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By: **Delegates Taylor and Buseh, Busch, Barve, Donoghue, Eckardt, Goldwater, Gordon, Harrison, Hill, Kach, Kirk, Krysiak, La Vay, Love, McClenahan, McHale, Minnick, Mitchell, Moe, Pendergrass, and Walkup**

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Committee Report: Favorable with amendments  
House action: Adopted  
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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Insurance - Nonprofit Health Service Plans and Rate Making -**  
3 **Reform**

4 FOR the purpose of altering certain provisions relating to the regulation of nonprofit  
5 health service plans; specifying the purpose of a certain provision of law;  
6 specifying that certain nonprofit health service plans are exempt from ~~certain~~  
7 ~~taxes~~ taxation as provided by law; clarifying the authority of the Attorney  
8 General to enforce the nonprofit mission of a nonprofit health service plan and  
9 to preserve and protect the assets of a nonprofit health service plan from waste,  
10 mismanagement, or abuse; exempting certain nonprofit health service plans  
11 from certain public service requirements; specifying the manner in which  
12 certain nonprofit health service plans can satisfy certain requirements;  
13 repealing a provision prohibiting the Insurance Commissioner from considering  
14 certain information when making a certain determination; requiring certain  
15 nonprofit health service plans to perform certain functions; providing that a  
16 nonprofit health service plan may satisfy a certain requirement in a manner;  
17 repealing a requirement that the Insurance Commissioner follow certain  
18 procedures after making a certain determination; specifying the use of certain  
19 premium tax revenue collected by the Maryland Insurance Administration;  
20 specifying information that certain applicants for a certificate of authority must  
21 submit; specifying certain criteria that the Insurance Commissioner shall  
22 consider when issuing a certain certificate of authority; prohibiting the  
23 Insurance Commissioner from renewing a certain certificate of authority except  
24 under certain circumstances; specifying certain activities that a certain  
25 corporation is authorized to engage in; specifying that certain members of a

1 certain board of directors are fiduciaries on behalf of certain individuals and  
2 entities; specifying the manner in which certain board members shall act;  
3 specifying the principal functions of a certain board; requiring each member of a  
4 certain board to be a State resident; specifying the maximum number of  
5 members on a certain board; exempting certain nonprofit health service plan  
6 boards from certain requirements; requiring the Governor with the advice and  
7 consent of the General Assembly to appoint certain members of a certain board;  
8 altering the appointment process for certain consumer members to a certain  
9 board; specifying the manner in which certain board members shall be chosen;  
10 altering the term of certain board members beginning on a certain date; altering  
11 the maximum term of certain board members; altering the number of consumer  
12 members appointed to a certain board; specifying that the compensation of  
13 certain directors and officers shall meet a certain requirement limiting the  
14 maximum compensation for the Chairman and members of a certain board;  
15 altering the maximum representation of certain individuals on a certain board;  
16 clarifying the authority of the Insurance Commissioner to take into account  
17 certain funds when reviewing certain rates and forms; altering a certain  
18 definition; making a portion of this Act subject to certain contingencies; and  
19 generally relating to nonprofit health service plans.

20 BY repealing and reenacting, with amendments,  
21 Article 43C - Maryland Health and Higher Educational Facilities Authority  
22 Section 3(h)  
23 Annotated Code of Maryland  
24 (1998 Replacement Volume and 2001 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article - Health - General  
27 Section 19-713(b)  
28 Annotated Code of Maryland  
29 (2000 Replacement Volume and 2001 Supplement)

30 BY repealing and reenacting, with amendments,  
31 Article - Insurance  
32 Section 12-205(b), 14-102, 14-106, 14-107, 14-109 through 14-111, 14-115,  
33 and 14-126  
34 Annotated Code of Maryland  
35 (1997 Volume and 2001 Supplement)

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

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

2 3.

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

5 (h) (1) "Hospital" means a hospital, a related institution or a combination of  
6 a hospital and a related institution, located within this State and either meeting the  
7 requirements of and having a license or licenses as required by § 19-318 of the Health  
8 - General Article or, in the case of a new institution, having a prelicensing  
9 certification or recertification from the State Health Planning and Development  
10 Agency and being or to be, in fact, a health care facility available to the general public  
11 maintained and operated as a nonprofit institution by some person, association,  
12 municipal or other corporation, or other agency, or a nonprofit corporation organized  
13 for the purpose of constructing or acquiring such a hospital, related institution or  
14 combination of a hospital and a related institution.

15 (2) "Hospital" includes:

16 (i) Nonprofit comprehensive health centers providing out-patient  
17 primary health services available to the general public, but does not include any  
18 facility as described in this item which is owned and operated by the State, except  
19 that with the approval of the Board of Public Works and the Joint Audit Committee of  
20 the General Assembly the term includes medical or health care facilities of the  
21 University System of Maryland;

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

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

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

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

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

**Article - Health - General**

1 19-713.

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

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

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

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

11 (3) A HEALTH MAINTENANCE ORGANIZATION SHALL USE IN ITS RATING  
12 METHODOLOGY AN ADJUSTMENT THAT REFLECTS THE VALUE OF ANY FUNDS  
13 AVAILABLE OR INTENDED TO SUBSIDIZE RATES OR OFFSET LOSSES.  
14

**Article - Insurance**

15 12-205.

16 (b) A form may not:

17 (1) in any respect violate or fail to comply with this article;

18 (2) contain or incorporate by reference, if the incorporation is otherwise  
19 permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and  
20 conditions that deceptively affect the risk purported to be assumed in the general  
21 coverage of the contract;

22 (3) have a title, heading, or other indication of its provisions that is likely  
23 to mislead the policyholder or certificate holder;

24 (4) contain an inequitable provision of insurance without substantial  
25 benefit to the policyholder;

26 (5) be printed or otherwise reproduced so as to make a provision of the  
27 form substantially illegible;

28 (6) provide benefits in a health insurance policy that are unreasonable in  
29 relation to the premium charged;

30 (7) contain, irrespective of the premium charged, a benefit that is not  
31 sufficient to be of real economic value to the insured;

32 (8) fail to provide minimum benefits or coverages that the Commissioner  
33 considers necessary to meet the minimum needs of the insured; [or]  
34

1 (9) in a health insurance application form, contain inquiries about:

2 (i) a preexisting condition, illness, or disease for which the  
3 applicant has not received medical care or advice from a licensed health care provider  
4 during the 7 years immediately before the date of the application; or

5 (ii) medical screening, testing, monitoring, or any other similar  
6 medical procedure that the Commissioner specifies and that the applicant received  
7 more than 7 years before the date of application; OR

8 (10) CHARGE A PREMIUM THAT APPEARS EXCESSIVE IN CONSIDERATION  
9 OF FUNDS AVAILABLE OR INTENDED TO SUBSIDIZE RATES OR OFFSET LOSSES.

10 14-102.

11 (A) THE PURPOSE OF THIS SUBTITLE IS:

12 (1) TO REGULATE THE FORMATION AND OPERATION OF NONPROFIT  
13 HEALTH SERVICE PLANS IN THE STATE; AND

14 (2) TO PROMOTE THE FORMATION AND EXISTENCE OF NONPROFIT  
15 HEALTH SERVICE PLANS IN THE STATE THAT:

16 (I) ARE COMMITTED TO A NONPROFIT CORPORATE STRUCTURE;

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

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

21 (B) A NONPROFIT HEALTH SERVICE PLAN THAT COMPLIES WITH THE  
22 PROVISIONS OF THIS SUBTITLE IS DECLARED TO BE A PUBLIC BENEFIT  
23 ORGANIZATION THAT IS EXEMPT FROM ~~STATE AND LOCAL TAXES AS PROVIDED~~  
24 ~~UNDER § 6-101(B) OF THIS ARTICLE~~ TAXATION AS PROVIDED BY LAW.

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

30 (1) this subtitle;

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

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

34 (4) §§ 4-113 and 4-114 of this article;

- 1 (5) Title 5, Subtitles 1, 2, 3, 4, and 5 of this article;
- 2 (6) Title 7 of this article, except for § 7-706 and Subtitle 2 of Title 7;
- 3 (7) Title 9, Subtitles 1, 2, and 4 of this article;
- 4 (8) Title 10, Subtitle 1 of this article;
- 5 (9) Title 27 of this article; and
- 6 (10) any other provision of this article that:
- 7 (i) is expressly referred to in this subtitle;
- 8 (ii) expressly refers to this subtitle; or
- 9 (iii) expressly refers to nonprofit health service plans or persons
- 10 subject to this subtitle.

11 (D) THE ATTORNEY GENERAL MAY BRING AN ACTION IN A COURT OF

12 COMPETENT JURISDICTION TO:

13 (1) ENFORCE THE NONPROFIT MISSION OF A NONPROFIT HEALTH

14 SERVICE PLAN; AND

15 (2) PRESERVE AND PROTECT THE ASSETS OF A NONPROFIT HEALTH

16 SERVICE PLAN FROM WASTE, MISMANAGEMENT, OR ABUSE.

17 14-106.

18 (a) It is the public policy of this State that the exemption from taxation for

19 nonprofit health service plans under § 6-101(b)(1) of this article is granted so that

20 funds which would otherwise be collected by the State and spent for a public purpose

21 shall be used in a like manner and amount by the nonprofit health service plan.

22 (b) This section does not apply to:

23 (1) a nonprofit health service plan that insures fewer than 10,000

24 covered lives in Maryland; OR

25 (2) A NONPROFIT HEALTH SERVICE PLAN THAT ISSUES CONTRACTS FOR

26 ONLY ONE OF THE FOLLOWING SERVICES:

- 27 (I) PODIATRIC;
- 28 (II) CHIROPRACTIC;
- 29 (III) PHARMACEUTICAL;
- 30 (IV) DENTAL;

1 (V) PSYCHOLOGICAL; OR

2 (VI) OPTOMETRIC.

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

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

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

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

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

17 (2) PROVIDED FINANCIAL OR IN-KIND SUPPORT FOR PUBLIC HEALTH  
18 PROGRAMS;

19 (3) EMPLOYED UNDERWRITING STANDARDS IN A MANNER THAT  
20 INCREASES THE AVAILABILITY OF ONE OR MORE HEALTH CARE SERVICES OR  
21 PRODUCTS;

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

26 [(2)] (5) served the public interest by any method or practice approved  
27 by the Commissioner.

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

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

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

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

7 (2) A NONPROFIT HEALTH SERVICE PLAN MAY SATISFY THE  
8 REQUIREMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION BY PARTICIPATING AS  
9 A CARRIER OR ADMINISTRATOR IN A PUBLIC PROGRAM DESIGNED TO PROVIDE  
10 COMPREHENSIVE HEALTH CARE BENEFITS TO MEDICALLY UNINSURABLE  
11 INDIVIDUALS.

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

14 14-107.

15 (a) By November 1 of each year, the Commissioner shall issue an order  
16 notifying each nonprofit health service plan that is required to file a report under §  
17 14-106 of this subtitle of whether the plan has satisfied the requirements of § 14-106  
18 of this subtitle.

19 (b) ~~(1)~~ If the Commissioner determines that a nonprofit health service plan  
20 has not satisfied the requirements of § 14-106 of this subtitle, [the nonprofit health  
21 service plan shall have 1 year from the date the Commissioner issued the order under  
22 subsection (a) of this section to comply with the requirements of § 14-106 of this  
23 subtitle.

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

27 (i) the Commissioner shall report the determination to the House  
28 Economic Matters Committee and the Senate Finance Committee, including the  
29 reasons for the determination; and

30 (ii) if required by an act of the General Assembly, the nonprofit  
31 health service plan shall be subject to] **THE COMMISSIONER SHALL ISSUE AN ORDER**  
32 **REQUIRING THE NONPROFIT HEALTH SERVICE PLAN TO PAY the premium tax under**  
33 **Title 6, Subtitle 1 of this article FOR A PERIOD OF TIME BEGINNING WITH THE DATE**  
34 **~~OF THE ORDER~~ THE PLAN WAS DETERMINED TO BE OUT OF COMPLIANCE WITH §**  
35 **14-106 OF THIS SUBTITLE AND UNTIL SUCH TIME AS THE NONPROFIT HEALTH**  
36 **SERVICE PLAN DEMONSTRATES TO THE COMMISSIONER THAT THE PLAN IS**  
37 **COMPLYING WITH § 14-106 OF THIS SUBTITLE.**

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

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

4 (E) PREMIUM TAX REVENUE COLLECTED BY THE ADMINISTRATION AS THE  
5 RESULT OF AN ORDER ISSUED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE  
6 PLACED IN A SEGREGATED ACCOUNT AND USED TO PROVIDE HEALTH INSURANCE  
7 COVERAGE TO MEDICALLY UNINSURABLE OR UNDERINSURED INDIVIDUALS.

8 14-109.

9 An applicant for a certificate of authority shall:

10 (1) file with the Commissioner an application on the form that the  
11 Commissioner provides containing the information that the Commissioner considers  
12 necessary;

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

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

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

19 (ii) bylaws with all amendments;

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

23 (iv) each form of contract issued or proposed to be issued to  
24 subscribers to the plan and a table of the rates charged or proposed to be charged to  
25 subscribers for each form of contract;

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

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

32 (VII) A LIST OF THE TOTAL COMPENSATION PAID OR PROPOSED TO  
33 BE PAID TO EACH MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION;  
34 AND

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

1 14-110.

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

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

5 (2) the Commissioner is satisfied:

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

9 1. IS COMMITTED TO A NONPROFIT CORPORATE  
10 STRUCTURE;

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

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

15 (ii) that:

16 1. each contract executed or proposed to be executed by the  
17 applicant and a health care provider to furnish health care services to subscribers to  
18 the nonprofit health service plan, obligates or, when executed, will obligate each  
19 health care provider party to the contract to render the health care services to which  
20 each subscriber is entitled under the terms and conditions of the various contracts  
21 issued or proposed to be issued by the applicant to subscribers to the plan; and

22 2. each subscriber is entitled to reimbursement for podiatric,  
23 chiropractic, psychological, or optometric services, regardless of whether the service is  
24 performed by a licensed physician, licensed podiatrist, licensed chiropractor, licensed  
25 psychologist, or licensed optometrist;

26 (iii) that:

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

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

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

33 1. \$100,000; and

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

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

4 14-111.

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

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

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

11 (3) FINANCE CAPITAL IMPROVEMENT PROJECTS THROUGH THE  
 12 MARYLAND ECONOMIC DEVELOPMENT CORPORATION AS PROVIDED UNDER ARTICLE  
 13 83A, TITLE 5, SUBTITLE 2 OF THE CODE; AND

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

17 14-115.

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

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

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

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

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

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

31 (i) in good faith;

32 (ii) in a manner that is reasonably believed to be in the best  
 33 interests of the corporation AND ITS ~~MEMBERS AND~~ SUBSCRIBERS AND CERTIFICATE  
 34 HOLDERS; [and]

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

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

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

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

8 (II) REVIEWING, ADOPTING, AND APPROVING LONG-TERM  
9 CORPORATE STRATEGIES AND OBJECTIVES;

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

12 (IV) MONITORING THE PERFORMANCE OF CORPORATE  
13 MANAGEMENT;

14 (V) ENSURING THAT THE CORPORATION OPERATES RESPONSIBLY  
15 AS WELL AS EFFECTIVELY;

16 (VI) NOMINATING AND SELECTING SUITABLE CANDIDATES FOR  
17 ~~ELECTION TO~~ THE BOARD; AND

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

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

21 [(3)] (5) An officer or employee of a nonprofit health service plan or any  
22 of its affiliates or subsidiaries may not be appointed or elected to the board.

23 [(4)] (6) A nonprofit health service plan is subject to the provisions of §  
24 2-419 of the Corporations and Associations Article.

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

27 **Article - Insurance**

28 14-115.

29 (d) (1) This subsection does not apply to a board of:

30 (I) A NONPROFIT HEALTH SERVICE PLAN THAT INSURES FEWER  
31 THAN 10,000 COVERED LIVES IN MARYLAND; OR

32 (II) a nonprofit health service plan that issues contracts for only one  
33 of the following services:

- 1                   (i)     1.     podiatric;
- 2                   (ii)    2.     chiropractic;
- 3                   (iii)   3.     pharmaceutical;
- 4                   (iv)    4.     dental;
- 5                   (v)     5.     psychological; or
- 6                   (vi)    6.     optometric.

7                   (2)     (I)     THE BOARD SHALL BE COMPRISED OF NO MORE THAN 17  
8 MEMBERS.

9                   (II)     THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE  
10 GENERAL ASSEMBLY, SHALL APPOINT EIGHT MEMBERS OF THE BOARD TO SERVE AS  
11 VOTING PUBLIC MEMBERS IN ACCORDANCE WITH THIS SUBSECTION.

12                   (III)    THE REMAINING MEMBERS OF THE BOARD SHALL BE  
13 SELECTED BY THE BOARD OF DIRECTORS OF THE NONPROFIT HEALTH SERVICE  
14 PLAN IN ACCORDANCE WITH PARAGRAPH (7) OF THIS SUBSECTION AND THE  
15 ARTICLES AND BYLAWS OF THE PLAN.

16                   ~~{(2)}~~   ~~(3)~~    The ~~[board]~~ GOVERNOR, WITH THE ADVICE AND CONSENT OF  
17 ~~THE SENATE,~~ shall appoint ~~[two]~~ FOUR additional members to serve as voting  
18 ~~consumer members.~~

19                   ~~{(3)}~~    (4)     Of the ~~[two]~~ FOUR consumer members, ~~[one]~~ TWO shall be ~~[a~~  
20 ~~subscriber]~~ SUBSCRIBERS and ~~[one]~~ TWO shall be ~~[a]~~ certificate ~~[holder]~~ HOLDERS  
21 ~~of the nonprofit health service plan.~~ EIGHT MEMBERS APPOINTED BY THE  
22 GOVERNOR:

23                   (I)     ONE SHALL BE THE OWNER OF A BUSINESS WITH MORE THAN  
24 50 EMPLOYEES;

25                   (II)    ONE SHALL BE THE OWNER OF A BUSINESS WITH 50 OR FEWER  
26 EMPLOYEES;

27                   (III)   ONE SHALL BE A REPRESENTATIVE OF ORGANIZED LABOR;

28                   (IV)    ONE SHALL BE A MEMBER OF THE STATE EMPLOYEE HEALTH  
29 BENEFIT PLAN; AND

30                   (V)     FOUR SHALL BE CONSUMERS WHO SATISFY THE  
31 REQUIREMENTS OF PARAGRAPHS (5) AND (6) OF THIS SUBSECTION.

32                   (4)     THE GOVERNOR SHALL SELECT THE CHAIRMAN OF THE BOARD  
33 FROM AMONG THE MEMBERS APPOINTED UNDER PARAGRAPH (3) OF THIS  
34 SUBSECTION.

1            [(4)]    (5)    Each consumer member of the board:  
 2                            (i)    shall be a member of the general public;  
 3                            (ii)   may not be considered an agent or employee of the State for any  
 4 purpose; and  
 5                            (iii)   is entitled to the same rights, powers, and privileges as the  
 6 other members of the board.

7            [(5)]    (6)    A consumer member of the board may not:  
 8                            (i)    be a licensee of or otherwise be subject to regulation by the  
 9 Commissioner;  
 10                            (ii)   be employed by or have a financial interest in:  
 11    1.    a nonprofit health service plan or its affiliates or  
 12 subsidiaries; or  
 13    2.    a person regulated under this article or the Health -  
 14 General Article; or  
 15                            (iii)   within 1 year before appointment, have been employed by, had a  
 16 financial interest in, or have received compensation from:

17    1.    a nonprofit health service plan or its affiliates or  
 18 subsidiaries; or  
 19    2.    a person regulated under this article or the Health -  
 20 General Article.

21            (7)    OF THE BOARD MEMBERS SELECTED BY THE BOARD:

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

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

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

28                            (IV) ONE SHALL BE SELECTED FROM AMONG A LIST OF NOMINEES  
 29 SUBMITTED JOINTLY BY THE MENTAL HEALTH ASSOCIATION OF MARYLAND STATE'S  
 30 ACADEMIC MEDICAL INSTITUTIONS; AND

31                            (V)   ONE FIVE SHALL BE SELECTED FROM AMONG A LIST OF  
 32 NOMINEES SUBMITTED JOINTLY BY THE HEALTH FACILITIES ASSOCIATION OF  
 33 MARYLAND AND MID-ATLANTIC LIFESPAN CONSUMERS WHO SATISFY THE  
 34 REQUIREMENTS OF PARAGRAPHS (5) AND (6) OF THIS SUBSECTION.

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

3 (2) The term of a member is ~~{3}~~ 4 years.

4 (3) The terms of the members of a board shall be staggered over a  
5 ~~{3-year}~~ 4-YEAR period as required by the terms provided for members of the board  
6 in the bylaws filed and approved by the Commissioner on or after June 1, ~~[1993]~~ 2002  
7 AS REQUIRED UNDER REGULATIONS ADOPTED BY THE COMMISSIONER.

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

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

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

13 (i) ~~[three]~~ TWO full terms; or

14 (ii) a total of more than ~~[9]~~ 8 6 years.

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

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

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

20 (iii) habitually has neglected to pay debts.

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

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

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

26 ~~(11)~~ The membership of the board shall represent the different geographic  
27 regions of the State.

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

30 (G) (1) THE COMPENSATION, IF ANY, OF THE DIRECTORS AND OFFICERS OF  
31 A NONPROFIT HEALTH SERVICE PLAN SHALL BE REASONABLE, AS ~~DETERMINED BY~~  
32 ~~THE COMMISSIONER, IN COMPARISON TO THE COMPENSATION PAID TO BOARD~~  
33 ~~MEMBERS AND OFFICERS OF COMPARABLE NONPROFIT HEALTH PLANS OPERATING~~

1 ~~IN THE STATE OR ELSEWHERE~~ PROVIDED UNDER PARAGRAPH (2) OF THIS  
 2 SUBSECTION.

3 (2) THE CHAIRMAN OF THE BOARD MAY RECEIVE COMPENSATION IN AN  
 4 AMOUNT NOT TO EXCEED \$40,000 PER YEAR AND EACH OTHER MEMBER OF THE  
 5 BOARD MAY RECEIVE COMPENSATION IN AN AMOUNT NOT TO EXCEED \$24,000 PER  
 6 YEAR.

7 [(g)] (H) (1) This subsection does not apply to a board of a nonprofit health  
 8 service plan that has a premium income for the preceding year of less than  
 9 \$30,000,000.

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

11 (i) licensed health care professionals;

12 (ii) hospital administrators; and

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

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

18 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 19 read as follows:

20 **Article - Insurance**

21 14-126.

22 (a) (1) A corporation subject to this subtitle may not amend its certificate of  
 23 incorporation, bylaws, or the terms and provisions of contracts issued or proposed to  
 24 be issued to subscribers to the plan until the proposed amendments have been  
 25 submitted to and approved by the Commissioner and the applicable fees required by  
 26 § 2-112 of this article have been paid.

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

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

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

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

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

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

10 (3) (i) The Commissioner shall disapprove or modify the proposed  
11 change if:

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

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

17 [2.] 3. the form contains provisions that are unjust, unfair,  
18 inequitable, inadequate, misleading, or deceptive or encourage misrepresentations of  
19 the coverage.

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

22 1. past and prospective loss experience within and outside  
23 the State;

24 2. underwriting practice and judgment to the extent  
25 appropriate;

26 3. a reasonable margin for reserve needs;

27 4. past and prospective expenses, both countrywide and  
28 those specifically applicable to the State; [and]

29 5. ANY FUNDS AVAILABLE OR INTENDED TO SUBSIDIZE  
30 RATES OR OFFSET LOSSES; AND

31 [5.] 6. any other relevant factors within and outside the  
32 State.

33 (4) On the adoption of an amendment or change, after approval by the  
34 Commissioner, the corporation shall file with the Commissioner a copy of the  
35 amendment or change that has been certified by at least two executive officers of the  
36 corporation.

1 (c) At any time, the Commissioner may require a nonprofit health service  
2 plan in the State to demonstrate that its filings, including the terms and provisions of  
3 its contracts, its table of rates, and its method for setting rates, comply with  
4 subsections (a) and (b) of this section, notwithstanding that the Commissioner had  
5 previously approved the filings.

6 (d) (1) If, after the applicable review period established under subsection (b)  
7 of this section, the Commissioner finds that a filing does not meet the requirements of  
8 this section, the Commissioner shall issue to the filer an order that specifies the ways  
9 in which the filing fails to meet the requirements of this section and states when,  
10 within a reasonable period after the order, the filing will no longer be effective.

11 (2) (i) The Commissioner shall hold a hearing before issuing an order  
12 under paragraph (1) of this subsection.

13 (ii) The Commissioner shall give written notice of the hearing to  
14 the filer at least 10 days before the hearing.

15 (iii) The written notice shall specify the matters to be considered at  
16 the hearing.

17 (3) An order issued under paragraph (1) of this subsection does not:

18 (i) affect a contract or policy made or issued before the expiration  
19 of the period set forth in the order; or

20 (ii) directly affect an existing contract or policy between a nonprofit  
21 health service plan and a subscriber established in accordance with a collective  
22 bargaining agreement.

23 (e) (1) The Commissioner may adopt regulations to allow a type or kind of  
24 form to be effective upon receipt of the filing by the Commissioner.

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

29 (i) Subsequently disapprove the form; and

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

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

36 SECTION 4. AND BE IT FURTHER ENACTED, That:

1 (a) Section 2 of this Act shall take effect upon:

2 (1) a determination by the Insurance Commissioner or by an Act of the  
3 General Assembly that the application for acquisition filed on January 11, 2002 by  
4 CareFirst of Maryland, Inc. in accordance with Subtitle 6.5 of the State Government  
5 Article is denied; or

6 (2) termination by either party of the proposed acquisition agreement  
7 between CareFirst, Inc. and WellPoint Health Networks, Inc., application for which  
8 was filed with the Insurance Commissioner on January 11, 2002 in accordance with  
9 Subtitle 6.5 of the State Government Article.

10 (b) If the acquisition described under subsection (a) of this section is  
11 consummated, Section 2 of this Act shall be null and void without the necessity of  
12 further action by the General Assembly.

13 (c) The Insurance Commissioner shall promptly notify the Department of  
14 Legislative Services of the fiscal status of the acquisition described under subsection  
15 (a) of this section.

16 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in  
17 Section 4 of this Act, this Act shall take effect June 1, 2002.