

SENATE BILL 289

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2002 Regular Session  
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By: **Senators Hoffman, Hogan, Middleton, and Van Hollen**

Introduced and read first time: January 24, 2002

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2                           **Community Services Reimbursement Rate Commission - Termination Date**  
3                           **Extension and Modifications**

4 FOR the purpose of extending the termination date for the Community Services  
5 Reimbursement Rate Commission; authorizing the Governor, with the advice  
6 and consent of the Senate, to appoint a certain number of members of the  
7 Commission for a third consecutive term beginning on a certain date; requiring  
8 the Commission to assess the impact of certain consumer safety costs and other  
9 rate system issues determined by the Commission to be appropriate; requiring  
10 the Commission to develop certain methodologies, to review and use certain  
11 data in developing certain performance measures; requiring the Commission to  
12 work with the Mental Hygiene Administration to expand the use of certain data;  
13 requiring the Commission to evaluate certain proposed regulatory changes;  
14 requiring the Commission to include certain recommended methodologies in a  
15 certain annual report by the Commission; requiring the Mental Hygiene  
16 Administration and the Developmental Disabilities Administration to respond  
17 in writing to the recommendations of the Commission within a certain time  
18 period after a certain annual report by the Commission has been issued;  
19 requiring a certain report by a certain date; defining a certain term; and  
20 generally relating to the Community Services Reimbursement Rate  
21 Commission.

22 BY repealing and reenacting, with amendments,  
23 Article - Health - General  
24 Section 13-801, 13-803, 13-806, 13-809, and 13-810  
25 Annotated Code of Maryland  
26 (2000 Replacement Volume and 2001 Supplement)

27 BY repealing and reenacting, without amendments,  
28 Article - Health - General  
29 Section 13-802, 13-804, 13-805, 13-807, and 13-808  
30 Annotated Code of Maryland  
31 (2000 Replacement Volume and 2001 Supplement)

1 BY repealing and reenacting, with amendments,  
2 Chapter 566 of the Acts of the General Assembly of 1999  
3 Section 2

4 BY repealing and reenacting, with amendments,  
5 Chapter 593 of the Acts of the General Assembly of 1996, as amended by  
6 Chapter 566 of the Acts of the General Assembly of 1999  
7 Section 3

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

10 **Article - Health - General**

11 13-801.

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

13 (b) "Commission" means the Community Services Reimbursement Rate  
14 Commission.

15 (c) "CONSUMER SAFETY COSTS" MEANS THE COSTS INCURRED BY A  
16 PROVIDER FOR CARE THAT IS PROVIDED TO COMPLY WITH ANY REGULATORY  
17 REQUIREMENTS IN THE STAFFING OR MANNER OF CARE PROVIDED, INCLUDING:

18 (1) 24-HOUR OVERNIGHT AWAKE SUPERVISION; AND

19 (2) OTHER COST FACTORS RELATED TO HEALTH AND SAFETY THAT ARE  
20 STATED IN THE CARE PLAN REQUIRED FOR AN INDIVIDUAL.

21 (D) "Provider" means a community-based agency or program funded:

22 (1) By the Developmental Disabilities Administration to serve  
23 individuals with developmental disabilities; or

24 (2) By the Mental Hygiene Administration to serve individuals with  
25 mental disorders.

26 [(d)] (E) "Rate" means the reimbursement rate paid by the Department to a  
27 provider from State general funds, Maryland Medical Assistance Program funds,  
28 other State or federal funds, or a combination of those funds.

29 13-802.

30 (a) There is a Community Services Reimbursement Rate Commission.

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

1 13-803.

2 (a) The Commission shall consist of seven members appointed by the  
3 Governor with the advice and consent of the Senate.

4 (b) Of the seven members, four shall be individuals who do not have any  
5 connection with the management or policy of any provider.

6 (c) Each member appointed to the Commission shall be interested in ensuring  
7 high quality community-based services for individuals with developmental  
8 disabilities or mental disorders.

9 (d) (1) The term of a member is 3 years.

10 (2) If a vacancy occurs during the term of a member, the Governor shall  
11 appoint a successor who will serve until the term expires.

12 (3) [A] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,  
13 A member who serves two consecutive full 3-year terms may not be reappointed for 3  
14 years after completion of those terms.

15 (4) THE GOVERNOR MAY, WITH THE ADVICE AND CONSENT OF THE  
16 SENATE, APPOINT UP TO THREE MEMBERS SERVING ON THE COMMISSION AS OF  
17 JANUARY 1, 2002 TO SERVE A THIRD CONSECUTIVE 3-YEAR TERM BEGINNING  
18 OCTOBER 1, 2002.

19 13-804.

20 Each year, from among the members of the Commission:

21 (1) The Governor shall appoint a chairman; and

22 (2) The chairman shall appoint a vice chairman.

23 13-805.

24 (a) A quorum of the Commission is four members.

25 (b) The Commission shall meet at least four times a year at the times and  
26 places that it determines.

27 (c) A member of the Commission:

28 (1) May not receive compensation for duties performed as a member of  
29 the Commission; but

30 (2) Is entitled to reimbursement for expenses under the Standard State  
31 Travel Regulations, as provided in the State budget.

32 (d) The Commission may employ staff and expend funds to carry out its duties  
33 and responsibilities under this subtitle in accordance with the State budget.

1 13-806.

2 (A) The Commission shall assess:

3 (1) The extent and amount of uncompensated care delivered by  
4 providers;

5 (2) The relationship of changes in wages paid by providers to changes in  
6 rates paid by the Department, INCLUDING THE SOURCE OF REVENUE FOR WAGES  
7 PAID BY PROVIDERS;

8 (3) The ability of providers to operate on a solvent basis in the delivery of  
9 effective and efficient services that are in the public interest;

10 (4) The incentives and disincentives:

11 (i) Incorporated in the rate setting methodologies utilized and  
12 proposed by the Mental Hygiene Administration and the Developmental Disabilities  
13 Administration; and

14 (ii) In alternative methodologies;

15 (5) Measures of quality and how incentives to provide quality care can be  
16 built into a rate setting methodology; [and]

17 (6) [The adequacy of and methods used to determine the annual cost of  
18 living adjustment to the rates paid by the Developmental Disabilities Administration  
19 and the Mental Hygiene Administration.] THE IMPACT OF CONSUMER SAFETY COSTS  
20 AND WHETHER THE RATES HAVE BEEN ADJUSTED TO PROVIDE FOR CONSUMER  
21 SAFETY COSTS; AND

22 (7) OTHER RATE SYSTEM ISSUES DETERMINED BY THE COMMISSION TO  
23 BE APPROPRIATE.

24 (B) THE COMMISSION SHALL:

25 (1) DEVELOP METHODOLOGIES FOR CALCULATING RATE UPDATE  
26 FACTORS FOR RATES PAID BY THE DEVELOPMENTAL DISABILITIES ADMINISTRATION  
27 AND THE MENTAL HYGIENE ADMINISTRATION AND RECOMMEND ANNUAL RATE  
28 UPDATE FACTORS THAT USE THE METHODOLOGIES THAT ARE DEVELOPED;

29 (2) REVIEW THE DATA REPORTED IN THE DEVELOPMENTAL  
30 DISABILITIES ADMINISTRATION ANNUAL COST REPORTS AND USE THE DATA TO  
31 DEVELOP RELATIVE PERFORMANCE MEASURES OF PROVIDERS;

32 (3) WORK WITH THE MENTAL HYGIENE ADMINISTRATION TO EXPAND  
33 THE USE OF ANY BILLING DATA COLLECTED BY A THIRD PARTY ADMINISTRATOR FOR  
34 THE PUBLIC MENTAL HEALTH SYSTEM IN ORDER TO EVALUATE PERFORMANCE; AND

35 (4) EVALUATE PROPOSED REGULATORY CHANGES BY THE  
36 DEPARTMENT, THE DEVELOPMENTAL DISABILITIES ADMINISTRATION, AND THE

1 MENTAL HYGIENE ADMINISTRATION THAT AFFECT THE RATES PAID OR THE RATE  
2 STRUCTURE.

3 13-807.

4 (a) In addition to the powers and duties provided elsewhere in this subtitle,  
5 the Commission may:

6 (1) Recommend the adoption of regulations to carry out the provisions of  
7 this subtitle;

8 (2) Create committees from among its members;

9 (3) Appoint advisory committees that may include individuals and  
10 representatives of interested public and private organizations;

11 (4) Publish and distribute information that relates to the financial  
12 aspects of community-based developmental disability or mental health services; and

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

15 (b) The Commission shall have timely access to information from the  
16 Executive Branch required to fulfill the responsibilities of the Commission under this  
17 subtitle, including information from the Developmental Disabilities Administration  
18 and the Mental Hygiene Administration.

19 13-808.

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

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

27 13-809.

28 On or before October 1 of each year, the Commission shall issue a report to the  
29 Governor, the Secretary, and, subject to § 2-1246 of the State Government Article, the  
30 General Assembly that:

31 (1) Describes its findings regarding:

32 (i) The relationship of changes in wages paid by providers to  
33 changes in rates paid by the Department;

1 (ii) The FINANCIAL CONDITION OF PROVIDERS AND THE ability of  
2 providers to operate on a solvent basis in the delivery of effective and efficient  
3 services that are in the public interest;

4 (iii) The incentives and disincentives incorporated in the rate  
5 setting methodologies utilized and proposed by the Mental Hygiene Administration  
6 and the Developmental Disabilities Administration and how the methodologies might  
7 be improved;

8 (iv) [Alternative rate setting methodologies that might improve the  
9 efficiency or effectiveness of the methods of payments to providers;

10 (v) How the quality of care offered by providers can be measured;

11 (vi)] How incentives to provide quality of care can be built into a rate  
12 setting methodology; and

13 [(vii) The adequacy of and methods used to determine the annual cost  
14 of living adjustment to the rates paid by the Developmental Disabilities  
15 Administration and the Mental Hygiene Administration.]

16 (V) THE RECOMMENDED METHODOLOGIES FOR THE CALCULATION  
17 OF RATE UPDATE FACTORS AND THE RATE UPDATE FACTORS RECOMMENDED FOR  
18 THE NEXT SUCCEEDING FISCAL YEAR.

19 (2) Recommends the need for any formal executive, judicial, or  
20 legislative action;

21 (3) Describes issues in need of future study by the Commission; and

22 (4) Discusses any other matter that relates to the purposes of the  
23 Commission under this subtitle.

24 13-810.

25 (A) The findings and recommendations of the Commission shall be considered  
26 each year in the development of the budgets of the Department, the Developmental  
27 Disabilities Administration, and the Mental Hygiene Administration.

28 (B) (1) THE MENTAL HYGIENE ADMINISTRATION AND THE  
29 DEVELOPMENTAL DISABILITIES ADMINISTRATION SHALL RESPOND TO THE  
30 RECOMMENDATIONS OF THE COMMISSION IN WRITING WITHIN 30 DAYS AFTER THE  
31 REPORT REQUIRED IN § 13-809 OF THIS SUBTITLE HAS BEEN ISSUED.

32 (2) THE WRITTEN RESPONSE OF THE MENTAL HYGIENE  
33 ADMINISTRATION AND THE DEVELOPMENTAL DISABILITIES ADMINISTRATION  
34 SHALL INCLUDE:

35 (I) AN EXPLANATION OF THE ACTIONS BEING TAKEN TO  
36 IMPLEMENT THE RECOMMENDATIONS OF THE COMMISSION; OR

1 (II) AN EXPLANATION OF WHY NO ACTION HAS BEEN TAKEN ON  
2 THE RECOMMENDATIONS OF THE COMMISSION.

3 **Chapter 566 of the Acts of 1999**

4 SECTION 2. AND BE IT FURTHER ENACTED, That, in the [report] REPORTS  
5 due on or before October 1, 2002 AND OCTOBER 1, 2005 under § 13-809 of the Health  
6 - General Article, the Commission shall include its findings regarding the extent and  
7 amount of uncompensated care delivered by providers.

8 **Chapter 593 of the Acts of 1996, as amended by Chapter 566 of the Acts of**  
9 **1999**

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 1996. It shall remain effective for a period of [6] 9 years and, at the end of  
12 September 30, [2002] 2005, with no further action required by the General Assembly,  
13 this Act shall be abrogated and of no further force and effect.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 July 1, 2002.