

SENATE BILL 29
EMERGENCY BILL

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2004 Regular Session
4lr0306
CF 4lr0305

(PRE-FILED)

By: **Senator Middleton**

Requested: July 8, 2003

Introduced and read first time: January 14, 2004

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Nonprofit Health Service Plans - Compensation of Officers and Executives -**
3 **Authority of Insurance Commissioner**

4 FOR the purpose of making changes to conform certain provisions of the Insurance
5 Article relating to nonprofit health service plans to the Order and Consent
6 Judgment rendered by the U.S. District Court for the District of Maryland in the
7 case of State of Maryland v. Blue Cross & Blue Shield Association and CareFirst,
8 Inc.; altering the authority of the Maryland Insurance Commissioner for the
9 review and approval of certain compensation guidelines for officers and
10 executives of certain nonprofit health service plans; requiring the board of
11 directors of certain nonprofit health service plans to provide a copy of certain
12 compensation guidelines to the Commissioner on or before a certain date;
13 providing for the application of this Act; making this Act an emergency measure;
14 and generally relating to the authority of the Maryland Insurance
15 Commissioner over nonprofit health service plans.

16 BY repealing and reenacting, with amendments,
17 Article - Insurance
18 Section 14-139(d) and (e)
19 Annotated Code of Maryland
20 (2002 Replacement Volume and 2003 Supplement)

21 **Preamble**

22 WHEREAS, Chapters 356 and 357, Acts of 2003 (the "Act"), reformed certain
23 statutory requirements for nonprofit health service plans issued a certificate of
24 authority in the State; and

25 WHEREAS, On May 21, 2003, the Blue Cross and Blue Shield Association (the
26 "Association") filed suit against CareFirst, Inc. ("CareFirst") in the U.S. District
27 Court for the Northern District of Illinois to terminate CareFirst's continued use of
28 the Blue Cross and Blue Shield trademark and name ("Blue Marks"); and

1 WHEREAS, On May 22, 2003, CareFirst filed suit against the State of
2 Maryland in the U.S. District Court for the District of Maryland challenging the
3 constitutionality of the Act; and

4 WHEREAS, The State of Maryland filed suit against the Association and
5 CareFirst challenging the Association's termination of CareFirst's use of the Blue
6 Marks; and

7 WHEREAS, The State, the Association, and CareFirst sought to resolve the
8 issues concerning CareFirst's right to use the Blue Marks to ensure CareFirst
9 subscribers uninterrupted access to Blue Cross and Blue Shield branded products and
10 services while also protecting the public interest; and

11 WHEREAS, On June 6, 2003, the U.S. District Court for the District of
12 Maryland issued an Order and Consent Judgment (the "Order") resolving the issues
13 among the State, the Association, and CareFirst; and

14 WHEREAS, The Order altered certain provisions of the Act relating to the
15 authority of the Maryland Insurance Commissioner over compensation guidelines for
16 officers and executives of nonprofit health service plans; and

17 WHEREAS, It is desirable to conform the statute to the Order; now, therefore,

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

20

Article - Insurance

21 14-139.

22 (d) (1) The compensation committee of the board shall:

23 (i) identify nonprofit health service plans in the United States that
24 are similar in size and scope to the nonprofit health service plan managed by the
25 board; and

26 (ii) develop proposed guidelines, for approval by the board, for
27 compensation, including salary, bonuses, and perquisites, of all officers and
28 executives that is reasonable in comparison to compensation for officers and
29 executives of similar nonprofit health service plans.

30 (2) [On or before June 1, 2004, the board shall submit the proposed
31 guidelines developed under paragraph (1)(ii) of this subsection to the Commissioner
32 for review and approval.

33 (3) (i) The Commissioner shall review the proposed guidelines and,
34 within 60 days, approve or disapprove the proposed guidelines.

35 (ii) Failure of the Commissioner to act on the proposed guidelines
36 within 60 days shall constitute approval.

1 (4) If the Commissioner disapproves the proposed guidelines, the board
2 shall revise and submit new proposed guidelines that meet the Commissioner's
3 approval.

4 (5) The board shall review the proposed guidelines at least annually
5 [and, if the board finds that changes are needed, the board shall submit the changes
6 to the Commissioner in accordance with paragraphs (1) through (3) of this
7 subsection].

8 [(6)] (3) The board shall:

9 (i) provide a copy of the approved guidelines:

10 1. to each officer and executive of the nonprofit health
11 service plan; [and]

12 2. to each candidate for an officer or executive position with
13 the nonprofit health service plan; and

14 3. ON OR BEFORE SEPTEMBER 1, 2004, AND ANNUALLY
15 THEREAFTER, TO THE COMMISSIONER; AND

16 (ii) adhere to the approved guidelines in compensating the officers
17 and executives of the nonprofit health service plan.

18 [(7)] (4) On an annual basis, the Commissioner shall review the
19 compensation paid by the nonprofit health service plan to each officer and executive.

20 [(8)] (5) If the Commissioner finds that the compensation exceeds the
21 amount authorized under the approved guidelines, the Commissioner shall issue an
22 order prohibiting payment of the excess amount.

23 (e) The approval or receipt of remuneration in violation of an order issued
24 under subsection [(d)(8)] (D)(5) of this section is a violation of § 14-115(c) of this
25 subtitle and shall be considered an unsound or unsafe business practice under §
26 14-116 of this subtitle.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
28 construed to apply retroactively and shall be applied to and interpreted to affect the
29 authority of the Maryland Insurance Commissioner over compensation guidelines for
30 officers and executives of nonprofit health service plans on or after June 6, 2003.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an
32 emergency measure, is necessary for the immediate preservation of the public health
33 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
34 members elected to each of the two Houses of the General Assembly, and shall take
35 effect from the date it is enacted.