

HOUSE BILL 1179

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2003 Regular Session
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By: Delegates Pendergrass and Mitchell, 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

Rules suspended
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Rules suspended
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 1, 2003

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of altering certain provisions relating to the regulation of nonprofit
4 health service plans; specifying the purpose of certain provisions of law;
5 specifying that certain nonprofit health service plans are exempt from certain
6 taxes; establishing the mission of nonprofit health service plans; requiring a
7 nonprofit health service plan to develop certain goals, objectives, and strategies;
8 requiring a nonprofit health service plan to report quarterly to a certain
9 oversight committee and provide certain information to the oversight committee
10 for a certain purpose; establishing the scope of certain provisions of law
11 governing nonprofit health service plans; exempting certain nonprofit health
12 service plans from certain ~~public service~~ requirements; specifying the manner in
13 which certain nonprofit health service plans can satisfy certain requirements;
14 requiring certain nonprofit health service plans to perform certain functions;
15 requiring the Insurance Commissioner to deny inspection of a certain part of a
16 certain report under certain circumstances; repealing a requirement that the
17 Insurance Commissioner follow certain procedures after making a certain
18 determination; requiring the Insurance Commissioner to issue an order to
19 require that a nonprofit health service plan pay a certain premium tax for a

1 certain period of time under certain circumstances; specifying the use of certain
2 premium tax revenue collected by the Maryland Insurance Administration;
3 specifying information that certain applicants for a certificate of authority must
4 submit; specifying certain criteria that the Insurance Commissioner shall
5 consider when issuing a certain certificate of authority; ~~prohibiting~~ authorizing
6 the Insurance Commissioner ~~from renewing to disapprove~~ renewal of a certain
7 certificate of authority ~~except~~ under certain circumstances; specifying certain
8 activities in which a certain corporation may engage; specifying that certain
9 members of a certain board of directors are fiduciaries on behalf of a certain
10 corporation; specifying the manner in which certain board members shall act;
11 specifying the principal functions of a certain board; specifying the number and
12 composition of members on a certain board; ~~specifying the manner in which~~
13 ~~certain board members shall be chosen~~ providing that a certain board is
14 self-perpetuating; requiring a certain board to establish certain committees;
15 ~~prohibiting certain board members from chairing a committee after a certain~~
16 ~~date~~; requiring board approval for certain actions; requiring a certain board to
17 take and retain certain minutes; altering the term of certain board members
18 beginning on a certain date; altering the maximum term of certain board
19 members; specifying ~~that the~~ the amount of compensation of certain directors
20 ~~and officers shall meet a certain requirement~~; ~~altering the maximum~~
21 ~~representation of certain individuals on a certain board~~; altering the definition
22 of an "unsound or unsafe business practice"; requiring the Attorney General to
23 notify the Insurance Commissioner that a nonprofit health service plan is
24 engaging in a certain business practice under certain circumstances;
25 authorizing the Attorney General to undertake a certain investigation and
26 initiate a certain action under certain circumstances; prohibiting the Insurance
27 Commissioner from making certain approvals unless the Insurance
28 Commissioner determines approval is in the public interest; limiting the
29 compensation that certain individuals may approve or receive from the assets of
30 a certain corporation; requiring a certain board to develop certain guidelines,
31 submit the guidelines to the Insurance Commissioner for approval, provide a
32 copy of the guidelines to certain individuals, and adhere to the guidelines in
33 compensating certain individuals; requiring the Insurance Commissioner to
34 review certain compensation and issue a certain order prohibiting payment of
35 certain compensation under certain circumstances; providing that the approval
36 or receipt of certain remuneration is a violation of a certain provision of law and
37 is an unsound or unsafe business practice; increasing the maximum civil penalty
38 for violations of certain provisions of law by certain officers, directors, and
39 employees; establishing a Joint BlueCross and BlueShield Oversight
40 Committee; specifying the number and composition of the Committee; providing
41 for the appointment of co-chairmen of and staff assistance for the Committee;
42 requiring the Committee to undertake a certain examination and evaluation to
43 meet certain goals; requiring the Committee to submit a certain annual report
44 in a certain manner and on or before certain dates; providing for the termination
45 of the terms of certain board members and for replacement of those members;
46 requiring a certain board to develop a plan to stagger the terms of certain board
47 members in a certain manner; prohibiting the acquisition of a certain nonprofit
48 health service plan within a certain period of time; providing for the application

1 of certain provisions of law to certain compensation agreements; prohibiting a
 2 member of the board of directors of a certain corporation from serving on the
 3 board after removal from the board; stating the intent of the General Assembly
 4 to encourage a certain nonprofit health service plan to participate in certain
 5 public programs; requiring a certain nonprofit health service plan to work with
 6 certain persons, conduct a certain study, and report to certain committees of the
 7 General Assembly on or before a certain date; providing for the termination of
 8 certain provisions of this Act; and generally relating to nonprofit health service
 9 plans.

10 BY repealing and reenacting, with amendments,
 11 Article - Insurance
 12 Section 14-102, 14-106, 14-107, 14-109 through 14-111, 14-115, 14-116(a),
 13 14-126(a), 14-133(c), 14-139, and 14-504(b)
 14 Annotated Code of Maryland
 15 (2002 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, without amendments,
 17 Article - Insurance
 18 Section 14-116(b) and (c) and 14-504(a)
 19 Annotated Code of Maryland
 20 (2002 Replacement Volume and 2002 Supplement)

21 BY adding to
 22 Article - Insurance
 23 Section 14-116(f)
 24 Annotated Code of Maryland
 25 (2002 Replacement Volume and 2002 Supplement)

26 BY adding to
 27 Article - State Government
 28 Section 2-10A-08
 29 Annotated Code of Maryland
 30 (1999 Replacement Volume and 2002 Supplement)

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

33 **Article - Insurance**

34 14-102.

35 (A) THE PURPOSE OF THIS SUBTITLE IS:

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

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

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

4 (II) SEEK TO PROVIDE INDIVIDUALS, BUSINESSES, AND OTHER
5 GROUPS WITH THE MOST AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE
6 POSSIBLE; AND

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

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

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

13 ~~(1) PROVIDE HEALTH INSURANCE AT AFFORDABLE PRICES THROUGH~~
14 ~~EMPLOYER AND OTHER GROUP AND INDIVIDUAL PRODUCTS;~~

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

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

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

22 (D) A NONPROFIT HEALTH SERVICE PLAN SHALL:

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

25 (2) REPORT QUARTERLY ON OR BEFORE OCTOBER 1, 2003 THROUGH
26 OCTOBER 1, 2006 TO THE JOINT BLUE CROSS AND BLUESHIELD OVERSIGHT
27 COMMITTEE ON ITS PERFORMANCE; AND

28 (3) PROVIDE TO THE JOINT BLUECROSS AND BLUESHIELD OVERSIGHT
29 COMMITTEE ANY OTHER INFORMATION NECESSARY FOR THE COMMITTEE TO MEET
30 THE GOALS OUTLINED UNDER § 2-10A-08 OF THE STATE GOVERNMENT ARTICLE.

31 (E) THIS SECTION APPLIES TO:

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

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

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

- 10 (1) this subtitle;
- 11 (2) Title 2, Subtitle 2 of this article and §§ 1-206, 3-127, and 12-210 of
 12 this article;
- 13 (3) Title 2, Subtitle 5 of this article;
- 14 (4) §§ 4-113 and 4-114 of this article;
- 15 (5) Title 5, Subtitles 1, 2, 3, 4, and 5 of this article;
- 16 (6) Title 7 of this article, except for § 7-706 and Subtitle 2 of Title 7;
- 17 (7) Title 9, Subtitles 1, 2, and 4 of this article;
- 18 (8) Title 10, Subtitle 1 of this article;
- 19 (9) Title 27 of this article; and
- 20 (10) any other provision of this article that:
- 21 (i) is expressly referred to in this subtitle;
- 22 (ii) expressly refers to this subtitle; or
- 23 (iii) expressly refers to nonprofit health service plans or persons
 24 subject to this subtitle.

25 (G) THE PROVISIONS OF §§ 14-102(D), 14-106, 14-115(D), (E), (F), AND (G), AND
 26 14-139(D) AND (E) OF THIS SUBTITLE DO NOT APPLY TO A NONPROFIT HEALTH
 27 SERVICE PLAN THAT INSURES BETWEEN 1 AND 10,000 COVERED LIVES IN MARYLAND
 28 OR ISSUES CONTRACTS FOR ONLY ONE OF THE FOLLOWING SERVICES:

- 29 (1) PODIATRIC;
- 30 (2) CHIROPRACTIC;
- 31 (3) PHARMACEUTICAL;
- 32 (4) DENTAL;

1 (5) PSYCHOLOGICAL; OR

2 (6) OPTOMETRIC.

3 14-106.

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

8 (b) ~~This section does not apply to a nonprofit health service plan that insures~~
9 ~~[fewer than] BETWEEN 1 AND 10,000 covered lives in Maryland OR ISSUES~~
10 ~~CONTRACTS FOR ONLY ONE OF THE FOLLOWING SERVICES:~~

11 (1) ~~PODIATRIC;~~

12 (2) ~~CHIROPRACTIC;~~

13 (3) ~~PHARMACEUTICAL;~~

14 (4) ~~DENTAL;~~

15 (5) ~~PSYCHOLOGICAL; OR~~

16 (6) ~~OPTOMETRIC.~~

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

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

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

25 (⇌) (C) A nonprofit health service plan may satisfy the public service
26 requirement [in subsection (c)(2)] of this section by establishing that, TO THE
27 EXTENT THE VALUE OF THE NONPROFIT HEALTH SERVICE PLAN'S PREMIUM TAX
28 EXEMPTION UNDER § 6-101(B) OF THIS ARTICLE EXCEEDS THE SUBSIDY REQUIRED
29 UNDER THE SENIOR PRESCRIPTION DRUG PROGRAM ESTABLISHED UNDER SUBTITLE
30 5, PART II OF THIS TITLE, the plan has:

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

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

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

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

8 [(2)] (5) served the public interest by any method or practice approved
 9 by the Commissioner.

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

13 (1) OFFER ~~A COMPREHENSIVE BENEFIT, OPEN ENROLLMENT PRODUCT~~
 14 PRODUCTS IN THE INDIVIDUAL MARKET;

15 (2) OFFER ~~AN OPEN ENROLLMENT PRODUCT~~ PRODUCTS IN THE SMALL
 16 EMPLOYER GROUP MARKET IN ACCORDANCE WITH TITLE 15, SUBTITLE 12 OF THIS
 17 ARTICLE; AND

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

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

23 {(f)} (⇌)-(1) ~~Each~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH
 24 report filed with the Commissioner under subsection (⇌) (B) of this section is a public
 25 record.

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

31 14-107.

32 (a) By November 1 of each year, the Commissioner shall issue an order
 33 notifying each nonprofit health service plan that is required to file a report under §
 34 14-106 of this subtitle of whether the plan has satisfied the requirements of § 14-106
 35 of this subtitle.

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

1 subsection (a) of this section to comply with the requirements of § 14-106 of this
2 subtitle.

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

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

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

13 1. FOR A PERIOD OF TIME BEGINNING WITH THE DATE THE
14 PLAN WAS DETERMINED TO BE OUT OF COMPLIANCE WITH § 14-106 OF THIS
15 SUBTITLE; AND UNTIL SUCH TIME AS THE NONPROFIT HEALTH SERVICE PLAN
16 DEMONSTRATES TO THE COMMISSIONER THAT THE PLAN IS COMPLYING WITH §
17 14-106 OF THIS SUBTITLE

18 2. IN AN AMOUNT EQUAL TO THE AMOUNT BY WHICH THE
19 VALUE OF THE NONPROFIT HEALTH SERVICE PLAN'S PREMIUM TAX EXEMPTION
20 UNDER § 6-101(B) OF THIS ARTICLE EXCEEDS THE SUM OF:

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

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

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

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

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

1 14-109.

2 An applicant for a certificate of authority shall:

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

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

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

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

12 (ii) bylaws with all amendments;

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

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

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

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

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

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

30 14-110.

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

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

34 (2) the Commissioner is satisfied:

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

4 1. IS COMMITTED TO A NONPROFIT CORPORATE
 5 STRUCTURE;

6 2. SEEKS TO PROVIDE ~~INDIVIDUALS, BUSINESSES, AND~~
 7 ~~OTHER GROUPS WITH THE MOST~~ AFFORDABLE AND ACCESSIBLE HEALTH
 8 INSURANCE ~~POSSIBLE~~; AND

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

11 (ii) that:

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

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

22 (iii) that:

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

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

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

29 1. \$100,000; and

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

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

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

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

8 14-111.

9 A SUBJECT TO THE PROVISIONS OF THIS ARTICLE, A certificate of authority
 10 issued under this subtitle authorizes a corporation to:

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

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

16 (3) FINANCE CAPITAL IMPROVEMENT PROJECTS THROUGH THE
 17 MARYLAND ECONOMIC DEVELOPMENT CORPORATION AS PROVIDED UNDER ARTICLE
 18 83A, TITLE 5, SUBTITLE 2 OF THE CODE; AND

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

22 14-115.

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

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

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

28 (b) ~~Subsections (c) through [(f)] (G) of this section apply~~ THIS SECTION
 29 APPLIES to a nonprofit health service plan that is incorporated under the laws of the
 30 State and operates under a certificate of authority issued by the Commissioner under
 31 this subtitle.

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

34 (2) The board and its individual members are fiduciaries ~~FOR THE~~
 35 ~~BENEFIT OF THE CORPORATION~~ and shall act:

36 (i) in good faith;

1 (ii) in a manner that is reasonably believed to be in the best
2 interests of the corporation; [and]

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

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

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

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

10 ~~(II) MONITORING THE PERFORMANCE OF CORPORATE~~
11 ~~MANAGEMENT;~~

12 ~~(II) SELECTING CORPORATE MANAGEMENT AND OVERSEEING AND~~
13 ~~EVALUATING ITS PERFORMANCE;~~

14 ~~(III) SELECTING, OVERSEEING, EVALUATING, AND IF NEED BE,~~
15 ~~REPLACING THE CHIEF EXECUTIVE OFFICER;~~

16 ~~(IV) ENSURING TO THE EXTENT PRACTICABLE THAT HUMAN~~
17 ~~RESOURCES AND OTHER RESOURCES ARE SUFFICIENT TO MEET CORPORATE~~
18 ~~OBJECTIVES;~~

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

22 ~~(VI) (V) ESTABLISHING A SYSTEM OF GOVERNANCE AT THE~~
23 ~~BOARD LEVEL, INCLUDING EVALUATION OF BOARD PERFORMANCE.~~

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

26 [(3)] (5) An officer or employee of a nonprofit health service plan or any
27 of its affiliates or subsidiaries may not be appointed or elected to the board.

28 [(4)] (6) A nonprofit health service plan is subject to the provisions of §
29 2-419 of the Corporations and Associations Article.

30 (d) ~~(1) This subsection does not apply to a board of a nonprofit health service~~
31 ~~plan that INSURES BETWEEN 1 AND 10,000 COVERED LIVES IN MARYLAND OR issues~~
32 ~~contracts for only one of the following services:~~

33 (i) ~~podiatric;~~

34 (ii) ~~chiropractic;~~

- 1 (iii) pharmaceutical;
- 2 (iv) dental;
- 3 (v) psychological; or
- 4 (vi) optometric.

5 ~~(2) THE BOARD SHALL BE COMPRISED OF 15 MEMBERS, SELECTED BY~~
6 ~~THE BOARD OF DIRECTORS OF THE NONPROFIT HEALTH SERVICE PLAN IN~~
7 ~~ACCORDANCE WITH PARAGRAPHS (3) THROUGH (7) OF THIS SUBSECTION.~~

8 ~~(3) THE 15 BOARD MEMBERS SHALL INCLUDE:~~

9 ~~(I) INDIVIDUALS WITH A BACKGROUND IN ACCOUNTING,~~
10 ~~INFORMATION TECHNOLOGY, FINANCE, LAW, LARGE AND SMALL BUSINESS,~~
11 ~~NONPROFIT BUSINESS, AND ORGANIZED LABOR; AND~~

12 ~~(II) TWO CONSUMERS, WHO SATISFY THE REQUIREMENTS OF~~
13 ~~PARAGRAPHS (4) THROUGH (6) OF THIS SUBSECTION.~~

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

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

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

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

21 (I) TWO CONSUMER MEMBERS;

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

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

26 (IV) ONE MEMBER REPRESENTING ORGANIZED LABOR;

27 (V) ONE MEMBER REPRESENTING LARGE BUSINESS INTERESTS;

28 (VI) ONE MEMBER REPRESENTING SMALL BUSINESS INTERESTS;

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

1 (VIII) ONE NONVOTING MEMBER, WHO IS NOT A MEMBER OF THE
2 MARYLAND GENERAL ASSEMBLY, APPOINTED BY AND SERVING AT THE PLEASURE OF
3 THE SPEAKER OF THE HOUSE OF DELEGATES.

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

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

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

9 (I) AUDIT;

10 (II) FINANCE;

11 (III) COMPENSATION;

12 (IV) SERVICE AND QUALITY OVERSIGHT;

13 (V) MISSION;

14 (VI) STRATEGIC PLANNING; AND

15 (VII) NOMINATING.

16 (6) EACH STANDING COMMITTEE SHALL HAVE REPRESENTATION FROM:

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

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

21 (7) (I) BOARD APPROVAL IS REQUIRED FOR ANY ACTION BY THE
22 NONPROFIT HEALTH SERVICE PLAN, CORPORATION FOR WHICH THE PLAN IS THE
23 SOLE MEMBER, OR AFFILIATE OR SUBSIDIARY OF THE NONPROFIT HEALTH SERVICE
24 PLAN TO:

25 1. MODIFY BENEFIT LEVELS;

26 2. MATERIALLY MODIFY PROVIDER NETWORKS OR
27 PROVIDER REIMBURSEMENT;

28 3. MODIFY UNDERWRITING GUIDELINES;

29 4. MODIFY RATES OR RATING PLANS;

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

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

3 (II) THE BOARD MAY DELEGATE APPROVAL FOR THE ACTIONS
4 LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH TO A STANDING COMMITTEE OF
5 THE BOARD.

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

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

10 (3)] ~~(4)-(9)~~ Of the two consumer members, one shall be a subscriber and
11 one shall be a certificate holder of the nonprofit health service plan.

12 [(4)] ~~(5)-(10)~~ Each consumer member of the board:

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

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

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

18 [(5)] ~~(6)-(11)~~ A consumer member of the board may not:

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

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

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

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

26 (iii) within ~~1 year~~ 5 YEARS before appointment, have been employed
27 by, had a financial interest in, or have received compensation from:

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

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

32 ~~(7) NO MORE THAN 20% OF THE MEMBERS OF THE BOARD MAY BE:~~

33 ~~(f) LICENSED HEALTH CARE PROFESSIONALS;~~

- 1 ~~(II) HOSPITAL ADMINISTRATORS; OR~~
- 2 ~~(III) EMPLOYEES OF HEALTH CARE PROFESSIONALS OR HOSPITALS.~~
- 3 ~~(8) THE BOARD SHALL ESTABLISH:~~
- 4 ~~(I) A COMPENSATION COMMITTEE TO EXAMINE AND RECOMMEND~~
5 ~~TO THE BOARD APPROPRIATE GUIDELINES FOR, AND LEVELS OF, COMPENSATION OF~~
6 ~~OFFICERS AND EMPLOYEES;~~
- 7 ~~(II) A NOMINATING COMMITTEE TO IDENTIFY AND RECOMMEND TO~~
8 ~~THE BOARD INDIVIDUALS QUALIFIED TO BECOME BOARD MEMBERS;~~
- 9 ~~(III) AN AUDIT COMMITTEE TO ENSURE FINANCIAL~~
10 ~~ACCOUNTABILITY; AND~~
- 11 ~~(IV) ANY OTHER COMMITTEE THAT THE BOARD DETERMINES IS~~
12 ~~NECESSARY TO CARRY OUT ITS BUSINESS.~~
- 13 ~~(9) (I) THE CHAIRMAN OF THE BOARD OF DIRECTORS SHALL SELECT~~
14 ~~THE CHAIRMEN OF THE BOARD COMMITTEES.~~
- 15 ~~(II) A COMMITTEE CHAIRMAN SHALL SERVE FOR 1 YEAR.~~
- 16 ~~(III) A BOARD MEMBER WHO WAS A BOARD MEMBER AS OF JUNE 1,~~
17 ~~2003 MAY NOT CHAIR A COMMITTEE AFTER JUNE 1, 2005.~~
- 18 (e) (1) This subsection does not apply to a board that has fewer than three
19 authorized members.
- 20 (2) The term of a member is [3] 4 years.
- 21 (3) The terms of the members of a board shall be staggered over a
22 [3-year] 4-YEAR period as required by the terms provided for members of the board
23 in the bylaws filed and approved by the Commissioner on or after June 1, [1993]
24 2003.
- 25 (4) At the end of a term, a member continues to serve until a successor is
26 appointed and qualifies.
- 27 (5) A member who is appointed after a term has begun serves only for
28 the rest of the term and until a successor is appointed and qualifies.
- 29 (6) A member may not serve for more than:
- 30 (i) [three] TWO full terms; or
- 31 (ii) a total of more than [9] 8 years.
- 32 (7) A person may not be a member of the board if the person:

- 1 (i) has defaulted on the payment of a monetary obligation to the
2 nonprofit health service plan;
- 3 (ii) has been convicted of a criminal offense involving dishonesty or
4 breach of trust or a felony; or
- 5 (iii) habitually has neglected to pay debts.

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

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

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

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

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

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

18 ~~(G) THE COMPENSATION, IF ANY, OF THE DIRECTORS AND OFFICERS OF A~~
19 ~~NONPROFIT HEALTH SERVICE PLAN SHALL BE REASONABLE, AS DETERMINED BY~~
20 ~~THE COMMISSIONER, IN COMPARISON TO THE COMPENSATION PAID TO BOARD~~
21 ~~MEMBERS AND OFFICERS OF COMPARABLE NONPROFIT HEALTH SERVICE PLANS IN~~
22 ~~THE UNITED STATES.~~

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

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

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

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

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

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

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

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

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

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

7 (i) licensed health care professionals;

8 (ii) hospital administrators; and

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

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

14 14-116.

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

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

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

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

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

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

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

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

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

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

1 (i) by certified mail, return receipt requested, bearing a postmark
2 from the United States Postal Service, to each director of the nonprofit health service
3 plan; and

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

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

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

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

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

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

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

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

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

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

31 (I) SUBPOENA WITNESSES;

32 (II) ADMINISTER OATHS;

33 (III) EXAMINE AN INDIVIDUAL UNDER OATH;

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

1 (V) OBTAIN ALL NECESSARY ASSISTANCE FROM THE
2 ADMINISTRATION.

3 14-126.

4 (a) (1) A corporation subject to this subtitle may not amend its certificate of
5 incorporation, bylaws, or the terms and provisions of contracts issued or proposed to
6 be issued to subscribers to the plan until the proposed amendments have been
7 submitted to and approved by the Commissioner and the applicable fees required by
8 § 2-112 of this article have been paid.

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

13 (3) THE COMMISSIONER MAY NOT APPROVE AN AMENDMENT TO THE
14 ARTICLES OF INCORPORATION OR BYLAWS UNDER PARAGRAPH (1) OF THIS
15 SUBSECTION UNLESS THE COMMISSIONER DETERMINES THE AMENDMENT IS IN THE
16 PUBLIC INTEREST.

17 14-133.

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

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

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

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

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

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

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

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

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

4 14-139.

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

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

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

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

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

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

16 (6) willfully fail to produce records or allow an examination under §
17 14-125 of this subtitle; or

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

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

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

29 (D) (1) THE BOARD SHALL:

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

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

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

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

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

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

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

15 (5) THE BOARD SHALL:

16 (I) PROVIDE A COPY OF THE APPROVED GUIDELINES:

17 1. TO EACH SENIOR EXECUTIVE; AND

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

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

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

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

29 (E) THE APPROVAL OR RECEIPT OF REMUNERATION IN VIOLATION OF AN
30 ORDER ISSUED UNDER SUBSECTION (D)(7) OF THIS SECTION IS A VIOLATION OF
31 § 14-115(C) OF THIS SUBTITLE AND SHALL BE CONSIDERED AN UNSOUND OR UNSAFE
32 BUSINESS PRACTICE UNDER § 14-116 OF THIS SUBTITLE.

33 [(c)] (F) (1) A person that violates subsection (a) OR (C) of this section is
34 subject to a civil penalty not exceeding [\$5,000] \$10,000 for each violation.

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

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

6 (1) the seriousness of the violation;

7 (2) the good faith of the violator;

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

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

11 (5) the assets of the violator.

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

15 (i) the specifications of the charge; and

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

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

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

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

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

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

29 14-504.

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

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

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

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

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

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

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

12 (b) The Fund shall consist of:

13 (1) premiums for coverage that the Plan issues;

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

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

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

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

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

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

24 [(7)] (8) money collected by the Board as a result of legal or other actions
25 taken by the Board on behalf of the Fund.

26 **Article - State Government**

27 2-10A-08.

28 (A) THERE IS A JOINT BLUECROSS AND BLUESHIELD OVERSIGHT
29 COMMITTEE.

30 (B) (1) THE COMMITTEE CONSISTS OF ~~45~~ 17 MEMBERS.

31 (2) OF THE ~~45~~ 17 MEMBERS:

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

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

5 (II) ~~4~~ 13 SHALL BE APPOINTED JOINTLY BY THE PRESIDENT OF
6 THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES AS FOLLOWS:

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

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

11 3. ONE SHALL REPRESENT A MARYLAND LABOR
12 ORGANIZATION;

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

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

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

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

21 8. ONE SHALL REPRESENT THE MARYLAND HOSPITAL
22 ASSOCIATION; ~~AND~~

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

25 10. ONE SHALL BE A THIRD PARTY ADMINISTRATOR;

26 11. ONE SHALL BE AN INSURANCE PRODUCER; AND

27 9. 12. ~~THREE~~ TWO SHALL BE MEMBERS OF THE PUBLIC.

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

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

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

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

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

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

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

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

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

19 (6) OFFER A ~~COMPREHENSIVE BENEFIT, OPEN ENROLLMENT~~ PRODUCT
20 IN THE INDIVIDUAL MARKET;

21 (7) OFFER AN ~~OPEN ENROLLMENT~~ A PRODUCT IN THE SMALL
22 EMPLOYER GROUP MARKET;

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

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

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

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

35 ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

1 (a) ~~The terms of 11 of the CareFirst, Inc. Board Members shall terminate on~~
2 ~~September 30, 2003.~~

3 (b) ~~The terms of the remaining 10 members shall terminate as follows:~~

4 (1) ~~four on September 30, 2004;~~

5 (2) ~~three on September 30, 2005; and~~

6 (3) ~~three on September 30, 2006.~~

7 (c) ~~On or before October 1, 2003, the remaining Board Members shall select~~
8 ~~an additional five members to serve a 4 year term.~~

9 (d) ~~The Board shall select members to replace members whose terms expire as~~
10 ~~provided in subsection (b) of this section.~~

11 SECTION 2. AND BE IT FURTHER ENACTED, That:

12 (a) Notwithstanding the provisions of § 14-115(d)(2) and (4) of the Insurance
13 Article, as enacted by Section 1 of this Act, ten board members representing a
14 corporation that is organized under the laws of the State and that is subject to the
15 provisions of § 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act,
16 shall be removed from the board of directors and replaced on or before December 1,
17 2003, as provided in subsection (b) of this section.

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

21 (2) The nominating committee shall be appointed on or before June 30,
22 2003, and shall consist of nine members, of whom:

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

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

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

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

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

35 1. include two consumer members; and

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

4 SECTION 6. AND BE IT FURTHER ENACTED, That the provisions of §
5 14-139(c) of the Insurance Article, as enacted by Section 1 of this Act, shall apply to
6 any existing compensation agreement, including an agreement for termination,
7 severance, performance bonuses, or supplemental executive retirement benefits,
8 between a corporation organized under the laws of this State and subject to §
9 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, and an officer,
10 director, trustee, or employee of the corporation.

11 SECTION 7. AND BE IT FURTHER ENACTED, That a member of the board of
12 directors of a corporation organized under the laws of this State and subject to §
13 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, who is a
14 member of the board of directors on the effective date of this Act is prohibited from
15 servng on the board of directors of the corporation after removal from the board
16 under the provisions of Section 2 of this Act.

17 SECTION 8. AND BE IT FURTHER ENACTED, That it is the intent of the
18 General Assembly to encourage a nonprofit health service plan that is subject to §
19 14-115(d) of the Insurance Article, as enacted by Section 1 of this Act, to participate
20 in public programs, such as Medicaid and Medicare, when such participation is
21 consistent with the mission of the nonprofit health service plan and does not impair
22 the financial condition of the nonprofit health service plan.

23 SECTION 9. AND BE IT FURTHER ENACTED, That a nonprofit health service
24 plan that is subject to § 14-115(d) of the Insurance Article, as enacted by Section 1 of
25 this Act, shall:

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

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

33 SECTION ~~3~~ 10. AND BE IT FURTHER ENACTED, That this Act shall take
34 effect June 1, 2003. Section 6 of this Act shall remain effective for a period of 5 years
35 and, at the end of May 31, 2008, with no further action required by the General
36 Assembly, Section 6 of this Act shall be abrogated and of no further force and effect.

