
By: **Senators Middleton, Astle, Brochin, Currie, Della, Exum, Gladden,
Hafer, Hollinger, Kelley, Klausmeier, Pipkin, Stoltzfus, and Teitelbaum**

Constitutional Requirements Complied with for Introduction in the last 35 Days of
Session

Introduced and read first time: March 19, 2003

Rules suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Joint Committee to Investigate CareFirst, Inc.**

3 FOR the purpose of establishing a Joint Committee to Investigate CareFirst, Inc. ;
4 providing for the membership of the Committee; providing for staffing of the
5 Committee; requiring the Committee to identify certain civil, criminal, and
6 administrative laws that impact certain duties of directors of nonprofit health
7 service plans; requiring the Committee to investigate whether certain civil,
8 criminal, and administrative laws were violated by the decision of the board of
9 directors of a certain nonprofit health service to convert to a for profit entity;
10 requiring the Committee to identify individuals who have standing to bring a
11 certain cause of action against the board of directors of a nonprofit health
12 service plan; requiring the Committee to determine whether changes are needed
13 to the civil, criminal, or administrative laws affecting the boards of directors of
14 nonprofit health service plans; authorizing the Committee to use certain
15 resources in carrying out its duties; authorizing the Committee to issue
16 subpoenas, compel the attendance of witnesses and the production of
17 documents, administer oaths, and cause the deposition of certain witnesses;
18 authorizing the Committee to take certain action to compel compliance with
19 certain subpoenas or testimony; requiring the Committee to issue a final report
20 by a certain date; providing for the termination of this Act; and generally
21 relating to the Joint Committee to Investigate CareFirst, Inc.

22 **Preamble**

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

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

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

1 WHEREAS, On January 11, 2002, CareFirst filed an application with the
2 Maryland Insurance Commissioner to convert to a for profit company and be acquired
3 by a California-based health insurer for \$1.3 billion; and

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

7 WHEREAS, The Insurance Commissioner found that the Board of Directors of
8 CareFirst misapprehended, or ignored, its overriding responsibility to the mission of
9 CareFirst and its insureds - to provide coverage at a minimum cost and expense; and

10 WHEREAS, The Insurance Commissioner found that the management of
11 CareFirst did not view their corporate mission as restraining or guiding their
12 business activities; and

13 WHEREAS, The Insurance Commissioner found that the Board of Directors of
14 CareFirst failed to seek and consider material information relevant to the decision to
15 convert, information which an ordinarily prudent person would have sought and
16 considered under the same circumstances, and which would likely have caused a
17 prudent board to reconsider the decision to convert; and

18 WHEREAS, The Insurance Commissioner found that the management of
19 CareFirst insisted on large bonuses and permanent roles in the combined company
20 that conflicted with the interests of CareFirst; and

21 WHEREAS, The Insurance Commissioner found that the decision of the Board
22 of Directors of CareFirst to grant merger incentives was an egregious breach of its
23 duties of care and loyalty and that a key motivation behind the conversion was
24 enrichment of the executives of CareFirst; now, therefore,

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That:

27 (a) There is a Joint Committee to Investigate CareFirst, Inc.

28 (b) The Committee consists of the following members:

29 (1) three members of the Senate of Maryland, appointed by the President
30 of the Senate; and

31 (2) three members of the House of Delegates, appointed by the Speaker
32 of the House.

33 (c) The President of the Senate and the Speaker of the House of Delegates
34 shall appoint a Senator and a Delegate, respectively, to serve as co-chairmen.

35 (d) The Office of the Attorney General shall provide staff assistance to the
36 Committee.

1 (e) The Committee shall:

2 (1) identify the current civil, criminal, and administrative laws that
3 impact the duties of the board of directors of a nonprofit health service plan;

4 (2) investigate whether any civil, criminal, or administrative laws were
5 violated by the decision to convert to a for profit entity by the Board of Directors of
6 CareFirst, Inc.;

7 (3) identify those individuals who have standing to bring a cause of
8 action against the board of directors of a nonprofit health service plan; and

9 (4) determine whether any changes need to be made to the civil,
10 criminal, and administrative laws that impact the duties of the board of directors of a
11 nonprofit health service plan.

12 (f) (1) In carrying out its duties, functions, or powers the Committee may:

13 (i) draw on any available sources of information that the
14 Committee considers useful, including information obtained from State agencies
15 relating to the conversion of CareFirst, Inc.;

16 (ii) issue subpoenas;

17 (iii) compel the attendance of witnesses;

18 (iv) compel the production of any papers, books, accounts,
19 documents, and testimony;

20 (v) administer oaths; and

21 (vi) cause the depositions of witnesses, who reside in or outside of
22 the State, to be taken in the manner provided by law for taking depositions in a civil
23 case.

24 (2) If a person fails to comply with a subpoena issued under this section
25 or fails to testify on any matter on which the person lawfully may be interrogated, on
26 petition of a member of the Committee, a circuit court may pass an order directing
27 compliance with the subpoena or compelling testimony and may enforce the order by
28 proceedings for contempt.

29 (g) The Committee shall issue a report of its findings and recommendations to
30 the General Assembly on or before December 31, 2003.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 June 1, 2003. It shall remain effective for a period of 7 months and, at the end of
33 December 31, 2003, with no further action required by the General Assembly, this Act
34 shall be abrogated and of no further force and effect.