Unofficial Copy **2003 Regular Session**
SB0772/873122/1

BY: Conference Committee

AMENDMENTS TO SENATE BILL NO. 772
(Third Reading File Bill)

AMENDMENT NO. 1

On pages 1 through 3, strike beginning with "altering" in line 3 on page 1 down through the second semicolon in line 6 on page 3 and substitute "altering certain provisions of law relating to the regulation of nonprofit health service plans; specifying the purpose of certain provisions of law; providing that certain nonprofit health service plans are exempt from certain taxes; establishing the mission of certain nonprofit health service plans; requiring a certain nonprofit health service plan to develop certain goals, objectives, and strategies; requiring a nonprofit health service plan to report quarterly to a certain oversight committee and provide certain information to the oversight committee for a certain purpose; requiring the Insurance Commissioner to submit a certain report to the Governor and certain committees of the General Assembly on or before a certain date and annually thereafter; establishing the scope of certain provisions of law governing nonprofit health service plans; exempting certain nonprofit health service plans from certain requirements; specifying the manner in which certain nonprofit health service plans can satisfy certain requirements; requiring certain nonprofit health service plans to perform certain functions; requiring the Insurance Commissioner to deny inspection of a certain part of a certain report under certain circumstances; repealing a requirement that the Insurance Commissioner follow certain procedures after making a certain determination; requiring the Insurance Commissioner to issue an order to require that a nonprofit health service plan pay a certain premium tax for a certain period of time under certain circumstances; requiring the Maryland Insurance Administration to deposit the premium tax revenue in a certain fund; specifying information that certain applicants for a certificate of authority must submit; specifying certain criteria that the Insurance Commissioner must consider when issuing a certain certificate of authority; authorizing the Insurance Commissioner to disapprove renewal of a certain certificate of authority under certain circumstances; providing that a certain certificate of authority authorizes a certain corporation to engage in certain activities; specifying that certain members of a certain board of directors are fiduciaries on behalf of a certain corporation; specifying the manner in which certain board members must act; specifying the principal functions of a certain

board; establishing the composition of a certain board; providing that a certain board is self-perpetuating; requiring a certain board to establish certain committees with certain duties; requiring board approval for certain actions; providing that a decision by a certain board to convert to a for-profit entity under certain provisions of law may be rejected by a certain number of members of the board; requiring a certain board to take and retain certain minutes; altering the term of certain board members beginning on a certain date; altering a certain qualification of a consumer member of a certain board; altering the maximum term of certain board members; prohibiting certain individuals from serving on a certain board; specifying the amount of compensation of certain board members; requiring certain corporations to report to the Insurance Commissioner on the amount of certain expenses paid to board members; altering the definition of an "unsound or unsafe business practice"; requiring the Attorney General to notify the Insurance Commissioner that a nonprofit health service plan is engaging in a certain business practice under certain circumstances; authorizing the Attorney General to undertake a certain investigation and initiate a certain action under certain circumstances; requiring the Insurance Commissioner to make certain approvals unless the Insurance Commissioner determines approval is not in the public interest; limiting the compensation that certain individuals may approve or receive from the assets of a certain corporation; requiring a certain board committee to develop certain guidelines and requiring the board to submit the guidelines to the Insurance Commissioner for approval, provide a copy of the guidelines to certain individuals, and adhere to the guidelines in compensating certain individuals; requiring the Insurance Commissioner to review certain guidelines and compensation and issue a certain order prohibiting payment of certain compensation under certain circumstances; providing that the approval or receipt of certain remuneration is a violation of a certain provision of law and is an unsound or unsafe business practice; increasing the maximum civil penalty for violations of certain provisions of law by certain officers, directors, and employees; establishing a Joint Nonprofit Health Service Plan Oversight Committee; establishing the composition of the Committee; providing for the appointment of co-chairmen and for staff assistance for the Committee; requiring the Committee to undertake a certain examination and evaluation to meet certain goals; requiring the Committee to submit a certain annual report in a certain manner and on or before certain dates; specifying when a certain determination made by a certain regulating entity is effective; ratifying a certain determination by the Insurance Commissioner; providing for the termination of the terms of certain board members, the replacement of certain board members, and staggering of the terms of certain board members; prohibiting the acquisition of a certain nonprofit health service plan within a certain period of time; providing for the application of certain provisions of law to certain compensation agreements; prohibiting a member of the board of directors of a certain corporation from serving on the board after removal from the board; stating the intent of the General Assembly to encourage a certain nonprofit health service plan

to participate in certain public programs; requiring a certain nonprofit health service plan to work with certain persons, conduct a certain study, and report to certain committees of the General Assembly on or before a certain date; requiring the Insurance Commissioner to make a certain determination regarding whether conduct identified in a certain order issued by the Maryland Insurance Administration violates certain provisions of the Insurance Article; requiring the Insurance Commissioner to take certain action based on a certain determination; requiring the Insurance Commissioner to report on a certain determination on or before a certain date to certain persons; requiring the Insurance Commissioner to make certain recommendations and report on or before a certain date to certain persons; requiring the Office of the Attorney General to make a certain determination regarding whether conduct identified in a certain order issued by the Maryland Insurance Administration violates certain provisions of federal or State law; requiring the Office of the Attorney General to report to the General Assembly certain determinations and recommendations on or before a certain date; making the provisions of this Act severable; providing for the termination of certain provisions of this Act; making this Act an emergency measure;".

On page 3, strike in their entirety lines 8 through 23, inclusive, and substitute:

"BY repealing and reenacting, with amendments,
Article - Insurance
Section 14-102, 14-106, 14-107, 14-109 through 14-111, 14-115, 14-116(a), 14-126(a), 14-133(c), 14-139, and 14-504(b)
Annotated Code of Maryland
(2002 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, without amendments,
Article - Insurance
Section 14-116(b) and (c) and 14-504(a)
Annotated Code of Maryland
(2002 Replacement Volume and 2002 Supplement)

BY adding to
Article - Insurance
Section 14-116(f)

Annotated Code of Maryland
(2002 Replacement Volume and 2002 Supplement)

BY adding to
Article - State Government
Section 2-10A-08
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - State Government
Section 6.5-203(h)
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)".

On pages 3 through 5, strike in their entirety the lines beginning with line 24 on page 3 through line 7 on page 5, inclusive, and substitute:

"Preamble

WHEREAS, Maryland's Blue Cross Plan was created by statute in 1937 as a charitable and benevolent organization for the benefit and common good of the community as a whole; and

WHEREAS, Maryland's Blue Cross and Blue Shield Plans were consolidated into a single nonprofit corporation in 1985 to create Blue Cross and Blue Shield of Maryland, Inc.; and

WHEREAS, Blue Cross and Blue Shield of Maryland, Inc., merged with Group Hospitalization and Medical Services, Inc., in 1997, and CareFirst, Inc., was formed as a holding company; and

WHEREAS, In 2000, CareFirst, Inc., entered into an affiliation with BlueCross BlueShield Delaware; and

WHEREAS, CareFirst, Inc., is Maryland's Blue Cross Blue Shield Plan; and

WHEREAS, CareFirst, as a nonprofit corporation, is a community asset; and

WHEREAS, The mission of CareFirst is to provide affordable and accessible health insurance to Maryland citizens; and

WHEREAS, There is a national crisis of health insurance affordability and accessibility; and

WHEREAS, CareFirst is the State's largest health insurer; and

WHEREAS, CareFirst has enjoyed significant taxpayer and State-funded exemptions and subsidies to assist in its mission; and

WHEREAS, In recent years, CareFirst has exited from several segments of the Maryland health insurance market, including the withdrawal from the Medicare+Choice program and the withdrawal of its subsidiary HMOs, FreeState and Delmarva, from insurance markets in Maryland, resulting in over 6,000 individuals losing their health insurance; and

WHEREAS, Citing a need for increased access to capital, on January 11, 2002, CareFirst filed an application with the Maryland Insurance Commissioner to convert to a for-profit company and to be acquired by a California-based health insurer for $1.3 billion; and

WHEREAS, In 2002, the profits of CareFirst rose 13% to $104 million, its revenue was $6.7 billion, and the number of its members increased to 3.24 million; and

WHEREAS, On March 5, 2003, after extensive review, the Maryland Insurance Commissioner found that the proposed sale and conversion of CareFirst is not in the public interest; and

WHEREAS, The Insurance Commissioner found that the management and Board of Directors of CareFirst did not view their nonprofit mission as restraining or guiding their business activities; and

WHEREAS, The Insurance Commissioner found that the management and Board of Directors of CareFirst failed to seek and consider material information relevant to the decision to

(Over)

convert; and

WHEREAS, The Insurance Commissioner found that the management of CareFirst sought, and the Board of Directors approved, large bonuses and permanent roles for current management in the combined company and these bonuses created incentives that conflicted with the nonprofit mission of CareFirst; and

WHEREAS, The Insurance Commissioner found that the bidding process for the sale of CareFirst was flawed and did not produce fair market value; and

WHEREAS, The Insurance Commissioner found that CareFirst matched or exceeded other nonprofit and for-profit insurers on capital spending and that CareFirst has adequate capital to fund its capital investment needs; now, therefore,".

AMENDMENT NO. 2

On pages 5 through 25, strike in their entirety the lines beginning with line 11 on page 5 through line 37 on page 25, inclusive, and substitute:

"14-102.

(A) THE PURPOSE OF THIS SUBTITLE IS:

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

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

(I) ARE COMMITTED TO A NONPROFIT CORPORATE STRUCTURE;

(II) SEEK TO PROVIDE INDIVIDUALS, BUSINESSES, AND OTHER GROUPS WITH AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE; AND

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

(B) A NONPROFIT HEALTH SERVICE PLAN THAT COMPLIES WITH THE PROVISIONS OF THIS SUBTITLE IS DECLARED TO BE A PUBLIC BENEFIT CORPORATION THAT IS EXEMPT FROM TAXATION AS PROVIDED BY LAW.

(C) THE MISSION OF A NONPROFIT HEALTH SERVICE PLAN SHALL BE TO:

(1) PROVIDE AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE TO THE PLAN'S INSUREDS AND THOSE PERSONS INSURED OR ISSUED HEALTH BENEFIT PLANS BY AFFILIATES OR SUBSIDIARIES OF THE PLAN;

(2) ASSIST AND SUPPORT PUBLIC AND PRIVATE HEALTH CARE INITIATIVES FOR INDIVIDUALS WITHOUT HEALTH INSURANCE; AND

(3) PROMOTE THE INTEGRATION OF A STATEWIDE HEALTH CARE SYSTEM THAT MEETS THE HEALTH CARE NEEDS OF ALL MARYLAND RESIDENTS.

(D) A NONPROFIT HEALTH SERVICE PLAN:

(1) SHALL DEVELOP GOALS, OBJECTIVES, AND STRATEGIES FOR CARRYING OUT ITS STATUTORY MISSION;

(2) BEGINNING ON DECEMBER 1, 2003, AND CONTINUING THROUGH JUNE 30, 2005, SHALL REPORT QUARTERLY, FOR THE PRECEDING QUARTER, TO THE JOINT NONPROFIT HEALTH SERVICE PLAN OVERSIGHT COMMITTEE ON THE NONPROFIT HEALTH SERVICE PLAN’S COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE; AND

(3) SHALL PROVIDE TO THE JOINT NONPROFIT HEALTH SERVICE PLAN OVERSIGHT COMMITTEE ANY OTHER INFORMATION NECESSARY FOR THE COMMITTEE TO MEET THE GOALS OUTLINED UNDER § 2-10A-08 OF THE STATE GOVERNMENT ARTICLE.

(Over)

(E) ON OR BEFORE DECEMBER 1, 2005, AND ANNUALLY THEREAFTER, THE COMMISSIONER SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, ON THE COMPLIANCE OF A NONPROFIT HEALTH SERVICE PLAN SUBJECT TO § 14-115(D) OF THIS SUBTITLE WITH THE PROVISIONS OF THIS SUBTITLE.

(F) THIS SECTION APPLIES TO:

(1) A NONPROFIT HEALTH SERVICE PLAN THAT IS ISSUED A CERTIFICATE OF AUTHORITY IN THE STATE, WHETHER OR NOT ORGANIZED UNDER THE LAWS OF THE STATE; AND

(2) AN INSURER OR A HEALTH MAINTENANCE ORGANIZATION, WHETHER OR NOT ORGANIZED AS A NONPROFIT CORPORATION, THAT IS WHOLLY OWNED OR CONTROLLED BY A NONPROFIT HEALTH SERVICE PLAN THAT IS ISSUED A CERTIFICATE OF AUTHORITY IN THE STATE.

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

(1) this subtitle;

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

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

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

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

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

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

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

(9) Title 27 of this article; and

(10) any other provision of this article that:

(i) is expressly referred to in this subtitle;

(ii) expressly refers to this subtitle; or

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

(H) THE PROVISIONS OF SUBSECTIONS (D) AND (E) OF THIS SECTION AND §§ 14-106, 14-115(D), (E), (F), AND (G), AND 14-139(D) AND (E) OF THIS SUBTITLE DO NOT APPLY TO A NONPROFIT HEALTH SERVICE PLAN THAT INSURES BETWEEN 1 AND 10,000 COVERED LIVES IN MARYLAND OR ISSUES CONTRACTS FOR ONLY ONE OF THE FOLLOWING SERVICES:

(1) PODIATRIC;

(2) CHIROPRACTIC;

(3) PHARMACEUTICAL;

(4) DENTAL;

(5) PSYCHOLOGICAL; OR

(6) OPTOMETRIC.

(Over)

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.

(b) [This section does not apply to a nonprofit health service plan that insures fewer than 10,000 covered lives in Maryland.

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

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

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

[(d)] (C) A nonprofit health service plan may satisfy the public service requirement [in subsection (c)(2)] of this section by establishing that, TO THE EXTENT THE VALUE OF THE NONPROFIT HEALTH SERVICE PLAN'S PREMIUM TAX EXEMPTION UNDER § 6-101(B) OF THIS ARTICLE EXCEEDS THE SUBSIDY REQUIRED UNDER THE SENIOR PRESCRIPTION DRUG PROGRAM ESTABLISHED UNDER SUBTITLE 5, PART II OF THIS TITLE, the plan has:

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

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

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

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

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

[(e)] (D) [(1)] [A] NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A nonprofit health service plan that is subject to this section and issues comprehensive health care benefits in the State shall:

(1) OFFER HEALTH CARE PRODUCTS IN THE INDIVIDUAL MARKET;

(2) OFFER HEALTH CARE PRODUCTS IN THE SMALL EMPLOYER GROUP MARKET IN ACCORDANCE WITH TITLE 15, SUBTITLE 12 OF THIS ARTICLE; AND

(3) administer and subsidize the Senior Prescription Drug Program established under Title 14, Subtitle 5, Part II of this title.

[(2)] (E) The subsidy required under the Senior Prescription Drug Program may not exceed the value of the nonprofit health service plan's premium tax exemption under § 6-101(b) of this article.

(f) (1) [Each] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH report filed with the Commissioner under subsection [(c)] (B) of this section is a public record.

(Over)

(2) IN ACCORDANCE WITH § 10-617(D) OF THE STATE GOVERNMENT ARTICLE, THE COMMISSIONER SHALL DENY INSPECTION OF ANY PART OF A REPORT FILED UNDER SUBSECTION (B) OF THIS SECTION THAT THE COMMISSIONER DETERMINES CONTAINS CONFIDENTIAL COMMERCIAL INFORMATION OR CONFIDENTIAL FINANCIAL INFORMATION.

14-107.

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

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

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

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

(ii) if required by an act of the General Assembly, the nonprofit health service plan shall be subject to] THE COMMISSIONER SHALL ISSUE AN ORDER REQUIRING THE NONPROFIT HEALTH SERVICE PLAN TO PAY the premium tax under Title 6, Subtitle 1 of this article:

(1) FOR A PERIOD OF TIME BEGINNING WITH THE DATE THE PLAN WAS DETERMINED TO BE OUT OF COMPLIANCE WITH § 14-106 OF THIS SUBTITLE; AND

(2) IN AN AMOUNT EQUAL TO THE AMOUNT BY WHICH THE VALUE

OF THE NONPROFIT HEALTH SERVICE PLAN'S PREMIUM TAX EXEMPTION UNDER § 6-101(B) OF THIS ARTICLE EXCEEDS THE SUM OF:

(I) THE SUBSIDY REQUIRED UNDER THE SENIOR PRESCRIPTION DRUG PROGRAM ESTABLISHED UNDER SUBTITLE 5, PART II OF THIS TITLE; AND

(II) OTHER FUNDS USED BY THE NONPROFIT HEALTH SERVICE PLAN TO MEET THE PUBLIC SERVICE REQUIREMENT UNDER § 14-106 OF THIS SUBTITLE.

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

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

(E) PREMIUM TAX REVENUE COLLECTED BY THE ADMINISTRATION AS THE RESULT OF AN ORDER ISSUED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE DEPOSITED INTO THE MARYLAND HEALTH INSURANCE PLAN FUND ESTABLISHED UNDER § 14-504 OF THIS TITLE.

14-109.

An applicant for a certificate of authority shall:

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

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

(3) file with the Commissioner copies of the following documents, certified by at

least two of the executive officers of the corporation:

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

(ii) bylaws with all amendments;

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

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

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

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

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

(VIII) A LIST OF THE BEGINNING AND ENDING TERMS OF MEMBERSHIP FOR EACH MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION; AND

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

14-110.

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

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

(2) the Commissioner is satisfied:

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

1. IS COMMITTED TO A NONPROFIT CORPORATE STRUCTURE;

2. IN ACCORDANCE WITH THE CHARTER OF THE NONPROFIT HEALTH SERVICE PLAN, SEEKS TO PROVIDE AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE; AND

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

(ii) that:

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

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

(Over)

(iii) that:

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

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

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

1. $100,000; and

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

(v) that, except for a nonprofit health service plan that insures [fewer than] BETWEEN 1 AND 10,000 covered lives in the State, the nonprofit health service plan's corporate headquarters is located in the State.

(B) IF THE COMMISSIONER DETERMINES THAT A NONPROFIT HEALTH SERVICES PLAN DOES NOT CONTINUE TO SATISFY THE REQUIREMENTS OF THIS SUBTITLE, THE COMMISSIONER MAY DISAPPROVE THE RENEWAL OF THE CERTIFICATE OF AUTHORITY OF THE NONPROFIT HEALTH SERVICE PLAN.

14-111.

[A] SUBJECT TO THE AUTHORITY OF THE COMMISSIONER TO REGULATE NONPROFIT HEALTH SERVICE PLANS UNDER THIS ARTICLE, A certificate of authority issued under this subtitle authorizes a corporation to:

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

(2) FINANCE CAPITAL IMPROVEMENT PROJECTS THROUGH THE MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY AS

PROVIDED UNDER ARTICLE 43C OF THE CODE;

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

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

14-115.

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

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

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

(b) [Subsections (c) through (f) of this section apply] THIS SECTION APPLIES to a nonprofit health service plan that is [incorporated under the laws of the State and operates under a certificate of authority issued by the Commissioner under this subtitle] ISSUED A CERTIFICATE OF AUTHORITY IN THE STATE, WHETHER OR NOT ORGANIZED UNDER THE LAWS OF THIS STATE.

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

(2) The board and its individual members are fiduciaries and shall act:

(i) in good faith;

(ii) in a manner that is reasonably believed to be in the best interests of the corporation AND ITS CONTROLLED AFFILIATES OR SUBSIDIARIES THAT OFFER HEALTH

BENEFIT PLANS; [and]

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

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

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

(I) ENSURING THAT THE CORPORATION EFFECTIVELY CARRIES OUT THE NONPROFIT MISSION ESTABLISHED UNDER § 14-102(C) OF THIS SUBTITLE;

(II) SELECTING CORPORATE MANAGEMENT AND EVALUATING ITS PERFORMANCE;

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

(IV) SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, NOMINATING AND SELECTING SUITABLE CANDIDATES FOR THE BOARD; AND

(V) ESTABLISHING A SYSTEM OF GOVERNANCE AT THE BOARD LEVEL, INCLUDING AN ANNUAL EVALUATION OF BOARD PERFORMANCE.

(4) EACH MEMBER OF THE BOARD SHALL DEMONSTRATE A COMMITMENT TO THE MISSION OF THE NONPROFIT HEALTH SERVICE PLAN.

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

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

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

(i) podiatric;

(ii) chiropractic;

(iii) pharmaceutical;

(iv) dental;

(v) psychological; or

(vi) optometric.]

(1) THIS SUBSECTION APPLIES TO A CORPORATION THAT IS:

(I) ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN; AND

(II) THE SOLE MEMBER OF A CORPORATION ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN.

(2) THE BOARD SHALL BE COMPOSED OF NO MORE THAN 23 MEMBERS, INCLUDING:

(I) ONE NONVOTING MEMBER, WHO IS NOT A MEMBER OF THE MARYLAND GENERAL ASSEMBLY, APPOINTED BY AND SERVING AT THE PLEASURE OF THE PRESIDENT OF THE SENATE OF MARYLAND;

(II) ONE NONVOTING MEMBER, WHO IS NOT A MEMBER OF THE MARYLAND GENERAL ASSEMBLY, APPOINTED BY AND SERVING AT THE PLEASURE

OF THE SPEAKER OF THE HOUSE OF DELEGATES; AND

(III) 21 MEMBERS SELECTED BY THE BOARD, INCLUDING TWO CONSUMER MEMBERS, WHO SATISFY THE REQUIREMENTS OF PARAGRAPHS (13), (14), AND (15) OF THIS SUBSECTION.

(3) NO MORE THAN FOUR MEMBERS OF THE BOARD MAY BE:

(I) LICENSED HEALTH CARE PROFESSIONALS;

(II) HOSPITAL ADMINISTRATORS; OR

(III) EMPLOYEES OF HEALTH CARE PROFESSIONALS OR HOSPITALS.

(4) TO THE EXTENT POSSIBLE, THE BOARD SHALL INCLUDE INDIVIDUALS WITH EXPERIENCE IN ACCOUNTING, INFORMATION TECHNOLOGY, FINANCE, LAW, LARGE AND SMALL BUSINESSES, NONPROFIT BUSINESSES, AND ORGANIZED LABOR.

(5) EXCEPT FOR NONVOTING MEMBERS UNDER PARAGRAPH (2)(I) AND (II) OF THIS SUBSECTION, THE BOARD SHALL BE SELF-PERPETUATING.

(6) THE BOARD SHALL HAVE THE FOLLOWING STANDING COMMITTEES WHOSE DUTIES SHALL INCLUDE:

(I) AN AUDIT COMMITTEE RESPONSIBLE FOR ENSURING FINANCIAL ACCOUNTABILITY;

(II) A FINANCE COMMITTEE RESPONSIBLE FOR REVIEWING AND MAKING RECOMMENDATIONS ON THE ANNUAL BUDGET AND FOR DEVELOPING AND RECOMMENDING LONG-RANGE FINANCIAL OBJECTIVES;

(III) A COMPENSATION COMMITTEE RESPONSIBLE FOR DEVELOPING PROPOSED COMPENSATION GUIDELINES IN ACCORDANCE WITH § 14-139 (D) OF THIS SUBTITLE;

(IV) A NOMINATING COMMITTEE RESPONSIBLE FOR IDENTIFYING, EVALUATING, AND RECOMMENDING TO THE BOARD INDIVIDUALS QUALIFIED TO BECOME BOARD MEMBER, INCLUDING INDIVIDUALS WHO REPRESENT A CORPORATION FOR WHICH THE NONPROFIT HEALTH SERVICE PLAN IS THE SOLE MEMBER;

(V) A SERVICE AND QUALITY OVERSIGHT COMMITTEE RESPONSIBLE FOR ENSURING THAT POLICIES AND PROCESSES ARE IN EFFECT TO ASSESS AND IMPROVE THE QUALITY OF HEALTH INSURANCE PRODUCTS PROVIDED TO SUBSCRIBERS AND CERTIFICATE HOLDERS;

(VI) A MISSION OVERSIGHT COMMITTEE RESPONSIBLE FOR ENSURING THAT THE OFFICERS OF THE CORPORATION ACT IN ACCORDANCE WITH THE MISSION OF THE NONPROFIT HEALTH SERVICE PLAN;

(VII) A STRATEGIC PLANNING COMMITTEE RESPONSIBLE FOR EXAMINING LONG-RANGE PLANNING OBJECTIVES, ASSESSING STRATEGIES THAT MAY BE USED TO IMPLEMENT THE PLANNING OBJECTIVES, AND ANALYZING THE NONPROFIT HEALTH SERVICE PLAN'S ROLE IN THE INSURANCE MARKETPLACE; AND

(VIII) ANY OTHER COMMITTEE THAT THE BOARD DETERMINES IS NECESSARY TO CARRY OUT ITS DUTIES.

(7) EACH STANDING COMMITTEE SHALL HAVE REPRESENTATION FROM:

(I) THE VOTING MEMBERS UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) EACH CORPORATION FOR WHICH THE NONPROFIT HEALTH SERVICE PLAN IS THE SOLE MEMBER.

(Over)

(8) THE COMPENSATION COMMITTEE AND THE NOMINATING COMMITTEE SHALL EACH INCLUDE EITHER THE APPOINTEE OF THE PRESIDENT OF THE SENATE OR THE APPOINTEE OF THE SPEAKER OF THE HOUSE OF DELEGATES.

(9) EACH BOARD MEMBER SHALL SERVE ON AT LEAST ONE STANDING COMMITTEE.

(10) THE CHAIRMAN OF THE BOARD SHALL SELECT A CHAIRMAN FOR EACH BOARD COMMITTEE.

(11) (I) BOARD APPROVAL IS REQUIRED FOR ANY ACTION BY THE NONPROFIT HEALTH SERVICE PLAN, A CORPORATION FOR WHICH THE PLAN IS THE SOLE MEMBER, OR ANY AFFILIATE OR SUBSIDIARY OF THE NONPROFIT HEALTH SERVICE PLAN TO:

1. MODIFY BENEFIT LEVELS;

2. MATERIALLY MODIFY PROVIDER NETWORKS OR PROVIDER REIMBURSEMENT;

3. MODIFY UNDERWRITING GUIDELINES;

4. MODIFY RATES OR RATING PLANS;

5. WITHDRAW A PRODUCT OR WITHDRAW FROM A LINE OR TYPE OF BUSINESS OR GEOGRAPHIC REGION; OR

6. IMPACT THE AVAILABILITY OR AFFORDABILITY OF HEALTH CARE IN THE STATE.

(II) A DECISION BY THE BOARD TO CONVERT TO A FOR PROFIT ENTITY UNDER TITLE 6.5 OF THE STATE GOVERNMENT ARTICLE MAY BE REJECTED BY ANY THREE MEMBERS OF THE BOARD.

(III) THE BOARD MAY DELEGATE APPROVAL FOR THE ACTIONS

LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH TO A STANDING COMMITTEE OF THE BOARD.

(12) THE BOARD SHALL TAKE AND RETAIN COMPLETE MINUTES OF ALL BOARD AND COMMITTEE MEETINGS.

[(2) The board shall appoint two additional members to serve as voting consumer members.

(3)] (13) Of the two consumer members, one shall be a subscriber and one shall be a certificate holder of the nonprofit health service plan.

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

(i) shall be a member of the general public;

(ii) may not be considered an agent or employee of the State for any purpose; and

(iii) is entitled to the same rights, powers, and privileges as the other members of the board.

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

(i) be a licensee of or otherwise be subject to regulation by the Commissioner;

(ii) be employed by or have a financial interest in:

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

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

Article; or

(iii) within [1 year] 3 YEARS before appointment, have been employed by, had a financial interest in, or have received compensation from:

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

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

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

(2) The term of a member is 3 years.

(3) The terms of the members of a board shall be staggered over a 3-year period as required by the terms provided for members of the board in the bylaws filed and approved by the Commissioner on or after June 1, [1993] 2003.

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

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

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

(i) [three] TWO full terms; or

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

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

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

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

(iii) habitually has neglected to pay debts; OR

(IV) HAS BEEN PROHIBITED UNDER ANY FEDERAL SECURITIES LAW FROM ACTING AS A DIRECTOR OR OFFICER OF ANY CORPORATION.

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

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

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

(11) (I) The [membership] COMPOSITION of the board shall represent the [different] RACIAL AND GENDER [geographic regions] DIVERSITY of the State.

(II) THE BOARD SHALL INCLUDE REPRESENTATION FROM EACH GEOGRAPHIC REGION OF THE STATE.

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

(G) (1) EXCLUDING REIMBURSEMENT FOR ORDINARY AND NECESSARY EXPENSES, A BOARD MEMBER, IN ANY CALENDAR YEAR, MAY RECEIVE COMPENSATION NOT TO EXCEED:

(I) $15,000 FOR THE CHAIRMAN OF THE BOARD OR A BOARD MEMBER WHO IS THE CHAIRMAN OF A COMMITTEE; OR

(Over)

(II) $12,000 FOR A BOARD MEMBER WHO IS NOT THE CHAIRMAN OF THE BOARD OR A BOARD COMMITTEE.

(2) A BOARD MEMBER MAY NOT RECEIVE MORE THAN THE AMOUNT SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION FOR SERVING ON MORE THAN ONE BOARD OF A CORPORATION SUBJECT TO THIS SECTION.

(3) (I) THIS PARAGRAPH APPLIES TO A CORPORATION THAT IS:

1. ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN; AND

2. THE SOLE MEMBER OF A CORPORATION ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN.

(II) ON OR BEFORE MARCH 1, 2004, AND ANNUALLY THEREAFTER, A CORPORATION SUBJECT TO THIS PARAGRAPH SHALL REPORT TO THE COMMISSIONER ON THE AMOUNT OF THE ORDINARY AND NECESSARY EXPENSES PAID TO EACH BOARD MEMBER IN THE PRECEDING CALENDAR YEAR.

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

(2) No more than 25% of a board may be:

(i) licensed health care professionals;

(ii) hospital administrators; and

(iii) employees of health care professionals or hospitals.

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

14-116.

(a) (1) In this section, "unsound or unsafe business practice" means a business practice that:

(i) is detrimental to the financial condition of a nonprofit health service plan and does not conform to sound industry practice; [or]

(ii) impairs the ability of a nonprofit health service plan to pay subscriber benefits; OR

(III) VIOLATES § 14-102, § 14-115, OR § 14-139(C) OF THIS SUBTITLE.

(2) "Unsound or unsafe business practice" includes:

(i) failing to comply with the notice requirements of § 14-119 of this subtitle;

(ii) willfully hindering an examination of a nonprofit health service plan or its affiliates or subsidiaries; and

(iii) failure of a director to attend at least 65% of the meetings of the board during a period of 12 consecutive months.

(b) (1) If the Commissioner believes that an officer or director of a nonprofit health service plan has engaged in an unsound or unsafe business practice, the Commissioner shall send a warning to that individual.

(2) The Commissioner shall send a copy of the warning:

(i) by certified mail, return receipt requested, bearing a postmark from the

United States Postal Service, to each director of the nonprofit health service plan; and

(ii) if the nonprofit health service plan is a corporation incorporated in a state other than this State, to the insurance commissioner of the state in which the corporation is incorporated.

(c) (1) If the nonprofit health service plan is incorporated in this State, the Commissioner may remove the officer or director if the Commissioner determines after a hearing that the unsound or unsafe business practice continued after the warning.

(2) A copy of the removal order shall be served on the individual removed and each director of the nonprofit health service plan.

(3) The individual removed is entitled to a hearing under Title 2 of this article.

(4) Any person aggrieved by a final decision of the Commissioner under this section may appeal the decision under § 2-215 of this article.

(F) (1) IF THE ATTORNEY GENERAL HAS REASON TO BELIEVE THAT A NONPROFIT HEALTH SERVICE PLAN IS ENGAGING IN AN UNSOUND OR UNSAFE BUSINESS PRACTICE, THE ATTORNEY GENERAL SHALL NOTIFY THE COMMISSIONER.

(2) IF THE COMMISSIONER FAILS TO TAKE ACTION UNDER THIS SECTION WITHIN 60 DAYS AFTER NOTIFICATION BY THE ATTORNEY GENERAL, THE ATTORNEY GENERAL MAY:

(I) INVESTIGATE THE UNSOUND OR UNSAFE BUSINESS PRACTICE; AND

(II) INITIATE AN ACTION IN CIRCUIT COURT FOR APPROPRIATE RELIEF TO REMEDY THE UNSOUND OR UNSAFE BUSINESS PRACTICE, INCLUDING THE REMOVAL OF AN OFFICER OR DIRECTOR OF THE NONPROFIT HEALTH SERVICE PLAN.

(3) IN THE COURSE OF ANY INVESTIGATION CONDUCTED BY THE ATTORNEY GENERAL, THE ATTORNEY GENERAL MAY:

(I) SUBPOENA WITNESSES;

(II) ADMINISTER OATHS;

(III) EXAMINE AN INDIVIDUAL UNDER OATH;

(IV) COMPEL PRODUCTION OF RECORDS, BOOKS, PAPERS, CONTRACTS, AND OTHER DOCUMENTS; AND

(V) OBTAIN ALL NECESSARY ASSISTANCE FROM THE ADMINISTRATION.

14-126.

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

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

(3) THE COMMISSIONER SHALL APPROVE AN AMENDMENT TO THE ARTICLES OF INCORPORATION OR BYLAWS UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE COMMISSIONER DETERMINES THE AMENDMENT IS CONTRARY TO THE PUBLIC INTEREST.

14-133.

(c) (1) A nonprofit health service plan shall submit a statement of proposed action to the Commissioner before the plan may:

(Over)

(i) create, acquire, or invest in an affiliate or subsidiary in order to control the affiliate or subsidiary;

(ii) alter the structure, organization, purpose, or ownership of the plan or an affiliate or subsidiary of the corporation;

(iii) make an investment exceeding $500,000; or

(iv) make an investment in an affiliate or subsidiary.

(2) The nonprofit health service plan shall file the statement of proposed action required under this subsection at least 60 days before the effective date of the proposed action.

(3) The nonprofit health service plan may not engage in a proposed action described under paragraph (1)(i) through (iii) of this subsection unless the Commissioner approves the action in writing.

(4) The Commissioner shall either approve or disapprove the proposed action within 60 days after the Commissioner receives the statement of proposed action.

(5) THE COMMISSIONER SHALL APPROVE A STATEMENT OF PROPOSED ACTION UNDER THIS SECTION UNLESS THE COMMISSIONER DETERMINES THE PROPOSED ACTION IS CONTRARY TO THE PUBLIC INTEREST.

14-139.

(a) An officer, director, or employee of a corporation operating under this subtitle may not:

(1) willfully violate a provision of this article or a regulation adopted under this article;

(2) willfully misrepresent or conceal a material fact in a statement, report, record, or communication submitted to the Commissioner;

(3) willfully misrepresent a material fact to the board of directors;

(4) misappropriate or fail to account properly for money that belongs to the corporation, an insurer, insurance producer, subscriber, or certificate holder;

(5) engage in fraudulent or dishonest practices in connection with the provision or administration of a health service plan;

(6) willfully fail to produce records or allow an examination under § 14-125 of this subtitle; or

(7) willfully fail to comply with a lawful order of the Commissioner.

(b) An officer, director, or trustee of a corporation operating under this subtitle may not receive any immediate or future remuneration as the result of an acquisition or proposed acquisition, as defined under § 6.5-101 of the State Government Article, except in the form of compensation paid for continued employment with the company or acquiring entity.

(C) A DIRECTOR, TRUSTEE, OFFICER, EXECUTIVE, OR EMPLOYEE OF A CORPORATION OPERATING UNDER THIS SUBTITLE MAY ONLY APPROVE OR RECEIVE FROM THE ASSETS OF THE CORPORATION FAIR AND REASONABLE COMPENSATION IN THE FORM OF SALARY, BONUSES, OR PERQUISITES FOR WORK ACTUALLY PERFORMED FOR THE BENEFIT OF THE CORPORATION.

(D) (1) THE COMPENSATION COMMITTEE OF THE BOARD SHALL:

(I) IDENTIFY NONPROFIT HEALTH SERVICE PLANS IN THE UNITED STATES THAT ARE SIMILAR IN SIZE AND SCOPE TO THE NONPROFIT HEALTH SERVICE PLAN MANAGED BY THE BOARD; AND

(II) DEVELOP PROPOSED GUIDELINES, FOR APPROVAL BY THE BOARD, FOR COMPENSATION, INCLUDING SALARY, BONUSES, AND PERQUISITES, OF

ALL OFFICERS AND EXECUTIVES THAT IS REASONABLE IN COMPARISON TO COMPENSATION FOR OFFICERS AND EXECUTIVES OF SIMILAR NONPROFIT HEALTH SERVICE PLANS.

(2) ON OR BEFORE JUNE 1, 2004, THE BOARD SHALL SUBMIT THE PROPOSED GUIDELINES DEVELOPED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION TO THE COMMISSIONER FOR REVIEW AND APPROVAL.

(3) (I) THE COMMISSIONER SHALL REVIEW THE PROPOSED GUIDELINES AND, WITHIN 60 DAYS, APPROVE OR DISAPPROVE THE PROPOSED GUIDELINES.

(II) FAILURE OF THE COMMISSIONER TO ACT ON THE PROPOSED GUIDELINES WITHIN 60 DAYS SHALL CONSTITUTE APPROVAL.

(4) IF THE COMMISSIONER DISAPPROVES THE PROPOSED GUIDELINES, THE BOARD SHALL REVISE AND SUBMIT NEW PROPOSED GUIDELINES THAT MEET THE COMMISSIONER'S APPROVAL.

(5) THE BOARD SHALL REVIEW THE PROPOSED GUIDELINES AT LEAST ANNUALLY AND, IF THE BOARD FINDS THAT CHANGES ARE NEEDED, THE BOARD SHALL SUBMIT THE CHANGES TO THE COMMISSIONER IN ACCORDANCE WITH PARAGRAPHS (1) THROUGH (3) OF THIS SUBSECTION.

(6) THE BOARD SHALL:

(I) PROVIDE A COPY OF THE APPROVED GUIDELINES:

1. TO EACH OFFICER AND EXECUTIVE OF THE NONPROFIT HEALTH SERVICE PLAN; AND

2. TO EACH CANDIDATE FOR AN OFFICER OR EXECUTIVE POSITION WITH THE NONPROFIT HEALTH SERVICE PLAN; AND

(II) ADHERE TO THE APPROVED GUIDELINES IN

COMPENSATING THE OFFICERS AND EXECUTIVES OF THE NONPROFIT HEALTH SERVICE PLAN.

(7) ON AN ANNUAL BASIS, THE COMMISSIONER SHALL REVIEW THE COMPENSATION PAID BY THE NONPROFIT HEALTH SERVICE PLAN TO EACH OFFICER AND EXECUTIVE.

(8) IF THE COMMISSIONER FINDS THAT THE COMPENSATION EXCEEDS THE AMOUNT AUTHORIZED UNDER THE APPROVED GUIDELINES, THE COMMISSIONER SHALL ISSUE AN ORDER PROHIBITING PAYMENT OF THE EXCESS AMOUNT.

(E) THE APPROVAL OR RECEIPT OF REMUNERATION IN VIOLATION OF AN ORDER ISSUED UNDER SUBSECTION (D)(8) OF THIS SECTION IS A VIOLATION OF § 14-115(C) OF THIS SUBTITLE AND SHALL BE CONSIDERED AN UNSOUND OR UNSAFE BUSINESS PRACTICE UNDER § 14-116 OF THIS SUBTITLE.

[(c)] (F) (1) EXCEPT FOR AN EMPLOYEE UNDER SUBSECTION (C) OF THIS SECTION, A person that violates subsection (a) OR (C) of this section is subject to a civil penalty not exceeding [$5,000] $10,000 for each violation.

(2) Instead of or in addition to imposing a civil penalty, the Commissioner may require the violator to make restitution to any person that has suffered financial injury as a result of the violation.

[(d)] (G) In determining the amount of financial penalty to be imposed, the Commissioner shall consider:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) the violator's history of previous violations;

(4) the deleterious effect of the violation on the public and the nonprofit health service industry; and

(5) the assets of the violator.

[(e)] (H) (1) Before assessing a civil penalty OR RESTITUTION, the Commissioner shall serve by certified mail, return receipt requested, on the person to be charged a notice that contains:

(i) the specifications of the charge; and

(ii) the time and place of a hearing to be held on the charges.

(2) The Commissioner shall hold a hearing on the charges at least 20 days after the date of mailing the notice.

(3) The Commissioner or designee of the Commissioner shall conduct a hearing on the charges in accordance with Title 2, Subtitle 2 of this article.

(4) Subject to Title 2, Subtitle 2 of this article, an appeal may be taken from a final order of the Commissioner to the Circuit Court for Baltimore City.

[(f)] (I) In addition to any other penalty or remedy under this section, a person that is found to have gained financially from a violation of a provision of this article or a regulation adopted by the Commissioner shall forfeit the gain.

[(g)] (J) This section does not prevent a person damaged by a director, officer, manager, employee, or agent of a corporation subject to this subtitle from bringing a separate action in a court of competent jurisdiction.

14-504.

(a) (1) There is a Maryland Health Insurance Plan Fund.

(2) The Fund is a special nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(3) The Treasurer shall separately hold and the Comptroller shall account for the Fund.

(4) The Fund shall be invested and reinvested at the direction of the Board in a manner that is consistent with the requirements of Title 5, Subtitle 6 of this article.

(5) Any investment earnings shall be retained to the credit of the Fund.

(6) On an annual basis, the Fund shall be subject to an independent actuarial review setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts.

(7) The Fund shall be used only to provide funding for the purposes authorized under this subtitle.

(b) The Fund shall consist of:

(1) premiums for coverage that the Plan issues;

(2) premiums paid by enrollees of the Senior Prescription Drug Program;

(3) money collected in accordance with § 19-219 of the Health - General Article;

(4) money deposited by a carrier in accordance with § 14-513 of this subtitle;

(5) income from investments that the Board makes or authorizes on behalf of the Fund;

(6) interest on deposits or investments of money from the Fund; [and]

(Over)

(7) PREMIUM TAX REVENUE COLLECTED UNDER § 14-107 OF THIS TITLE; AND

[(7)] (8) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund.

Article - State Government

6.5-203.

(h) A determination made by the appropriate regulating entity under subsection (f) of this section may not take effect until 90 calendar days after the date the determination is made OR WHEN RATIFIED OR REJECTED BY THE GENERAL ASSEMBLY, WHICHEVER IS EARLIER.

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

Article - State Government

2-10A-08.

(A) THERE IS A JOINT NONPROFIT HEALTH SERVICE PLAN OVERSIGHT COMMITTEE.

(B) (1) THE COMMITTEE CONSISTS OF 17 MEMBERS.

(2) OF THE 17 MEMBERS:

(I) 1. TWO SHALL BE MEMBERS OF THE SENATE APPOINTED BY THE PRESIDENT OF THE SENATE; AND

2. TWO SHALL BE MEMBERS OF THE HOUSE OF DELEGATES APPOINTED BY THE SPEAKER OF THE HOUSE; AND

(II) 13 SHALL BE APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES AS FOLLOWS:

1. ONE SHALL BE THE OWNER OF A BUSINESS DOMICILED IN THE STATE THAT EMPLOYS MORE THAN 50 PEOPLE;

2. ONE SHALL BE THE OWNER OF A BUSINESS DOMICILED IN THE STATE THAT EMPLOYS TWO TO 50 PEOPLE;

3. ONE SHALL REPRESENT A MARYLAND LABOR ORGANIZATION;

4. ONE SHALL HAVE EXPERIENCE IN THE ADMINISTRATION AND OPERATION OF A NONPROFIT BUSINESS DOMICILED IN THE STATE;

5. ONE SHALL REPRESENT THE STATE EMPLOYEE HEALTH BENEFIT PLAN;

6. ONE SHALL REPRESENT A NONPROFIT HEALTH CARE ADVOCACY ASSOCIATION ORGANIZED IN THE STATE;

7. ONE SHALL REPRESENT THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND;

8. ONE SHALL REPRESENT THE MARYLAND HOSPITAL ASSOCIATION;

9. ONE SHALL REPRESENT THE MIDATLANTIC ASSOCIATION OF COMMUNITY HEALTH CENTERS;

10. ONE SHALL BE A THIRD PARTY ADMINISTRATOR;

(Over)

11. ONE SHALL BE AN INSURANCE PRODUCER; AND

12. TWO SHALL BE MEMBERS OF THE PUBLIC.

(C) THE MEMBERS OF THE COMMITTEE SERVE AT THE PLEASURE OF THE PRESIDING OFFICERS.

(D) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES SHALL APPOINT A SENATOR AND A DELEGATE, RESPECTIVELY, TO SERVE AS CO-CHAIRMEN.

(E) THE MARYLAND INSURANCE ADMINISTRATION AND THE DEPARTMENT OF LEGISLATIVE SERVICES, OFFICE OF POLICY ANALYSIS, SHALL PROVIDE STAFF ASSISTANCE TO THE COMMITTEE.

(F) THE COMMITTEE SHALL EXAMINE AND EVALUATE THE ABILITY OF THE NONPROFIT HEALTH SERVICE PLANS IN THE STATE THAT CARRY THE BLUECROSS AND BLUESHIELD TRADEMARK TO MEET THE FOLLOWING GOALS:

(1) PROVIDE INDIVIDUALS AND BUSINESSES WITH AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE;

(2) CONTRIBUTE TO THE IMPROVEMENT OF THE OVERALL HEALTH STATUS OF MARYLAND RESIDENTS;

(3) PROVIDE FINANCIAL OR IN-KIND SUPPORT FOR PUBLIC HEALTH PROGRAMS;

(4) EMPLOY UNDERWRITING STANDARDS IN A MANNER THAT INCREASES THE AVAILABILITY OF ONE OR MORE HEALTH CARE SERVICES OR PRODUCTS;

(5) EMPLOY PRICING POLICIES THAT:

(I) ENHANCE THE AFFORDABILITY OF HEALTH CARE SERVICES OR PRODUCTS;

(II) RESULT IN A HIGHER MEDICAL LOSS RATIO THAN THAT ESTABLISHED BY A COMPARABLE FOR-PROFIT HEALTH INSURER; AND

(III) DO NOT IMPAIR THE FINANCIAL CONDITION OF THE NONPROFIT HEALTH SERVICE PLAN;

(6) OFFER A PRODUCT IN THE INDIVIDUAL MARKET;

(7) OFFER A PRODUCT IN THE SMALL EMPLOYER GROUP MARKET;

(8) PARTNER WITH THE STATE AND OTHER PUBLIC OR PRIVATE ENTITIES TO PROVIDE SERVICES OR ADMINISTER PROGRAMS TO ADDRESS COMMUNITY HEALTH CARE NEEDS; AND

(9) CONTINUE SUBSIDIZATION OF THE SENIOR PRESCRIPTION DRUG PROGRAM ESTABLISHED UNDER TITLE 14, SUBTITLE 5, PART II OF THE INSURANCE ARTICLE.

(G) (1) IN ACCORDANCE WITH § 2-1246 OF THIS TITLE, THE COMMITTEE SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 1 OF EACH YEAR.

(2) THE REPORT SHALL INCLUDE THE FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE WITH REGARD TO THE EXAMINATION AND EVALUATION CARRIED OUT UNDER SUBSECTION (F) OF THIS SECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That, pursuant to § 6.5-203(h) of the State Government Article, as enacted by Section 1 of this Act, the General Assembly ratifies the determination of the Maryland Insurance Commissioner and finds that the conversion of CareFirst to a for profit entity is not in the public interest, and declares that it is in the interest of all Marylanders to protect and preserve CareFirst in its nonprofit form.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Notwithstanding the provisions of § 14-115(d)(2) and (4) of the Insurance Article, as enacted by Section 1 of this Act, ten board members representing a corporation that is organized under the laws of the State and that is subject to the provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, shall be removed from the board of directors and replaced as early as practicable, but no later than December 1, 2003, as provided in subsection (b) of this section.

(b) (1) The ten members removed under subsection (a) of this section shall be replaced by a nominating committee appointed by the Governor, President of the Senate of Maryland, and Speaker of the House of Delegates.

(2) The nominating committee shall be appointed on or before June 1, 2003, and shall consist of nine members, of whom:

(i) three, including one consumer member and no more than one health care provider, are appointed by the Governor;

(ii) three, including one consumer member and no more than one health care provider, are appointed by the President of the Senate; and

(iii) three, including one consumer member and no more than one health care provider, are appointed by the Speaker of the House.

(3) An individual shall be appointed to the board under paragraph (1) of this subsection with the approval of a simple majority of the nominating committee.

(4) The individuals appointed under paragraph (3) of this subsection:

(i) shall include two consumer members;

(ii) to the extent practicable, shall meet the requirements of § 14-115(e)(11) of the Insurance Article, as enacted by Section 1 of this Act; and

(iii) to the extent practicable, shall have experience in accounting,

information technology, finance, law, large and small businesses, nonprofit businesses, and organized labor.

(5) The nominating committee shall determine the order of replacement of members removed from the board of directors under subsection (a) of this section.

(c) A member of the nominating committee may not be a candidate for membership on the board.

(d) This section does not apply to those members who serve on the board of directors of a corporation that is subject to the provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, who represent a corporation that is not organized under the laws of the State.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) Two board members representing a corporation that is organized under the laws of the State and that is subject to the provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, shall be removed from the board of directors and replaced, on or before June 1, 2004, by a nominating committee established under § 14-115(d)(6)(iv) of the Insurance Article, as enacted by Section 1 of this Act.

(b) The board members who serve on the board of a corporation subject to the provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, and who represent a corporation that is not organized under the laws of the State shall be removed and replaced on or before March 31, 2006.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the approval of the Maryland Insurance Commissioner, a nominating committee established under § 14-115(d)(6)(iv) of the Insurance Article, as enacted by Section 1 of this Act, shall develop a plan to stagger the terms of the voting members of a board of a corporation subject to § 14-115(d) of the Insurance Article, as enacted by this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That, for a period of 5 years after the

(Over)

effective date of this Act:

(1) a person may not file an application for the acquisition of a nonprofit health service plan subject to the provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, and a nonprofit health service plan subject to the provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, may not be acquired, under Title 6.5 of the State Government Article; and

(2) the Maryland Insurance Commissioner may not approve an application for the acquisition of a nonprofit health service plan subject to the provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) The provisions of § 14-139(c) of the Insurance Article, as enacted by Section 1 of this Act, shall apply to a compensation agreement that is in effect on the effective date of this Act and entered into or revised on or after January 20, 1995 (the date on which the Maryland Insurance Commissioner disapproved a plan of reorganization from Blue Cross and Blue Shield of Maryland, Inc. that would have created a new for profit holding company), including an agreement for termination, severance, performance bonuses, or supplemental executive retirement benefits, between a corporation organized under the laws of this State and subject to § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, and an officer, director, trustee, or employee of the corporation.

(b) In applying the provisions of § 14-139(c) of the Insurance Article, as enacted by Section 1 of this Act, to a compensation agreement under subsection (a) of this section, the Maryland Insurance Commissioner shall only examine any increase in compensation that occurred after January 20, 1995.

SECTION 9. AND BE IT FURTHER ENACTED, That a member of the board of directors of a corporation organized under the laws of this State and subject to § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, who is a member of the board of directors on the effective date of this Act is prohibited from serving on the board of directors of the corporation after removal from the board under the provisions of Sections 4 and 5 of this Act.

SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the General

Assembly to encourage a nonprofit health service plan that is subject to § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, to participate in public programs, such as Medicaid and Medicare, when participation is consistent with the mission of the nonprofit health service plan and does not impair the financial condition of the nonprofit health service plan.

SECTION 11. AND BE IT FURTHER ENACTED, That a nonprofit health service plan that is subject to § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act:

(1) shall work with the Maryland Insurance Administration, the Department of Aging, and other appropriate entities to study, and if feasible and desirable develop, a State arrangement to offer health insurance coverage to individuals who are eligible for the federal tax credit under § 35 of the Internal Revenue Code; and

(2) on or before August 1, 2003, in accordance with § 2-1246 of the State Government Article, shall report to the Senate Finance Committee and the House Health and Government Operations Committee on the results of its study.

SECTION 12. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Commissioner shall:

(1) determine whether any conduct identified in MIA No: 2003-02-032 violates the provisions of § 14-116 or § 14-139 of the Insurance Article, as in effect before the effective date of this Act, or any other provision of the Insurance Article not identified in MIA No: 2003-02-032;

(2) take any action deemed appropriate in light of the determinations made, if any, under item (1) of this subsection;

(3) report, on or before July 1, 2003, on the determinations made, if any, under item (1) of this subsection to:

(i) the board of directors of a nonprofit health service plan subject to the provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act; and

(Over)

(ii) the Governor, and in accordance with § 2-1246 of the State Government Article, the General Assembly; and

(4) make recommendations regarding whether any changes to Maryland law need to be made to ensure that the regulatory oversight of nonprofit health service plans subject to Title 14 of the Insurance Article is sufficient to protect the public interest, and report those recommendations, on or before July 1, 2003, to:

(i) the Governor;

(ii) in accordance with § 2-1246 of the State Government Article, the General Assembly; and

(iii) the Office of the Attorney General.

(b) The Office of the Attorney General shall:

(1) determine whether any conduct identified in MIA No: 2003-02-032 violates any provision of federal or State civil, criminal, or administrative law, other than those provisions reviewed by the Maryland Insurance Commissioner under subsection (a)(1) of this section; and

(2) report, on or before September 1, 2003, to the Governor, and in accordance with § 2-1246 of the State Government Article, the General Assembly on the determinations made, if any, under item (1) of this subsection, and on any changes to State law that need to be made to ensure that the public interest is protected.

SECTION 13. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 14. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect June 1 , 2003. It shall remain effective for a period of 2 years and 3 months and, at the end of

August 31, 2005, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 15. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and, except as provided in Section 14 of this Act, shall take effect from the date it is enacted.".