDICAL LOSS
33 RATIO THAN THAT ESTABLISHED BY A COMPARABLE FOR-PROFIT HEALTH INSURER;
34 OR

1 [(2)] (5) served the public interest by any method or practice approved
2 by the Commissioner.

3 (e) (1) [The Commissioner may not consider the fact that a nonprofit health
4 service plan offers a product through the substantial, available, affordable coverage
5 program when determining whether the plan has satisfied the requirements of
6 subsection (c)(2) of this section] NOTWITHSTANDING SUBSECTION (D) OF THIS
7 SECTION, A NONPROFIT HEALTH SERVICE PLAN SHALL:

8 (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, OFFER A
9 COMPREHENSIVE BENEFIT, OPEN ENROLLMENT PRODUCT IN THE INDIVIDUAL
10 MARKET, THE PREMIUMS OF WHICH SHALL BE NO GREATER THAN 150% OF THE
11 PREMIUMS THE CARRIER NORMALLY WOULD CHARGE FOR THE SAME OR A SIMILAR
12 POLICY FOR AN INDIVIDUAL WITH MEDICALLY UNDERWRITTEN COVERAGE;

13 (II) OFFER AN OPEN ENROLLMENT PRODUCT IN THE SMALL
14 EMPLOYER GROUP MARKET IN ACCORDANCE WITH TITLE 15, SUBTITLE 12 OF THIS
15 ARTICLE; AND

16 (III) ADMINISTER THE SHORT-TERM PRESCRIPTION DRUG SUBSIDY
17 PLAN ESTABLISHED UNDER TITLE 15, SUBTITLE 6 OF THE HEALTH - GENERAL
18 ARTICLE.

19 (2) A NONPROFIT HEALTH SERVICE PLAN MAY SATISFY THE
20 REQUIREMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION BY PARTICIPATING AS
21 A CARRIER OR ADMINISTRATOR IN A PUBLIC PROGRAM DESIGNED TO PROVIDE
22 COMPREHENSIVE HEALTH CARE BENEFITS TO MEDICALLY UNINSURABLE
23 INDIVIDUALS.

24 (f) Each report filed with the Commissioner under subsection (c) of this
25 section is a public record.

26 14-107.

27 (a) By November 1 of each year, the Commissioner shall issue an order
28 notifying each nonprofit health service plan that is required to file a report under §
29 14-106 of this subtitle of whether the plan has satisfied the requirements of § 14-106
30 of this subtitle.

31 (b) (1) If the Commissioner determines that a nonprofit health service plan
32 has not satisfied the requirements of § 14-106 of this subtitle, [the nonprofit health
33 service plan shall have 1 year from the date the Commissioner issued the order under
34 subsection (a) of this section to comply with the requirements of § 14-106 of this
35 subtitle.

36 (2) If after the time period provided under paragraph (1) of this
37 subsection the Commissioner determines that a nonprofit health service plan has not
38 satisfied the requirements of § 14-106 of this subtitle:

1 (i) the Commissioner shall report the determination to the House
2 Economic Matters Committee and the Senate Finance Committee, including the
3 reasons for the determination; and

4 (ii) if required by an act of the General Assembly, the nonprofit
5 health service plan shall be subject to] THE COMMISSIONER SHALL ISSUE AN ORDER
6 REQUIRING THE NONPROFIT HEALTH SERVICE PLAN TO PAY the premium tax under
7 Title 6, Subtitle 1 of this article FOR A PERIOD OF TIME BEGINNING WITH THE DATE
8 OF THE ORDER AND UNTIL SUCH TIME AS THE NONPROFIT HEALTH SERVICE PLAN
9 DEMONSTRATES TO THE COMMISSIONER THAT THE PLAN IS COMPLYING WITH §
10 14-106 OF THIS SUBTITLE.

11 (c) A nonprofit health service plan that fails to timely file the report required
12 under § 14-106 of this subtitle shall pay the penalties under § 14-121 of this subtitle.

13 (d) A party aggrieved by an order of the Commissioner issued under this
14 section has a right to a hearing in accordance with §§ 2-210 through 2-215 of this
15 article.

16 (E) PREMIUM TAX REVENUE COLLECTED BY THE ADMINISTRATION AS THE
17 RESULT OF AN ORDER ISSUED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE
18 USED TO PROVIDE HEALTH INSURANCE COVERAGE TO MEDICALLY UNINSURABLE
19 OR UNDERINSURED INDIVIDUALS.

20 14-109.

21 An applicant for a certificate of authority shall:

22 (1) file with the Commissioner an application on the form that the
23 Commissioner provides containing the information that the Commissioner considers
24 necessary;

25 (2) pay to the Commissioner the applicable fee required by § 2-112 of
26 this article; and

27 (3) file with the Commissioner copies of the following documents,
28 certified by at least two of the executive officers of the corporation:

29 (i) articles of incorporation, INCLUDING THE APPLICANT'S
30 CORPORATE MISSION STATEMENT, with all amendments;

31 (ii) bylaws with all amendments;

32 (iii) each contract executed or proposed to be executed by the
33 corporation and a health care provider, embodying the terms under which health care
34 services are to be furnished to subscribers to the plan;

35 (iv) each form of contract issued or proposed to be issued to
36 subscribers to the plan and a table of the rates charged or proposed to be charged to
37 subscribers for each form of contract;

1 (v) a financial statement of the corporation, including the amount
2 of each contribution paid or agreed to be paid to the corporation for working capital,
3 the name of each contributor, and the terms of each contribution;

4 (vi) a list of the names and addresses of and biographical
5 information about the members of the board of directors of the [nonprofit health
6 service plan] CORPORATION; [and]

7 (VII) A LIST OF THE TOTAL COMPENSATION PAID OR PROPOSED TO
8 BE PAID TO EACH MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION;
9 AND

10 [(vii)] (VIII) any other information or documents that the
11 Commissioner considers necessary to ensure compliance with this subtitle.

12 14-110.

13 (A) The Commissioner shall issue a certificate of authority to an applicant if:

14 (1) the applicant has paid the applicable fee required by § 2-112 of this
15 article; and

16 (2) the Commissioner is satisfied:

17 (i) that the applicant has been organized in good faith for the
18 purpose of establishing, maintaining, and operating a nonprofit health service plan
19 THAT:

20 1. IS COMMITTED TO A NONPROFIT CORPORATE
21 STRUCTURE;

22 2. SEEKS TO PROVIDE INDIVIDUALS AND BUSINESSES WITH
23 THE MOST AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE POSSIBLE; AND

24 3. RECOGNIZES A RESPONSIBILITY TO CONTRIBUTE TO THE
25 IMPROVEMENT OF THE OVERALL HEALTH STATUS OF MARYLAND RESIDENTS;

26 (ii) that:

27 1. each contract executed or proposed to be executed by the
28 applicant and a health care provider to furnish health care services to subscribers to
29 the nonprofit health service plan, obligates or, when executed, will obligate each
30 health care provider party to the contract to render the health care services to which
31 each subscriber is entitled under the terms and conditions of the various contracts
32 issued or proposed to be issued by the applicant to subscribers to the plan; and

33 2. each subscriber is entitled to reimbursement for podiatric,
34 chiropractic, psychological, or optometric services, regardless of whether the service is
35 performed by a licensed physician, licensed podiatrist, licensed chiropractor, licensed
36 psychologist, or licensed optometrist;

1 (iii) that:

2 1. each contract issued or proposed to be issued to
3 subscribers to the plan is in a form approved by the Commissioner; and

4 2. the rates charged or proposed to be charged for each form
5 of each contract are fair and reasonable; and

6 (iv) that the applicant has a surplus, as defined in § 14-117 of this
7 subtitle, of the greater of:

8 1. \$100,000; and

9 2. an amount equal to that required under § 14-117 of this
10 subtitle.

11 (B) THE COMMISSIONER MAY NOT RENEW THE CERTIFICATE OF AUTHORITY
12 OF A NONPROFIT HEALTH SERVICE PLAN UNLESS THE COMMISSIONER DETERMINES
13 THAT THE PLAN CONTINUES TO SATISFY THE REQUIREMENTS OF THIS SUBTITLE.

14 14-111.

15 A certificate of authority issued under this subtitle authorizes a corporation to:

16 (1) issue contracts in the form filed with the Commissioner to persons
17 that become subscribers to the plan;

18 (2) FINANCE CAPITAL IMPROVEMENT PROJECTS THROUGH THE
19 MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY AS
20 PROVIDED UNDER ARTICLE 43C OF THE CODE;

21 (3) FINANCE CAPITAL IMPROVEMENT PROJECTS THROUGH THE
22 MARYLAND ECONOMIC DEVELOPMENT CORPORATION AS PROVIDED UNDER ARTICLE
23 83A, TITLE 5, SUBTITLE 2 OF THE CODE; AND

24 (4) PARTNER WITH THE STATE AND OTHER PUBLIC OR PRIVATE
25 ENTITIES TO PROVIDE SERVICES OR ADMINISTER PROGRAMS INTENDED TO
26 ADDRESS COMMUNITY HEALTH CARE NEEDS.

27 14-115.

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

29 (2) "Board" means the board of directors of a nonprofit health service
30 plan.

31 (3) "Immediate family member" means a spouse, child, child's spouse,
32 parent, spouse's parent, sibling, or sibling's spouse.

1 (b) Subsections (c) through [(f)] (G) of this section apply to a nonprofit health
2 service plan that is incorporated under the laws of the State and operates under a
3 certificate of authority issued by the Commissioner under this subtitle.

4 (c) (1) The business and affairs of a nonprofit health service plan shall be
5 managed under the direction of a board of directors.

6 (2) The board and its individual members are fiduciaries FOR THE
7 BENEFIT OF THE CORPORATION, AND ITS SUBSCRIBERS AND CERTIFICATE HOLDERS
8 and shall act:

9 (i) in good faith;

10 (ii) in a manner that is reasonably believed to be in the best
11 interests of the corporation AND ITS MEMBERS AND SUBSCRIBERS; [and]

12 (III) IN A MANNER THAT IS REASONABLY BELIEVED TO BE IN
13 FURTHERANCE OF THE CORPORATION'S NONPROFIT MISSION; AND

14 [(iii)] (IV) with the care that an ordinarily prudent person in a like
15 position would use under similar circumstances.

16 (3) THE PRINCIPAL FUNCTIONS OF THE BOARD SHALL INCLUDE:

17 (I) SELECTING, ADVISING, EVALUATING, AND IF NEED BE,
18 REPLACING THE CHIEF EXECUTIVE OFFICER;

19 (II) REVIEWING, ADOPTING, AND APPROVING LONG-TERM
20 CORPORATE STRATEGIES AND OBJECTIVES;

21 (III) ENSURING TO THE EXTENT PRACTICABLE THAT HUMAN
22 RESOURCES ARE SUFFICIENT TO MEET CORPORATE OBJECTIVES;

23 (IV) MONITORING THE PERFORMANCE OF CORPORATE
24 MANAGEMENT;

25 (V) ENSURING THAT THE CORPORATION OPERATES RESPONSIBLY
26 AS WELL AS EFFECTIVELY;

27 (VI) NOMINATING SUITABLE CANDIDATES FOR ELECTION TO THE
28 BOARD; AND

29 (VII) ESTABLISHING A SYSTEM OF GOVERNANCE AT THE BOARD
30 LEVEL, INCLUDING EVALUATION OF BOARD PERFORMANCE.

31 (4) EACH MEMBER OF THE BOARD SHALL BE A STATE RESIDENT.

32 [(3)] (5) An officer or employee of a nonprofit health service plan or any
33 of its affiliates or subsidiaries may not be appointed or elected to the board.

1 [(4)] (6) A nonprofit health service plan is subject to the provisions of §
2 2-419 of the Corporations and Associations Article.

3 (d) (1) This subsection does not apply to a board of a nonprofit health service
4 plan that issues contracts for only one of the following services:

- 5 (i) podiatric;
- 6 (ii) chiropractic;
- 7 (iii) pharmaceutical;
- 8 (iv) dental;
- 9 (v) psychological; or
- 10 (vi) optometric.

11 (2) THE BOARD SHALL BE COMPRISED OF NO MORE THAN 17 MEMBERS.

12 [(2)] (3) The [board] GOVERNOR, WITH THE ADVICE AND CONSENT OF
13 THE SENATE, shall appoint [two] FOUR additional members to serve as voting
14 consumer members.

15 [(3)] (4) Of the [two] FOUR consumer members, [one] TWO shall be [a
16 subscriber] SUBSCRIBERS and [one] TWO shall be [a] certificate [holder] HOLDERS
17 of the nonprofit health service plan.

18 [(4)] (5) Each consumer member of the board:

- 19 (i) shall be a member of the general public;
- 20 (ii) may not be considered an agent or employee of the State for any
21 purpose; and
- 22 (iii) is entitled to the same rights, powers, and privileges as the
23 other members of the board.

24 [(5)] (6) A consumer member of the board may not:

- 25 (i) be a licensee of or otherwise be subject to regulation by the
26 Commissioner;
- 27 (ii) be employed by or have a financial interest in:
 - 28 1. a nonprofit health service plan or its affiliates or
29 subsidiaries; or
 - 30 2. a person regulated under this article or the Health -
31 General Article; or

1 (iii) within 1 year before appointment, have been employed by, had a
2 financial interest in, or have received compensation from:

3 1. a nonprofit health service plan or its affiliates or
4 subsidiaries; or

5 2. a person regulated under this article or the Health -
6 General Article.

7 (7) OF THE BOARD MEMBERS:

8 (I) ONE SHALL BE SELECTED FROM AMONG A LIST OF NOMINEES
9 SUBMITTED BY THE MARYLAND HOSPITAL ASSOCIATION;

10 (II) ONE SHALL BE SELECTED FROM AMONG A LIST OF NOMINEES
11 SUBMITTED BY THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND;

12 (III) ONE SHALL BE SELECTED FROM AMONG A LIST OF NOMINEES
13 SUBMITTED BY THE UNITED SENIORS OF MARYLAND;

14 (IV) ONE SHALL BE SELECTED FROM AMONG A LIST OF NOMINEES
15 SUBMITTED BY THE MENTAL HEALTH ASSOCIATION OF MARYLAND; AND

16 (V) ONE SHALL BE SELECTED FROM AMONG A LIST OF NOMINEES
17 SUBMITTED JOINTLY BY THE HEALTH FACILITIES ASSOCIATION OF MARYLAND AND
18 MID-ATLANTIC LIFESPAN.

19 (e) (1) This subsection does not apply to a board that has fewer than three
20 authorized members.

21 (2) The term of a member is [3] 4 years.

22 (3) The terms of the members of a board shall be staggered over a
23 [3-year] 4-YEAR period as required by the terms provided for members of the board
24 in the bylaws filed and approved by the Commissioner on or after June 1, [1993]
25 2002.

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

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

30 (6) A member may not serve for more than:

31 (i) [three] TWO full terms; or

32 (ii) a total of more than [9] 8 years.

33 (7) A person may not be a member of the board if the person:

1 (i) has defaulted on the payment of a monetary obligation to the
2 nonprofit health service plan;

3 (ii) has been convicted of a criminal offense involving dishonesty or
4 breach of trust or a felony; or

5 (iii) habitually has neglected to pay debts.

6 (8) A member shall meet any other qualifications set forth in the bylaws
7 of the nonprofit health service plan.

8 (9) A member may not be an immediate family member of another board
9 member or an officer or employee of the nonprofit health service plan.

10 (10) The board shall elect a chairman from among its members.

11 (11) The membership of the board shall represent the different geographic
12 regions of the State.

13 (f) The board shall notify the Commissioner of any member who attends less
14 than 65% of the meetings of the board during a period of 12 consecutive months.

15 (G) THE COMPENSATION, IF ANY, OF THE DIRECTORS AND OFFICERS OF A
16 NONPROFIT HEALTH SERVICE PLAN SHALL BE REASONABLE, AS DETERMINED BY
17 THE COMMISSIONER, IN COMPARISON TO THE COMPENSATION PAID TO BOARD
18 MEMBERS AND OFFICERS OF COMPARABLE NONPROFIT HEALTH PLANS OPERATING
19 IN THE STATE OR ELSEWHERE.

20 [(g)] (H) (1) This subsection does not apply to a board of a nonprofit health
21 service plan that has a premium income for the preceding year of less than
22 \$30,000,000.

23 (2) No more than [25%] ONE-THIRD of a board may be:

24 (i) licensed health care professionals;

25 (ii) hospital administrators; and

26 (iii) employees of health care professionals or hospitals.

27 (3) The Commissioner may adopt regulations that limit the
28 representation of licensed health care professionals, hospital administrators, and
29 employees of health care professionals or hospitals on a subcommittee of the board in
30 accordance with paragraph (2) of this subsection.

31 14-126.

32 (a) (1) A corporation subject to this subtitle may not amend its certificate of
33 incorporation, bylaws, or the terms and provisions of contracts issued or proposed to
34 be issued to subscribers to the plan until the proposed amendments have been

1 submitted to and approved by the Commissioner and the applicable fees required by
2 § 2-112 of this article have been paid.

3 (2) A corporation subject to this subtitle may not change the table of
4 rates charged or proposed to be charged to subscribers for a form of contract issued or
5 to be issued for health care services until the proposed change has been submitted to
6 and approved by the Commissioner.

7 (b) (1) (i) An amendment may not take effect until 60 days after it is filed
8 with the Commissioner.

9 (ii) If an amendment is not accompanied by the information needed
10 to support it and the Commissioner does not have sufficient information to determine
11 whether the filing meets the requirements of this section, the Commissioner shall
12 require the nonprofit health service plan to provide the needed information.

13 (iii) If the Commissioner requires additional information, the
14 waiting period under this paragraph shall begin again on the date the needed
15 information is provided.

16 (iv) On written application by the nonprofit health service plan, the
17 Commissioner may authorize an amendment that the Commissioner has reviewed to
18 become effective before the expiration of the waiting period or any extension of the
19 waiting period or at a later date.

20 (2) A filing is deemed approved unless disapproved by the Commissioner
21 within the waiting period or any extension of the waiting period.

22 (3) (i) The Commissioner shall disapprove or modify the proposed
23 change if:

24 1. the table of rates appears by statistical analysis and
25 reasonable assumptions to be excessive in relation to benefits; [or]

26 2. THE TABLE OF RATES APPEARS BY STATISTICAL ANALYSIS
27 AND REASONABLE ASSUMPTIONS TO BE EXCESSIVE IN CONSIDERATION OF FUNDS
28 AVAILABLE OR INTENDED TO SUBSIDIZE RATES OR OFFSET LOSSES; OR

29 [2.] 3. the form contains provisions that are unjust, unfair,
30 inequitable, inadequate, misleading, or deceptive or encourage misrepresentations of
31 the coverage.

32 (ii) In determining whether to disapprove or modify the form or
33 table of rates, the Commissioner shall consider:

34 1. past and prospective loss experience within and outside
35 the State;

36 2. underwriting practice and judgment to the extent
37 appropriate;

1 (2) If a nonprofit health service plan uses a form which becomes effective
2 in accordance with the provisions of subparagraph (i) of this paragraph and the form
3 would be subject to disapproval under subsection (b)(3) of this section, the
4 Commissioner may:

5 (i) Subsequently disapprove the form; and

6 (ii) Impose on the nonprofit service plan a penalty under § 4-113 of
7 this article.

8 (3) If a nonprofit health service plan files a form with the Commissioner
9 which becomes effective in accordance with paragraph (1) of this subsection, the
10 nonprofit health service plan shall pay the applicable filing fee provided in § 2-112 of
11 this article.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect June 1, 2002.