

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL NO. 1179

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Mitchell” and substitute “, Mitchell, Hurson, Bromwell, Donoghue, Goldwater, Hammen, Hubbard, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Rosenberg, Weldon, Barkley, Barve, Bobo, Bronrott, Cadden, Cane, G. Clagett, V. Clagett, Conroy, DeBoy, Doory, Dumais, Elmore, Feldman, Frush, Glassman, Gutierrez, Holmes, Impallaria, Jones, Kach, Kaiser, Lee, Love, Madaleno, Malone, Marriott, McHale, Menes, Moe, Montgomery, Niemann, Owings, Parrott, Petzold, Stern, F. Turner, Vaughn, Eckardt, Benson, and Smigiel”.

AMENDMENT NO. 2

On page 1, in line 10, after “purpose;” insert “establishing the scope of certain provisions of law governing nonprofit health service plans;”; in line 11, strike “public service”; in line 13, after the semicolon insert “requiring the Insurance Commissioner to deny inspection of a certain part of a certain report under certain circumstances;”; in line 22, strike “prohibiting” and substitute “authorizing”; in the same line, strike “from renewing” and substitute “to disapprove renewal of”; in line 23, strike “except”; strike beginning with “specifying” in line 28 down through “chosen” in line 29 and substitute “providing that a certain board is self-perpetuating”; strike beginning with “prohibiting” in line 30 down through the semicolon in line 31 and substitute “requiring board approval for certain actions; requiring a certain board to take and retain certain minutes;”; in line 33, strike “that the” and substitute “the amount of”; and in the same line, strike “and officers shall meet a certain”.

On page 2, strike beginning with “requirement” in line 1 down through the semicolon in line 2 and substitute “; 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;”.

(Over)

prohibiting the Insurance Commissioner from making certain approvals unless the Insurance Commissioner determines approval is 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 to develop certain guidelines, 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 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;”; in line 8, after the semicolon insert “requiring a certain board to develop a plan to stagger the terms of certain board members in a certain manner; 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; providing for the termination of certain provisions of this Act;”; in line 12, after “14-115,” insert “14-116(a), 14-126(a), 14-133(c), 14-139;”; in line 17, after “Section” insert “14-116(b) and (c) and”; and after line 19, insert:

“BY adding to

Article - Insurance

Section 14-116(f)

Annotated Code of Maryland

(2002 Replacement Volume and 2002 Supplement)”.

AMENDMENT NO. 3

On page 3, strike in their entirety lines 10 and 11 and substitute:

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

after line 24, insert:

“(E) 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) 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.”;

and in line 25, strike “(E)” and substitute “(F)”.

AMENDMENT NO. 4

On page 4, after line 9 insert:

“(G) THE PROVISIONS OF §§ 14-102(D), 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

(Over)

(6) OPTOMETRIC.”;

and strike beginning with “This” in line 15 down through “(c)” in line 24.

AMENDMENT NO. 5

On page 5, in line 1, strike “(d)” and substitute “(C)”; in line 2, after “that” insert “, 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,”; in line 17, strike “(e)” and substitute “(D)”; in the same line, strike “(D)” and substitute “(C)”; in line 20, strike “A COMPREHENSIVE BENEFIT, OPEN ENROLLMENT PRODUCT” and substitute “PRODUCTS”; in line 22, strike “AN OPEN ENROLLMENT PRODUCT” and substitute “PRODUCTS”; in line 26, strike “(F)” and substitute “(E)”; in line 29, strike the brackets; in the same line, strike “(G)” and substitute “(1)”; in the same line, strike “(c)” and substitute “(B)”; in the same line, strike “Each” and substitute “SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH”; and after line 30, insert:

“(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.”.

AMENDMENT NO. 6

On page 6, in line 15, after “article” insert “:

1.”;

in line 17, after “SUBTITLE” insert a semicolon; and strike beginning with “UNTIL” in line 17 down through “SUBTITLE” in line 19 and substitute:

“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:

A. THE SUBSIDY REQUIRED UNDER THE SENIOR PRESCRIPTION DRUG PROGRAM ESTABLISHED UNDER SUBTITLE 5, PART II OF THIS TITLE; AND

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

On page 7, in lines 31 and 32, strike “INDIVIDUALS, BUSINESSES, AND OTHER GROUPS WITH THE MOST”; and in line 33, strike “POSSIBLE”.

On page 8, strike in their entirety lines 25 through 27, inclusive, and substitute:

“(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 PLAN.”;

and in line 29, strike “A” and substitute “SUBJECT TO THE PROVISIONS OF THIS ARTICLE, A”.

AMENDMENT NO. 7

On page 9, in line 13, strike “Subsections (c) through [(f)] (G) of this section apply” and substitute “THIS SECTION APPLIES”; in lines 18 and 19, strike “FOR THE BENEFIT OF THE CORPORATION”; and strike in their entirety lines 30 and 31 and substitute:

“(II) SELECTING CORPORATE MANAGEMENT AND OVERSEEING AND EVALUATING ITS PERFORMANCE;”.

On pages 9 and 10, strike beginning with “SELECTING” in line 32 on page 9 down through “(IV)” in line 1 on page 10.

On page 10, in lines 4 and 6, strike “(V)” and “(VI)”, respectively, and substitute “(IV)” and “(V)”, respectively; in line 4, before “NOMINATING” insert “SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION,”; strike beginning with “(1)” in line 14 down through the period in line 22; and strike in their entirety lines 23 through 31, inclusive, and substitute:

“(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) TWO CONSUMER MEMBERS;

(II) ONE MEMBER SELECTED FROM A PANEL OF FIVE INDIVIDUALS NOMINATED BY THE MARYLAND HOSPITAL ASSOCIATION;

(III) ONE MEMBER SELECTED FROM A PANEL OF FIVE INDIVIDUALS NOMINATED BY THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND;

(IV) ONE MEMBER REPRESENTING ORGANIZED LABOR;

(V) ONE MEMBER REPRESENTING LARGE BUSINESS INTERESTS;

(VI) ONE MEMBER REPRESENTING SMALL BUSINESS INTERESTS;

(VII) 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; AND

(VIII) 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.

(3) A MAJORITY OF THE VOTING BOARD MEMBERS MAY NOT BE HEALTH CARE PROVIDERS.

(4) EXCEPT AS PROVIDED IN PARAGRAPH (2)(VII) AND (VIII) OF THIS SUBSECTION, THE BOARD SHALL BE SELF-PERPETUATING.

(5) THE BOARD SHALL HAVE THE FOLLOWING STANDING COMMITTEES:

(I) AUDIT;

(II) FINANCE;

(III) COMPENSATION;

(IV) SERVICE AND QUALITY OVERSIGHT;

(V) MISSION;

(VI) STRATEGIC PLANNING; AND

(VII) NOMINATING.

(6) 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.

(7) (I) BOARD APPROVAL IS REQUIRED FOR ANY ACTION BY THE NONPROFIT HEALTH SERVICE PLAN, CORPORATION FOR WHICH THE PLAN IS THE SOLE MEMBER, OR 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) THE BOARD MAY DELEGATE APPROVAL FOR THE ACTIONS LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH TO A STANDING COMMITTEE OF THE BOARD.

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

On page 11, in lines 1, 3, and 9, strike “(4)”, “(5)”, and “(6)”, respectively, and substitute “(9)”, “(10)”, and “(11)”, respectively; and in line 17, strike “1 year” and substitute “5 YEARS”.

On pages 11 and 12, strike in their entirety the lines beginning with line 23 on page 11 through line 9 on page 12, inclusive.

AMENDMENT NO. 9

On page 13, in line 2, after “(11)” insert “(I)”; in line 3, strike the first comma and substitute “AND”; in the same line, strike “, AND geographic”; in the same line, after “State” insert “; AND”

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

and strike in their entirety lines 6 through 10, inclusive, and substitute:

“(G) (1) A BOARD MEMBER MAY RECEIVE COMPENSATION ONLY FOR:

(I) ATTENDANCE AT MEETINGS OF THE BOARD AND BOARD COMMITTEES; AND

(II) EXPENSES FOR ACTIVITIES DIRECTLY RELATED TO THE CORPORATION.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A BOARD MEMBER MAY RECEIVE \$1,000 FOR EACH MEETING OF THE BOARD OR A BOARD COMMITTEE ATTENDED BY THE BOARD MEMBER DURING A CALENDAR YEAR.

(3) REGARDLESS OF THE NUMBER OF MEETINGS ATTENDED, COMPENSATION, INCLUDING REIMBURSED EXPENSES, RECEIVED DURING A CALENDAR YEAR MAY NOT EXCEED:

(I) \$20,000 FOR A BOARD MEMBER WHO IS NOT THE CHAIRMAN OF THE BOARD OR A BOARD COMMITTEE;

(Over)

(II) \$25,000 FOR A BOARD MEMBER WHO IS THE CHAIRMAN OF A COMMITTEE; AND

(III) \$30,000 FOR THE CHAIRMAN OF THE BOARD.”.

AMENDMENT NO. 10

On page 13, after line 20, insert:

“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 TITLE.

(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

(Over)

(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 MAY NOT APPROVE AN AMENDMENT TO THE ARTICLES OF INCORPORATION OR BYLAWS UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE COMMISSIONER DETERMINES THE AMENDMENT IS IN 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:

(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 MAY NOT APPROVE A STATEMENT OF PROPOSED ACTION UNDER THIS SECTION UNLESS THE COMMISSIONER DETERMINES THE PROPOSED ACTION IS IN THE PUBLIC INTEREST.

14-139.

(Over)

(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) AN OFFICER, DIRECTOR, TRUSTEE, 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 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;

(II) DEVELOP PROPOSED GUIDELINES FOR COMPENSATION, INCLUDING SALARY, BONUSES, AND PERQUISITES, OF ALL SENIOR EXECUTIVES THAT IS REASONABLE IN COMPARISON TO COMPENSATION FOR SENIOR EXECUTIVES OF SIMILAR NONPROFIT HEALTH SERVICE PLANS; AND

(III) ON OR BEFORE JUNE 1, 2004, SUBMIT THE PROPOSED GUIDELINES TO THE COMMISSIONER FOR REVIEW AND APPROVAL.

(2) (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.

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

(4) 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.

(5) THE BOARD SHALL:

(I) PROVIDE A COPY OF THE APPROVED GUIDELINES:

(Over)

1. TO EACH SENIOR EXECUTIVE; AND

2. TO EACH CANDIDATE FOR A SENIOR EXECUTIVE
POSITION; AND

(II) ADHERE TO THE APPROVED GUIDELINES IN
COMPENSATING THE SENIOR EXECUTIVES OF THE NONPROFIT HEALTH SERVICE
PLAN.

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

(7) 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)(7) 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) 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.”.

AMENDMENT NO. 11

On page 14, in lines 21 and 22, in each instance, strike “15” and substitute “17”; and in line 27, strike “11” and substitute “13”.

On page 15, in line 12, strike “AND” and substitute:

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

10. ONE SHALL BE A THIRD PARTY ADMINISTRATOR;

11. ONE SHALL BE AN INSURANCE PRODUCER; AND”;

and in line 13, strike “9. THREE” and substitute “12. TWO”.

On page 16, in line 1, strike “COMPREHENSIVE BENEFIT, OPEN ENROLLMENT”; and in line 3, strike “AN OPEN ENROLLMENT” and substitute “A”.

AMENDMENT NO. 12

On page 16, strike in their entirety lines 17 through 27, inclusive, and substitute:

“SECTION 2. 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 on or before 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 30, 2003, and

shall consist of nine members, of whom:

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

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

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

(3) (i) The nominating committee shall request from the current board names of individuals the board recommends for board membership, for the nominating committee to accept or reject, until the ten members removed under subsection (a) of this section have been replaced.

(ii) The individuals recommended under subparagraph (i) of this paragraph shall:

1. include two consumer members; and

2. comply with the provisions of § 14-115(e)(11) of the Insurance Article, as enacted by Section 1 of this Act.

(iii) Notwithstanding subparagraph (i) of this paragraph, the nominating committee may consider nominations from any source for membership to the board.

(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 3. AND BE IT FURTHER ENACTED, That:

(Over)

(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.

(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 December 1, 2006.

SECTION 4. AND BE IT FURTHER ENACTED, That the board of directors of a corporation subject to the provisions of § 14-115(d) 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 the board so that the terms of:

- (1) five members will terminate on December 1, 2005;
- (2) five members will terminate on December 1, 2006;
- (3) five members will terminate on December 1, 2007; and
- (4) six members will terminate on December 1, 2008.”.

AMENDMENT NO. 13

On page 16, before line 28, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That, for a period of 5 years after the 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 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 6. AND BE IT FURTHER ENACTED, That the provisions of § 14-139(c) of the Insurance Article, as enacted by Section 1 of this Act, shall apply to any existing compensation agreement, 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.

SECTION 7. 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 Section 2 of this Act.

SECTION 8. 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 such 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 9. 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, shall:

(1) 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, report to the Senate Finance Committee and the House Health and Government Operations Committee on the results of its study.”.

AMENDMENT NO. 14

On page 16, in line 28, strike “3.” and substitute “10.”; and in line 29, after the period insert “Section 6 of this Act shall remain effective for a period of 5 years and, at the end of May 31, 2008, with no further action required by the General Assembly, Section 6 of this Act shall be abrogated and of no further force and effect.”.