

UNOFFICIAL COPY OF HOUSE BILL 1  
EMERGENCY BILL

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By: **The Speaker (By Request - Administration)**

Introduced and read first time: December 28, 2004

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Injury Compensation Reform Act**

3 FOR the purpose of requiring certain health care providers who sign certain  
4 certificates or testify in certain proceedings as experts to meet certain  
5 qualifications; providing that certain statements or other expressions made by a  
6 health care provider or an agent or employee of a health care provider are  
7 inadmissible as evidence; providing for certain procedures for certain actions  
8 against a health care provider for a medical injury; requiring certain certificates  
9 of a qualified expert to be filed with a court under certain circumstances;  
10 providing for certain sanctions if certain certificates of a qualified expert are not  
11 filed in a certain manner; requiring a certain supplemental certificate of a  
12 qualified expert in a health care malpractice action under certain  
13 circumstances; providing for the contents of the supplemental certificate;  
14 requiring certain procedures concerning the supplemental certificate to be  
15 followed; providing for certain sanctions regarding health care malpractice  
16 actions if a party fails to file the supplemental certificate under certain  
17 circumstances; requiring the itemization of certain awards and verdicts;  
18 providing for certain procedures to determine if damages are excessive and to  
19 provide for a new trial as to damages; prohibiting a verdict from being modified  
20 under certain circumstances; prohibiting certain claims of subrogation relating  
21 to certain payments, reimbursements, or indemnification under certain  
22 circumstances; requiring certain alternative dispute resolution relating to  
23 health care malpractice under certain circumstances; providing for certain  
24 alternative dispute resolution procedures and payment of costs; establishing  
25 certain procedures and providing certain sanctions for attorneys who bring or  
26 maintain medical malpractice actions in bad faith or without substantial  
27 justification under certain circumstances; authorizing certain parties in cases  
28 involving medical injuries to make certain offers of judgment; establishing  
29 procedures relating to offers of judgment; requiring a party who does not accept  
30 an offer of judgment to pay certain costs if the judgment obtained is not more  
31 favorable than the offer of judgment; establishing a certain limitation on  
32 noneconomic damages for medical injuries for causes of action arising on and  
33 after a certain date; providing that this limitation applies in the aggregate to all  
34 claims arising from the same medical injury; providing for certain annual  
35 increases to the limitation beginning on a certain date; prohibiting a jury from

being informed of certain limitations; providing for the reduction of certain awards under certain circumstances; requiring a verdict of economic damages for a medical injury to exclude certain amounts for past or future medical expenses and past or future loss of earnings; providing that certain provisions relating to damages in personal injury and wrongful death cases apply to causes of action for medical injuries arising before a certain date and do not apply to causes of action for medical injuries arising on or after a certain date; authorizing a health claims arbitration panel to order future economic damages to be paid in a certain manner; requiring hospitals to report certain occurrences under certain circumstances; establishing certain penalties for certain violations; requiring a court to award certain costs and fees to certain prevailing parties in certain actions relating to medical review committees; requiring a court to award certain costs and attorney's fees to a prevailing party in a civil action relating to certain medical review committees; altering a certain definition to provide that practice of medicine includes engaging in testimony or offering an opinion as a medical expert witness under certain circumstances; providing certain exemptions from license requirements for practicing medicine; providing that certain medical expert witnesses are subject to certain proceedings by the Board of Physicians under certain circumstances; altering a certain burden of proof in certain proceedings by the Board of Physicians; establishing a People's Insurance Counsel in the Office of the Attorney General; providing for the appointment, qualifications, and compensation of the People's Insurance Counsel; requiring the Attorney General's Office to provide money in its annual budget for the People's Insurance Counsel; authorizing the People's Insurance Counsel to retain certain experts; providing for the cross-examination of witnesses at medical professional liability rate hearings; limiting the right of cross-examination; requiring certain insurers to report certain information to the Maryland Insurance Administration under certain circumstances; requiring the Commissioner to report certain information to the Governor and the General Assembly on or before a certain date each year; requiring the Maryland Insurance Commissioner to collect a certain assessment from a medical professional liability insurer and pay the amounts collected to the Office of the Attorney General; establishing the duties of the People's Insurance Counsel; establishing that the People's Insurance Counsel will be considered to be an aggrieved person for purposes of medical professional liability rate filings; prohibiting the Medical Mutual Insurance Society from denying medical liability insurance coverage to certain physicians; altering the number of jurors allowed in civil actions; establishing the Maryland Medical Professional Liability Rate Stabilization Plan; providing that the Insurance Article does not apply to the Plan except as otherwise provided by this Act; establishing a Board of Directors for the Plan; providing for the composition, terms, reimbursement, powers, and duties of the Board; requiring the Board to appoint an executive director for the Plan, with the approval of the Governor; providing that the executive director serves at the pleasure of the Board; providing for the compensation and duties of the executive director; requiring the executive director to retain, with the consent of the Board, certain professional services; establishing the Maryland Medical Professional Liability Rate Stabilization Plan Fund to fund risks ceded to the Plan; providing for the

administration and composition of the Fund; authorizing the Fund to be used only for certain purposes; providing that a debt or obligation of the Plan is not a debt of the State or a pledge of credit of the State; requiring the Plan and the Commissioner to adopt regulations that establish the scope of the risks that may be ceded to the Plan, the terms of reinsurance agreements issued by the Plan, the procedures for obtaining payments from the Fund, and the standards for determining stabilized rates; providing for certain prior approval by the Commissioner for certain agreements and rates; making the Plan subject to certain requirements to supply the Commissioner with certain information; providing for certain limits on certain insurance rates under certain circumstances; providing for certain refund and credit procedures; prohibiting certain dividends under certain circumstances; requiring the Plan to submit certain reports and recommendations; exempting the Plan from certain procurement laws; abolishing the Health Claims Arbitration Office; repealing the requirement that certain claims for medical injuries must be subject to arbitration under certain circumstances; requiring a certain notification by the Director of the Health Claims Arbitration Office when there are no claims pending before the Office under certain circumstances; requiring the Health Services Cost Review Commission to include a certain reasonable amount of additional funding in hospital approved rates for hospital patient safety related initiatives and infrastructure under certain circumstances; prohibiting certain providers of health benefit plans from reimbursing certain health care providers in less than certain amounts under certain circumstances; defining certain terms; making stylistic changes; providing for the construction and application of this Act; providing for the termination of certain provisions of this Act; making the provisions of this Act severable; providing for the effective dates of certain provisions of this Act; making this Act an emergency measure; and generally relating to medical injury compensation reform.

BY repealing and reenacting, with amendments,  
Article - Courts and Judicial Proceedings  
Section 3-2A-01, 3-2A-02(d), 3-2A-08, 3-2A-09, 11-108(c), and 11-109(c) and  
(d)  
Annotated Code of Maryland  
(2002 Replacement Volume and 2004 Supplement)

BY adding to  
Article - Courts and Judicial Proceedings  
Section 3-2A-02(d) and (e), 3-2A-06C, 3-2A-06D, 3-2A-06E, 3-2A-07A,  
3-2A-08A, 3-2A-09A, 11-108(e), and 11-109(d)  
Annotated Code of Maryland  
(2002 Replacement Volume and 2004 Supplement)

BY adding to  
Article - Health - General  
Section 19-319(i)

1 Annotated Code of Maryland  
2 (2000 Replacement Volume and 2004 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article - Health Occupations  
5 Section 1-401, 14-101(l)(1), 14-302, 14-401(i), and 14-405  
6 Annotated Code of Maryland  
7 (2000 Replacement Volume and 2004 Supplement)

8 BY adding to  
9 Article - Health Occupations  
10 Section 14-404.1  
11 Annotated Code of Maryland  
12 (2000 Replacement Volume and 2004 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article - Insurance  
15 Section 2-213 and 4-401  
16 Annotated Code of Maryland  
17 (2003 Replacement Volume and 2004 Supplement)

18 BY adding to  
19 Article - Insurance  
20 Section 4-401.1  
21 Annotated Code of Maryland  
22 (2003 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Insurance  
25 Section 19-104  
26 Annotated Code of Maryland  
27 (2002 Replacement Volume and 2004 Supplement)

28 BY adding to  
29 Article - Insurance  
30 Section 24-209(c)  
31 Annotated Code of Maryland  
32 (2002 Replacement Volume and 2004 Supplement)

33 BY adding to  
34 Article - State Government  
35 Section 6-301 through 6-305, inclusive, to be under the new subtitle "Subtitle 3.  
36 People's Insurance Counsel"

1 Annotated Code of Maryland  
2 (2004 Replacement Volume)

3 BY repealing and reenacting, with amendments,  
4 Article - Courts and Judicial Proceedings  
5 Section 3-2A-08 and 11-108(d) and (e)  
6 Annotated Code of Maryland  
7 (2002 Replacement Volume and 2004 Supplement)

8 (As enacted by Section 1 of this Act)

9 BY repealing  
10 Article - Courts and Judicial Proceedings  
11 Section 11-108(c) and 11-109(d)  
12 Annotated Code of Maryland  
13 (2002 Replacement Volume and 2004 Supplement)

14 (As enacted by Section 1 of this Act)

15 BY repealing and reenacting, with amendments,  
16 Article - Courts and Judicial Proceedings  
17 Section 8-306  
18 Annotated Code of Maryland  
19 (2002 Replacement Volume and 2004 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Insurance  
22 Section 1-202(3)(vii) and (4)(xii)  
23 Annotated Code of Maryland  
24 (2003 Replacement Volume and 2004 Supplement)

25 BY adding to  
26 Article - Insurance  
27 Section 1-202(5)  
28 Annotated Code of Maryland  
29 (2003 Replacement Volume and 2004 Supplement)

30 BY adding to  
31 Article - Insurance  
32 Section 29-101 through 29-502, inclusive, to be under the new title "Title 29.  
33 Maryland Medical Professional Liability Rate Stabilization Plan"  
34 Annotated Code of Maryland  
35 (2002 Replacement Volume and 2004 Supplement)

36 BY repealing and reenacting, with amendments,

1 Article - State Finance and Procurement  
2 Section 11-203(a)(1)(xviii) and (xix)  
3 Annotated Code of Maryland  
4 (2001 Replacement Volume and 2004 Supplement)

5 BY adding to  
6 Article - State Finance and Procurement  
7 Section 11-203(a)(1)(xx)  
8 Annotated Code of Maryland  
9 (2001 Replacement Volume and 2004 Supplement)

10 BY repealing  
11 Article - Courts and Judicial Proceedings  
12 Section 3-2A-01(b) and (e)  
13 Annotated Code of Maryland  
14 (2002 Replacement Volume and 2004 Supplement)  
15 (As enacted by Section 1 of this Act)

16 BY repealing  
17 Article - Courts and Judicial Proceedings  
18 Section 3-2A-03 through 3-2A-07, inclusive  
19 Annotated Code of Maryland  
20 (2002 Replacement Volume and 2004 Supplement)

21 BY renumbering  
22 Article - Courts and Judicial Proceedings  
23 Section 3-2A-01(c), (d), and (f) through (m), respectively,  
24 to be 3-2A-01(b) through (k), respectively  
25 Annotated Code of Maryland  
26 (2002 Replacement Volume and 2004 Supplement)  
  
27 (As enacted by Section 1 of this Act)

28 Preamble

29 WHEREAS, Access to affordable medical malpractice insurance for health care  
30 providers such as physicians, hospitals, nursing homes, assisted living facilities,  
31 continuing care communities, osteopaths, optometrists, chiropractors, nurses,  
32 dentists, podiatrists, psychologists, social workers, physical therapists, medical day  
33 care centers, and hospice care programs is critical to Maryland's nationally recognized  
34 health care delivery system; and

35 WHEREAS, When medical malpractice insurance becomes unaffordable or  
36 unavailable, for health care providers, critical health care services become restricted

1 or even unavailable and the quality of medical care available to Maryland patients is  
2 diminished; and

3 WHEREAS, Maryland has taken significant steps in establishing patient safety  
4 and provider accountability, including establishment of a hospital report card system  
5 and a Patient Safety Coalition to promote patient safety awareness and education,  
6 the sharing of best practices, and the strengthening of oversight of adverse medical  
7 events; and

8 WHEREAS, Nationally and in Maryland malpractice premiums and costs have  
9 skyrocketed and malpractice insurance is becoming unaffordable and unavailable in  
10 the State; and

11 WHEREAS, Excessive premiums for medical malpractice insurance divert  
12 needed resources away from patient care and are a drain on the State budget; and

13 WHEREAS, Legislative reforms are needed to ensure the continued availability  
14 and affordability of medical malpractice insurance for health care providers and the  
15 provision of health care services in the State; now, therefore,

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

18 **Article - Courts and Judicial Proceedings**

19 3-2A-01.

20 (a) In this subtitle the following terms have the meanings indicated unless the  
21 context of their use requires otherwise.

22 (B) "ALTERNATIVE DISPUTE RESOLUTION" MEANS MEDIATION, NEUTRAL  
23 CASE EVALUATION, NEUTRAL FACT-FINDING, OR A SETTLEMENT CONFERENCE.

24 [(b)] (C) "Arbitration panel" means the arbitrators selected to determine a  
25 health care malpractice claim in accordance with this subtitle.

26 [(c)] (D) "Court" means a circuit court for a county.

27 [(d)] (E) "Director" means the Director of the Health Claims Arbitration  
28 Office.

29 (F) "ECONOMIC DAMAGES" RETAINS ITS JUDICIALLY DETERMINED MEANING.

30 [(e)] (G) (1) "Health care provider" means a hospital, a related institution as  
31 defined in § 19-301 of the Health - General Article, A MEDICAL DAY CARE CENTER, A  
32 HOSPICE CARE PROGRAM, AN ASSISTED LIVING PROGRAM, A FREESTANDING  
33 AMBULATORY CARE FACILITY AS DEFINED IN § 19-3B-01 OF THE HEALTH - GENERAL  
34 ARTICLE, a physician, an osteopath, an optometrist, a chiropractor, a registered or  
35 licensed practical nurse, a dentist, a podiatrist, a psychologist, a licensed certified

1 social worker-clinical, and a physical therapist, licensed or authorized to provide one  
2 or more health care services in Maryland.

3 (2) "Health care provider" does not [mean] INCLUDE any nursing  
4 institution conducted by and for those who rely upon treatment by spiritual means  
5 through prayer alone in accordance with the tenets and practices of a recognized  
6 church or religious denomination.

7 (H) "MEDIATION" HAS THE MEANING STATED IN TITLE 17 OF THE MARYLAND  
8 RULES.

9 (I) "MEDIATOR" MEANS AN INDIVIDUAL WHO CONDUCTS MEDIATION.

10 (J) "MEDICAL EXPENSES" MEANS ANY COSTS THAT HAVE BEEN OR WILL BE  
11 INCURRED BY OR ON BEHALF OF THE CLAIMANT AS A RESULT OF A MEDICAL INJURY,  
12 INCLUDING THE COSTS OF MEDICAL AND HOSPITAL, REHABILITATIVE, RESIDENTIAL,  
13 AND CUSTODIAL CARE AND SERVICE, SPECIAL EQUIPMENT OR FACILITIES, AND  
14 RELATED TRAVEL.

15 [(f)] (K) "Medical injury" means injury arising or resulting from the rendering  
16 or failure to render health care.

17 (L) "NEUTRAL CASE EVALUATION" HAS THE MEANING STATED IN TITLE 17 OF  
18 THE MARYLAND RULES.

19 (M) "NEUTRAL FACT-FINDING" HAS THE MEANING STATED IN TITLE 17 OF THE  
20 MARYLAND RULES.

21 (N) "NEUTRAL PROVIDER" MEANS AN INDIVIDUAL FACILITATOR WHO  
22 CONDUCTS NEUTRAL CASE EVALUATION, NEUTRAL FACT FINDING, OR A  
23 SETTLEMENT CONFERENCE.

24 (O) "NONECONOMIC DAMAGES" MEANS:

25 (1) IN A CLAIM FOR PERSONAL INJURY, PAIN, SUFFERING,  
26 INCONVENIENCE, PHYSICAL IMPAIRMENT, DISFIGUREMENT, LOSS OF CONSORTIUM,  
27 OR OTHER NONPECUNIARY INJURY; OR

28 (2) IN A CLAIM FOR WRONGFUL DEATH, MENTAL ANGUISH, EMOTIONAL  
29 PAIN AND SUFFERING, LOSS OF SOCIETY, COMPANIONSHIP, COMFORT, PROTECTION,  
30 CARE, MARITAL CARE, PARENTAL CARE, FILIAL CARE, ATTENTION, ADVICE,  
31 COUNSEL, TRAINING, GUIDANCE, OR EDUCATION, OR OTHER NONECONOMIC  
32 DAMAGES AUTHORIZED UNDER SUBTITLE 9 OF THIS TITLE.

33 (P) "SETTLEMENT CONFERENCE" HAS THE MEANING STATED IN TITLE 17 OF  
34 THE MARYLAND RULES.

1 3-2A-02.

2 (D) (1) THIS SUBSECTION APPLIES TO AN INITIAL COMPLAINT FILED IN  
3 COURT ON OR AFTER JANUARY 1, 2005.

4 (2) (I) IN ADDITION TO ANY OTHER QUALIFICATIONS, A HEALTH CARE  
5 PROVIDER SIGNING A CERTIFICATE OF QUALIFIED EXPERT OR TESTIFYING IN  
6 RELATION TO A PROCEEDING BEFORE A COURT CONCERNING COMPLIANCE WITH OR  
7 DEPARTURE FROM STANDARDS OF CARE:

8 1. SHALL HAVE HAD ACTIVE CLINICAL EXPERIENCE,  
9 PROVIDED CONSULTATION RELATING TO ACTIVE CLINICAL PRACTICE, OR TAUGHT  
10 MEDICINE IN EITHER THE DEFENDANT'S SPECIALTY OR A RELATED FIELD OF  
11 MEDICINE WITHIN 1 YEAR OF THE DATE OF THE ALLEGED ACT OR OMISSION GIVING  
12 RISE TO THE CAUSE OF ACTION; AND

13 2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
14 PARAGRAPH, IF THE DEFENDANT IS BOARD CERTIFIED IN A SPECIALTY, SHALL BE  
15 BOARD CERTIFIED IN THE SAME OR A RELATED SPECIALTY AS THE DEFENDANT.

16 (II) SUBPARAGRAPH (I)2 OF THIS PARAGRAPH DOES NOT APPLY IF  
17 THE DEFENDANT WAS PROVIDING CARE OR TREATMENT UNRELATED TO THE AREA  
18 IN WHICH THE DEFENDANT IS BOARD CERTIFIED.

19 (3) A HEALTH CARE PROVIDER ATTESTING TO A CERTIFICATE OF  
20 QUALIFIED EXPERT UNDER § 3-2A-06C OF THIS SUBTITLE OR TESTIFYING IN  
21 RELATION TO A PROCEEDING BEFORE A COURT CONCERNING COMPLIANCE WITH OR  
22 DEPARTURE FROM STANDARDS OF CARE MAY NOT DEVOTE ANNUALLY MORE THAN  
23 20 PERCENT OF THE EXPERT'S PROFESSIONAL ACTIVITIES TO ACTIVITIES THAT LEAD  
24 OR COULD LEAD TO TESTIMONY IN PERSONAL INJURY CLAIMS IF THE ACTIVITIES  
25 ARE UNRELATED TO THE CARE OR TREATMENT OF A PATIENT.

26 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN AN  
27 ACTION AGAINST A HEALTH CARE PROVIDER UNDER THIS SUBTITLE FOR A CAUSE OF  
28 ACTION ARISING ON OR AFTER JANUARY 1, 2005, ANY STATEMENT, AFFIRMATION,  
29 GESTURE, OR CONDUCT EXPRESSING APOLOGY, SYMPATHY, COMMISERATION,  
30 CONDOLENCE, COMPASSION, OR A GENERAL SENSE OF BENEVOLENCE WHICH IS  
31 MADE BY A HEALTH CARE PROVIDER OR AN AGENT OR EMPLOYEE OF A HEALTH  
32 CARE PROVIDER TO THE ALLEGED VICTIM OR A RELATIVE, FRIEND,  
33 REPRESENTATIVE, OR ASSOCIATE OF THE ALLEGED VICTIM AND WHICH RELATES TO  
34 THE DISCOMFORT, PAIN, SUFFERING, INJURY, OR DEATH OF THE ALLEGED VICTIM AS  
35 THE RESULT OF A MEDICAL INJURY SHALL BE INADMISSIBLE AS EVIDENCE OF AN  
36 ADMISSION OF LIABILITY OR AS EVIDENCE OF AN ADMISSION AGAINST INTEREST.

37 (2) AN ADMISSION OF LIABILITY OR FAULT WHICH IS PART OF OR IN  
38 ADDITION TO A COMMUNICATION MADE UNDER PARAGRAPH (1) OF THIS  
39 SUBSECTION IS ADMISSIBLE IN EVIDENCE AS AN ADMISSION OF LIABILITY OR  
40 EVIDENCE OF AN ADMISSION AGAINST INTEREST IN AN ACTION UNDER THIS  
41 SUBTITLE.

1 [(d)] (F) Except as otherwise provided, the Maryland Rules shall apply to all  
2 practice and procedure issues arising under this subtitle.

3 3-2A-06C.

4 (A) THIS SECTION APPLIES TO AN INITIAL COMPLAINT FILED ON OR AFTER  
5 JANUARY 1, 2005, BY A PERSON AGAINST A HEALTH CARE PROVIDER FOR MEDICAL  
6 INJURY IN WHICH DAMAGES OF MORE THAN THE LIMIT OF THE CONCURRENT  
7 JURISDICTION OF THE DISTRICT COURT ARE SOUGHT.

8 (B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A  
9 PERSON SHALL COMMENCE AN ACTION AGAINST A HEALTH CARE PROVIDER FOR A  
10 MEDICAL INJURY BY FILING A COMPLAINT IN COURT IN ACCORDANCE WITH THE  
11 MARYLAND RULES.

12 (2) (I) THE CLERK OF THE COURT SHALL FORWARD A COPY OF A  
13 COMPLAINT TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

14 (II) IF THE COMPLAINT INVOLVES A PHYSICIAN, THE DEPARTMENT  
15 OF HEALTH AND MENTAL HYGIENE SHALL FORWARD A COPY OF THE COMPLAINT TO  
16 THE STATE BOARD OF PHYSICIANS.

17 (C) (1) THIS SUBSECTION DOES NOT APPLY IF THE SOLE ISSUE IN THE  
18 CLAIM IS LACK OF INFORMED CONSENT.

19 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
20 PARAGRAPH, ON MOTION OF A DEFENDANT AN ACTION MAY BE DISMISSED,  
21 WITHOUT PREJUDICE, IF WITHIN 90 DAYS FROM THE DATE OF THE COMPLAINT THE  
22 PLAINTIFF FAILS TO FILE WITH THE COURT FOR EACH DEFENDANT A CERTIFICATE  
23 OF A QUALIFIED EXPERT ATTESTING TO DEPARTURE FROM STANDARDS OF CARE  
24 AND THAT THE DEPARTURE FROM STANDARDS OF CARE IS THE PROXIMATE CAUSE  
25 OF THE ALLEGED INJURY.

26 (II) IN LIEU OF DISMISSING THE CLAIM, THE COURT SHALL GRANT  
27 AN EXTENSION OF NO MORE THAN 90 DAYS FOR FILING THE CERTIFICATE REQUIRED  
28 BY THIS PARAGRAPH, IF:

29 1. THE LIMITATIONS PERIOD APPLICABLE TO THE ACTION  
30 HAS EXPIRED; AND

31 2. THE FAILURE TO FILE THE CERTIFICATE WAS NEITHER  
32 WILLFUL NOR THE RESULT OF GROSS NEGLIGENCE.

33 (3) (I) ON MOTION OF A PLAINTIFF AN ACTION MAY BE ADJUDICATED  
34 IN FAVOR OF THE PLAINTIFF ON THE ISSUE OF LIABILITY, IF WITHIN 120 DAYS FROM  
35 THE DATE THE PLAINTIFF SERVED ON THE DEFENDANT THE CERTIFICATE OF A  
36 QUALIFIED EXPERT SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION THE  
37 DEFENDANT:

38 1. DISPUTES LIABILITY; AND

1 2. FAILS TO FILE A CERTIFICATE OF A QUALIFIED EXPERT  
2 ATTESTING TO COMPLIANCE WITH STANDARDS OF CARE, OR THAT THE DEPARTURE  
3 FROM STANDARDS OF CARE IS NOT THE PROXIMATE CAUSE OF THE ALLEGED  
4 INJURY.

5 (II) IF THE DEFENDANT DOES NOT DISPUTE LIABILITY, A  
6 CERTIFICATE OF A QUALIFIED EXPERT IS NOT REQUIRED UNDER THIS SUBSECTION.

7 (4) DISCOVERY IS AVAILABLE AS TO THE BASIS OF A CERTIFICATE OF A  
8 QUALIFIED EXPERT.

9 (D) (1) (I) THIS SUBSECTION APPLIES ONLY TO AN ACTION FOR WHICH A  
10 CERTIFICATE OF A QUALIFIED EXPERT IS REQUIRED TO BE FILED UNDER THIS  
11 SECTION.

12 (II) THIS SUBSECTION DOES NOT APPLY IF THE DEFENDANT  
13 ADMITS LIABILITY.

14 (2) (I) WITHIN 15 DAYS AFTER THE DATE THAT DISCOVERY IS  
15 REQUIRED TO BE COMPLETED, A PARTY SHALL FILE WITH THE COURT A  
16 SUPPLEMENTAL CERTIFICATE OF A QUALIFIED EXPERT THAT ATTESTS TO:

17 1. THE CERTIFYING EXPERT'S BASIS FOR ALLEGING WHAT IS  
18 THE SPECIFIC STANDARD OF CARE;

19 2. THE CERTIFYING EXPERT'S QUALIFICATIONS TO TESTIFY  
20 TO THE SPECIFIC STANDARD OF CARE;

21 3. THE SPECIFIC STANDARD OF CARE;

22 4. FOR THE PLAINTIFF:

23 A. THE SPECIFIC INJURY COMPLAINED OF;

24 B. HOW THE SPECIFIC STANDARD OF CARE WAS BREACHED;

25 C. WHAT SPECIFICALLY THE DEFENDANT SHOULD HAVE  
26 DONE TO MEET THE SPECIFIC STANDARD OF CARE; AND

27 D. THE INFERENCE THAT THE BREACH OF THE STANDARD  
28 OF CARE PROXIMATELY CAUSED THE PLAINTIFF'S INJURY; AND

29 5. FOR THE DEFENDANT:

30 A. HOW THE DEFENDANT COMPLIED WITH THE SPECIFIC  
31 STANDARD OF CARE;

32 B. WHAT THE DEFENDANT DID TO MEET THE SPECIFIC  
33 STANDARD OF CARE; AND

1 C. IF APPLICABLE, THAT THE BREACH OF THE STANDARD OF  
2 CARE DID NOT PROXIMATELY CAUSE THE PLAINTIFF'S INJURY.

3 (II) AN EXTENSION OF THE TIME ALLOWED FOR FILING A  
4 SUPPLEMENTAL CERTIFICATE UNDER THIS SECTION SHALL BE GRANTED FOR GOOD  
5 CAUSE SHOWN.

6 (III) THE FACTS REQUIRED TO BE INCLUDED IN THE  
7 SUPPLEMENTAL CERTIFICATE SHALL BE CONSIDERED NECESSARY TO SHOW  
8 ENTITLEMENT TO RELIEF SOUGHT BY A PLAINTIFF OR TO RAISE A DEFENSE BY A  
9 DEFENDANT.

10 (3) SUBJECT TO THE PROVISIONS OF THIS SECTION:

11 (I) IF THE PLAINTIFF FAILS TO FILE A SUPPLEMENTAL  
12 CERTIFICATE OF A QUALIFIED EXPERT, ON MOTION OF THE DEFENDANT THE COURT  
13 SHALL DISMISS WITH PREJUDICE THE ACTION; OR

14 (II) IF THE DEFENDANT FAILS TO FILE A SUPPLEMENTAL  
15 CERTIFICATE OF A QUALIFIED EXPERT, ON MOTION OF THE PLAINTIFF THE COURT  
16 SHALL ADJUDICATE IN FAVOR OF THE PLAINTIFF ON THE ISSUE OF LIABILITY.

17 (E) (1) THE MARYLAND RULES APPLY TO FILING AND SERVING A COPY OF A  
18 CERTIFICATE REQUIRED UNDER THIS SECTION AND IN MOTIONS RELATING TO A  
19 VIOLATION OF THIS SECTION.

20 (2) NOTHING CONTAINED IN THIS SECTION PROHIBITS OR LIMITS A  
21 PARTY FROM MOVING FOR SUMMARY JUDGMENT IN ACCORDANCE WITH THE  
22 MARYLAND RULES.

23 (F) FOR PURPOSES OF THE CERTIFICATION REQUIREMENTS OF THIS  
24 SECTION:

25 (1) A PARTY MAY NOT SERVE AS A PARTY'S EXPERT; AND

26 (2) THE CERTIFICATE MAY NOT BE SIGNED BY:

27 (I) A PARTY;

28 (II) AN EMPLOYEE OR PARTNER OF A PARTY; OR

29 (III) AN EMPLOYEE OR STOCKHOLDER OF ANY PROFESSIONAL  
30 CORPORATION OF WHICH THE PARTY IS A STOCKHOLDER.

31 (G) (1) THE CLERK OF THE COURT SHALL FORWARD TO THE DEPARTMENT  
32 OF HEALTH AND MENTAL HYGIENE COPIES OF THE CERTIFICATES FILED UNDER  
33 THIS SECTION.

34 (2) IN THE CASE OF A CLAIM AGAINST A PHYSICIAN, THE DEPARTMENT  
35 OF HEALTH AND MENTAL HYGIENE SHALL FORWARD COPIES OF THE CERTIFICATES  
36 FILED UNDER THIS SECTION TO THE STATE BOARD OF PHYSICIANS.

1 3-2A-06D.

2 (A) THIS SECTION APPLIES TO A COMPLAINT FILED UNDER § 3-2A-06C OF  
3 THIS SUBTITLE.

4 (B) THE TRIER OF FACT SHALL ITEMIZE THE VERDICT TO REFLECT THE  
5 MONETARY AMOUNT INTENDED FOR ANY OF THE FOLLOWING DAMAGES THAT ARE  
6 APPLICABLE TO THE ACTION:

- 7 (1) PAST MEDICAL EXPENSES;
- 8 (2) FUTURE MEDICAL EXPENSES;
- 9 (3) PAST LOSS OF EARNINGS;
- 10 (4) FUTURE LOSS OF EARNINGS;
- 11 (5) PAST PECUNIARY LOSS;
- 12 (6) FUTURE PECUNIARY LOSS;
- 13 (7) OTHER PAST ECONOMIC DAMAGES;
- 14 (8) OTHER FUTURE ECONOMIC DAMAGES; AND
- 15 (9) NONECONOMIC DAMAGES.

16 (C) (1) A PARTY FILING A MOTION FOR A NEW TRIAL MAY OBJECT TO THE  
17 DAMAGES AS EXCESSIVE ON THE GROUND THAT THE PLAINTIFF HAS BEEN OR WILL  
18 BE PAID, REIMBURSED, OR INDEMNIFIED OR HAS RECEIVED OR WILL RECEIVE CARE  
19 OR BENEFITS UNDER LAW, INSURANCE, OR CONTRACT.

20 (2) THE COURT SHALL HOLD A HEARING AND RECEIVE EVIDENCE IN  
21 SUPPORT AND OPPOSITION TO A REQUEST FOR REDUCTION, INCLUDING EVIDENCE  
22 OF THE COST TO OBTAIN THE PAYMENT, REIMBURSEMENT, OR INDEMNITY.

23 (3) (I) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF THE  
24 COURT FINDS FROM THE EVIDENCE THAT THE DAMAGES ARE EXCESSIVE ON THE  
25 GROUNDS STATED IN PARAGRAPH (1) OF THIS SUBSECTION IT MAY GRANT A NEW  
26 TRIAL AS TO THE DAMAGES OR MAY DENY A NEW TRIAL IF THE PLAINTIFF AGREES  
27 TO A REMITTITUR OF THE EXCESS.

28 (II) IN THE EVENT OF A NEW TRIAL GRANTED UNDER THIS  
29 SUBSECTION, EVIDENCE CONSIDERED BY THE COURT IN GRANTING THE  
30 REMITTITUR SHALL BE ADMISSIBLE IF OFFERED AT THE NEW TRIAL AND THE JURY  
31 SHALL BE INSTRUCTED TO CONSIDER SUCH EVIDENCE IN REACHING ITS VERDICT AS  
32 TO DAMAGES.

33 (III) ON A DETERMINATION OF THOSE DAMAGES AT THE NEW TRIAL,  
34 NO FURTHER OBJECTION TO DAMAGES MAY BE MADE EXCLUSIVE OF ANY PARTY'S  
35 RIGHT OF APPEAL.

1 (4) A VERDICT MAY NOT BE MODIFIED AS TO ANY SUMS PAID OR  
2 PAYABLE TO A CLAIMANT UNDER ANY WORKERS' COMPENSATION ACT, CRIMINAL  
3 INJURIES COMPENSATION ACT, EMPLOYEE BENEFIT PLAN ESTABLISHED UNDER A  
4 COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND AN EMPLOYEE  
5 OR A GROUP OF EMPLOYERS AND A GROUP OF EMPLOYEES THAT IS SUBJECT TO THE  
6 PROVISIONS OF THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT OF  
7 1974, OR AS A BENEFIT UNDER ANY CONTRACT OR POLICY OF LIFE INSURANCE OR  
8 THE SOCIAL SECURITY ACT OF THE UNITED STATES.

9 (5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EXCEPT AS  
10 EXPRESSLY PROVIDED BY FEDERAL LAW, A PERSON MAY NOT RECOVER FROM THE  
11 PLAINTIFF OR ASSERT A CLAIM OF SUBROGATION AGAINST A DEFENDANT FOR ANY  
12 SUM INCLUDED IN A REMITTITUR OR AWARDED IN A NEW TRIAL ON DAMAGES  
13 GRANTED UNDER THIS SUBSECTION.

14 (6) THIS SUBSECTION MAY NOT BE CONSTRUED TO OTHERWISE LIMIT  
15 THE COMMON LAW GROUNDS FOR REMITTITUR.

16 3-2A-06E.

17 (A) (1) THIS SECTION DOES NOT APPLY IF:

18 (I) ALL PARTIES FILE WITH THE COURT AN AGREEMENT NOT TO  
19 ENGAGE IN ALTERNATIVE DISPUTE RESOLUTION; AND

20 (II) THE COURT FINDS THAT ALTERNATIVE DISPUTE RESOLUTION  
21 UNDER THIS SECTION WOULD NOT BE PRODUCTIVE.

22 (2) IN DETERMINING WHETHER ALTERNATIVE DISPUTE RESOLUTION  
23 WOULD NOT BE PRODUCTIVE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE  
24 COURT MAY CONSIDER WHETHER THE PARTIES HAVE ALREADY ENGAGED IN  
25 ALTERNATIVE DISPUTE RESOLUTION.

26 (B) IN ADDITION TO THE QUALIFICATIONS AND REQUIREMENTS OF TITLE 17  
27 OF THE MARYLAND RULES, THE COURT OF APPEALS MAY ADOPT RULES REQUIRING  
28 A MEDIATOR OR NEUTRAL PROVIDER TO HAVE EXPERIENCE WITH HEALTH CARE  
29 MALPRACTICE CLAIMS.

30 (C) WITHIN 30 DAYS OF THE LATER OF THE FILING OF A DEFENDANT'S  
31 ANSWER TO THE COMPLAINT OR CERTIFICATE OF A QUALIFIED EXPERT UNDER §  
32 3-2A-06C OF THIS SUBTITLE, THE COURT SHALL ORDER THE PARTIES TO ENGAGE IN  
33 ALTERNATIVE DISPUTE RESOLUTION AT THE EARLIEST POSSIBLE DATE.

34 (D) (1) WITHIN 30 DAYS OF THE LATER OF THE FILING OF A DEFENDANT'S  
35 ANSWER TO THE COMPLAINT OR CERTIFICATE OF A QUALIFIED EXPERT UNDER §  
36 3-2A-06C OF THIS SUBTITLE, THE PARTIES MAY CHOOSE A MEDIATOR OR NEUTRAL  
37 PROVIDER.

38 (2) IF THE PARTIES CHOOSE A MEDIATOR OR NEUTRAL PROVIDER, THE  
39 PARTIES SHALL NOTIFY THE COURT OF THE NAME OF THE INDIVIDUAL.

1 (E) (1) IF THE PARTIES DO NOT NOTIFY THE COURT THAT THEY HAVE  
2 CHOSEN A MEDIATOR OR NEUTRAL PROVIDER WITHIN THE TIME REQUIRED UNDER  
3 SUBSECTION (D) OF THIS SECTION, THE COURT SHALL ASSIGN A MEDIATOR OR  
4 NEUTRAL PROVIDER TO THE CLAIM WITHIN 60 DAYS OF THE LATER OF THE FILING  
5 OF A DEFENDANT'S ANSWER TO THE COMPLAINT OR CERTIFICATE OF A QUALIFIED  
6 EXPERT UNDER § 3-2A-06C OF THIS SUBTITLE.

7 (2) (I) WITHIN 15 DAYS AFTER THE PARTIES ARE NOTIFIED OF THE  
8 IDENTITY OF THE MEDIATOR OR NEUTRAL PROVIDER ASSIGNED BY THE COURT, A  
9 PARTY MAY OBJECT IN WRITING TO THE ASSIGNMENT, STATING THE REASONS FOR  
10 THE OBJECTION.

11 (II) IF THE COURT SUSTAINS THE OBJECTION, THE COURT SHALL  
12 ASSIGN A DIFFERENT MEDIATOR OR NEUTRAL PROVIDER.

13 (3) A MEDIATOR OR NEUTRAL PROVIDER SHALL FOLLOW THE  
14 MARYLAND STANDARDS OF PRACTICE FOR MEDIATORS, ARBITRATORS, AND OTHER  
15 ADR PRACTITIONERS ADOPTED BY THE COURT OF APPEALS.

16 (F) THE MEDIATOR OR NEUTRAL PROVIDER SHALL SCHEDULE AN INITIAL  
17 CONFERENCE WITH THE PARTIES AS SOON AS PRACTICABLE.

18 (G) (1) AT LEAST 15 DAYS BEFORE THE INITIAL CONFERENCE, THE PARTIES  
19 SHALL SEND THE MEDIATOR OR NEUTRAL PROVIDER A BRIEF WRITTEN OUTLINE OF  
20 THE STRENGTHS AND WEAKNESSES OF THEIR RESPECTIVE CASES.

21 (2) A PARTY MAY NOT BE REQUIRED TO PROVIDE TO ANOTHER PARTY  
22 THE WRITTEN OUTLINE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

23 (H) (1) ALTERNATIVE DISPUTE RESOLUTION UNDER THIS SECTION MAY  
24 NOT OPERATE TO DELAY DISCOVERY IN THE ACTION.

25 (2) IF THE MEDIATOR OR NEUTRAL PROVIDER AT THE INITIAL  
26 CONFERENCE FINDS THAT THE PARTIES NEED TO ENGAGE IN DISCOVERY FOR A  
27 LIMITED PERIOD OF TIME IN ORDER TO FACILITATE THE ALTERNATIVE DISPUTE  
28 RESOLUTION, THE MEDIATOR OR NEUTRAL PROVIDER MAY MEDIATE THE SCOPE  
29 AND SCHEDULE OF THE DISCOVERY NEEDED TO PROCEED WITH THE ALTERNATIVE  
30 DISPUTE RESOLUTION, ADJOURN THE INITIAL CONFERENCE, AND RESCHEDULE AN  
31 ADDITIONAL CONFERENCE FOR A LATER DATE.

32 (I) A NEUTRAL EXPERT MAY BE EMPLOYED IN ALTERNATIVE DISPUTE  
33 RESOLUTION UNDER THIS SECTION AS PROVIDED IN TITLE 17 OF THE MARYLAND  
34 RULES.

35 (J) IN ACCORDANCE WITH MARYLAND RULE 17-109, THE OUTLINE  
36 DESCRIBED IN SUBSECTION (G) OF THIS SECTION AND ANY WRITTEN OR ORAL  
37 COMMUNICATION MADE IN CONNECTION WITH A CONFERENCE UNDER THIS  
38 SECTION:

39 (1) IS CONFIDENTIAL;

1 (2) DOES NOT CONSTITUTE AN ADMISSION; AND

2 (3) IS NOT DISCOVERABLE.

3 (K) UNLESS EXCUSED BY THE MEDIATOR OR NEUTRAL PROVIDER, THE  
4 PARTIES AND THE CLAIMS REPRESENTATIVE FOR EACH DEFENDANT SHALL APPEAR  
5 AT ALL CONFERENCES HELD UNDER THIS SECTION.

6 (L) A PARTY WHO FAILS TO COMPLY WITH THE PROVISIONS OF SUBSECTION  
7 (G), (J), OR (K) OF THIS SECTION IS SUBJECT TO THE PROVISIONS OF MARYLAND RULE  
8 1-341.

9 (M) (1) IF A CASE IS SETTLED, THE PARTIES SHALL NOTIFY THE COURT  
10 THAT THE CASE HAS BEEN SETTLED.

11 (2) IF THE PARTIES AGREE TO SETTLE SOME BUT NOT ALL OF THE  
12 ISSUES IN DISPUTE, THE MEDIATOR OR NEUTRAL PROVIDER SHALL FILE A WRITTEN  
13 NOTICE OF PARTIAL SETTLEMENT WITH THE COURT.

14 (3) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT, THE  
15 MEDIATOR OR NEUTRAL PROVIDER SHALL FILE A WRITTEN NOTICE WITH THE  
16 COURT THAT THE CASE WAS NOT SETTLED.

17 (N) UNLESS OTHERWISE AGREED BY THE PARTIES, THE COST OF  
18 ALTERNATIVE DISPUTE RESOLUTION SHALL BE DIVIDED EQUALLY BETWEEN THE  
19 PARTIES.

20 3-2A-07A.

21 (A) (1) AT THE CONCLUSION OF A TRIAL UNDER THIS SUBTITLE, THE  
22 COURT, ON MOTION OF A PARTY OR ON ITS OWN MOTION, MAY MAKE A FINDING AS  
23 TO WHETHER THE ACTION WAS BROUGHT OR MAINTAINED IN BAD FAITH OR  
24 WITHOUT SUBSTANTIAL JUSTIFICATION.

25 (2) IF THE COURT FINDS THAT THE ACTION WAS BROUGHT OR  
26 MAINTAINED IN BAD FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION, THE COURT  
27 SHALL REPORT THE FINDING AND NAME OF THE ATTORNEY OR ATTORNEYS FOR THE  
28 CLAIMANT OR PLAINTIFF TO THE ADMINISTRATIVE OFFICE OF THE COURTS.

29 (B) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL:

30 (1) MAINTAIN A RECORD OF THE ATTORNEYS WHOSE NAMES HAVE  
31 BEEN REPORTED UNDER SUBSECTION (A) OF THIS SECTION; AND

32 (2) PUBLISH ON THE JUDICIARY WEBSITE A LIST CONTAINING THE  
33 NAME OF EACH ATTORNEY WHO HAS BEEN THE SUBJECT OF THREE OR MORE  
34 FINDINGS DESCRIBED IN SUBSECTION (A) OF THIS SECTION WITHIN 5 YEARS.

35 (C) (1) AN ATTORNEY WHO WITHIN 5 YEARS HAS BEEN THE SUBJECT OF  
36 THREE OR MORE FINDINGS DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY

1 NOT BRING AN ACTION UNDER THIS SUBTITLE FOR 10 YEARS FROM THE MOST  
2 RECENT REPORT BY A COURT UNDER SUBSECTION (A) OF THIS SECTION.

3 (2) AN ATTORNEY WHO WILLFULLY VIOLATES PARAGRAPH (1) OF THIS  
4 SUBSECTION IS SUBJECT TO DISCIPLINARY PROCEEDINGS AS PROVIDED IN THE  
5 MARYLAND RULES.

6 (D) (1) WHEN AN ACTION IS FILED UNDER THIS SUBTITLE, THE COURT  
7 SHALL CONSULT THE LIST PUBLISHED UNDER SUBSECTION (B)(2) OF THIS SECTION.

8 (2) (I) IF THE NAME OF AN ATTORNEY WHO IS THE ATTORNEY FOR  
9 THE PLAINTIFF APPEARS ON THE LIST PUBLISHED UNDER SUBSECTION (B)(2) OF  
10 THIS SECTION, THE COURT SHALL STRIKE THE APPEARANCE OF THE ATTORNEY.

11 (II) WHEN THE APPEARANCE OF AN ATTORNEY IS STRICKEN  
12 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AND THE PLAINTIFF HAS NO  
13 ATTORNEY OF RECORD AND HAS NOT PROVIDED WRITTEN NOTIFICATION TO  
14 PROCEED IN PROPER PERSON, IF A NEW ATTORNEY HAS NOT ENTERED AN  
15 APPEARANCE WITHIN 60 DAYS AFTER THE DATE OF THE NOTICE REQUIRED UNDER  
16 SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE ABSENCE OF AN ATTORNEY IS NOT  
17 GROUNDS FOR A CONTINUANCE.

18 (III) THE COURT SHALL SEND A NOTICE BY FIRST-CLASS MAIL TO  
19 THE PLAINTIFF AT THE LAST KNOWN ADDRESS OF THE PLAINTIFF STATING THAT:

20 1. IF A NEW ATTORNEY HAS NOT ENTERED AN APPEARANCE  
21 WITHIN 60 DAYS AFTER THE DATE OF THE NOTICE, THE ABSENCE OF AN ATTORNEY  
22 IS NOT GROUNDS FOR A CONTINUANCE; AND

23 2. THE PLAINTIFF MAY RISK DISMISSAL OF THE CLAIM,  
24 JUDGMENT BY DEFAULT, AND ASSESSMENT OF COURT COSTS.

25 3-2A-08.

26 (a) (1) Evidence of advanced payments made [pursuant to] UNDER §  
27 19-104(b) of the Insurance Article is not admissible in any arbitration or judicial  
28 proceeding for damages due to medical injury until there is an award, in the case of  
29 arbitration proceedings, or a verdict, in the case of judicial proceedings, in favor of the  
30 claimant OR PLAINTIFF and against the person who made the advanced payments.

31 (2) Upon the finding of such an award or verdict, the arbitration panel,  
32 or the trier of fact, shall make a finding of total damages, and shall then deduct  
33 whatever amounts it finds were paid by or on behalf of the defendants [pursuant to]  
34 UNDER § 19-104(b) of the Insurance Article.

35 (3) The net amount, after this deduction, shall be entered as its award or  
36 verdict.

1 (b) (1) If the award or verdict exceeds the amount of advanced payments  
2 and the arbitration panel or the court finds that the advanced payments were  
3 reasonable, the panel or the court may [(1) order]:

4 (I) ORDER that the amount by which the award or verdict exceeds  
5 the amount of advanced payments be paid over a period of time consistent with the  
6 needs of the claimant OR PLAINTIFF, rather than in a lump sum[, and (2) authorize];  
7 AND

8 (II) AUTHORIZE, as part of its order, the creation of a trust or other  
9 mechanism to assure the periodic payments.

10 (2) The panel or court shall provide to the claimant OR PLAINTIFF the  
11 option to choose either a lump sum or payments paid over a period of time.

12 (c) (1) If the advanced payment exceeds the liability of the person making it,  
13 the arbitration panel or the court on appeal may order such adjustments as justice  
14 may require under the award or verdict, including, where appropriate, contribution  
15 by other parties found to be liable.

16 (2) In no event shall an advance payment in excess of the liability of the  
17 person making it be repayable by the person receiving it.

18 3-2A-08A.

19 (A) IN THIS SECTION, "COSTS" MEANS THOSE COSTS AWARDED UNDER  
20 MARYLAND RULE 2-603.

21 (B) THIS SECTION DOES NOT APPLY TO CASES DISMISSED FOLLOWING A  
22 SETTLEMENT.

23 (C) (1) AT ANY TIME NOT LESS THAN 45 DAYS BEFORE THE TRIAL BEGINS, A  
24 PARTY TO AN ACTION FOR A MEDICAL INJURY MAY SERVE ON THE ADVERSE PARTY  
25 AN OFFER OF JUDGMENT TO BE TAKEN FOR THE AMOUNT OF MONEY SPECIFIED IN  
26 THE OFFER, WITH COSTS THEN ACCRUED.

27 (2) WHEN THE LIABILITY OF ONE PARTY TO ANOTHER HAS BEEN  
28 DETERMINED BY VERDICT OR ORDER OR JUDGMENT, BUT THE AMOUNT OR EXTENT  
29 OF THE LIABILITY REMAINS TO BE DETERMINED BY FURTHER PROCEEDINGS, A  
30 PARTY ADJUDGED LIABLE OR A PARTY IN WHOSE FAVOR LIABILITY WAS  
31 DETERMINED MAY MAKE AN OFFER OF JUDGMENT NOT LESS THAN 45 DAYS BEFORE  
32 THE COMMENCEMENT OF HEARINGS TO DETERMINE THE AMOUNT OR EXTENT OF  
33 LIABILITY.

34 (D) (1) IF WITHIN 15 DAYS AFTER THE SERVICE OF AN OFFER OF JUDGMENT  
35 UNDER SUBSECTION (C) OF THIS SECTION THE ADVERSE PARTY SERVES WRITTEN  
36 NOTICE THAT THE OFFER IS ACCEPTED, EITHER PARTY MAY THEN FILE WITH THE  
37 COURT THE OFFER AND NOTICE OF ACCEPTANCE TOGETHER WITH AN AFFIDAVIT OF  
38 SERVICE NOTIFYING THE OTHER PARTIES OF THE FILING OF THE OFFER AND  
39 ACCEPTANCE.

1 (2) IF THE COURT RECEIVES THE FILINGS SPECIFIED IN PARAGRAPH (1)  
2 OF THIS SUBSECTION, THE COURT SHALL ENTER JUDGMENT.

3 (E) (1) IF AN ADVERSE PARTY DOES NOT ACCEPT AN OFFER OF JUDGMENT  
4 WITHIN THE TIME SPECIFIED IN SUBSECTION (D)(1) OF THIS SECTION, THE OFFER  
5 SHALL BE DEEMED WITHDRAWN AND EVIDENCE OF THE OFFER IS NOT ADMISSIBLE  
6 EXCEPT IN A PROCEEDING TO DETERMINE COSTS.

7 (2) AN OFFER OF JUDGMENT THAT IS NOT ACCEPTED DOES NOT  
8 PRECLUDE A PARTY FROM MAKING A SUBSEQUENT OFFER OF JUDGMENT IN THE  
9 TIME SPECIFIED IN THIS SECTION.

10 (F) IF THE JUDGMENT FINALLY OBTAINED IS NOT MORE FAVORABLE TO THE  
11 ADVERSE PARTY THAN THE OFFER, THE ADVERSE PARTY WHO RECEIVED THE OFFER  
12 SHALL PAY THE COSTS OF THE PARTY MAKING THE OFFER INCURRED AFTER THE  
13 MAKING OF THE OFFER.

14 3-2A-09A.

15 (A) THIS SECTION APPLIES TO A JUDGMENT UNDER THIS SUBTITLE FOR A  
16 CAUSE OF ACTION ARISING ON OR AFTER JANUARY 1, 2005.

17 (B) (1) (I) A JUDGMENT UNDER THIS SUBTITLE FOR NONECONOMIC  
18 DAMAGES MAY NOT EXCEED \$650,000.

19 (II) THE LIMITATION ON NONECONOMIC DAMAGES PROVIDED  
20 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCREASE BY \$15,000 ON  
21 JANUARY 1 OF EACH YEAR BEGINNING ON JANUARY 1, 2008. THE INCREASED  
22 AMOUNT SHALL APPLY TO CAUSES OF ACTION ARISING IN THE CALENDAR YEAR IN  
23 WHICH THE INCREASE GOES INTO EFFECT.

24 (2) THE LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION  
25 SHALL APPLY IN THE AGGREGATE TO ALL CLAIMS FOR PERSONAL INJURY AND  
26 WRONGFUL DEATH ARISING FROM THE SAME MEDICAL INJURY, REGARDLESS OF  
27 THE NUMBER OF CLAIMS, PLAINTIFFS, OR DEFENDANTS.

28 (3) (I) IN A JURY TRIAL, THE JURY MAY NOT BE INFORMED OF THE  
29 LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

30 (II) IF THE JURY AWARDS AN AMOUNT FOR NONECONOMIC  
31 DAMAGES THAT EXCEEDS THE LIMITATION UNDER PARAGRAPH (1) OF THIS  
32 SUBSECTION, THE COURT SHALL REDUCE THE AMOUNT TO CONFORM TO THE  
33 LIMITATION.

34 (III) IN A WRONGFUL DEATH ACTION IN WHICH THERE ARE TWO OR  
35 MORE CLAIMANTS OR BENEFICIARIES, IF THE JURY AWARDS AN AMOUNT FOR  
36 NONECONOMIC DAMAGES THAT EXCEEDS THE LIMITATION UNDER PARAGRAPH (1)  
37 OF THIS SUBSECTION OR A REDUCTION UNDER SUBPARAGRAPH (IV) OF THIS  
38 PARAGRAPH:

1                               1.       IF THE AMOUNT OF NONECONOMIC DAMAGES FOR THE  
2 PRIMARY CLAIMANTS, AS DESCRIBED UNDER § 3-904(D) OF THIS TITLE, EQUALS OR  
3 EXCEEDS THE LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION OR A  
4 REDUCTION UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH THE COURT SHALL:

5                               A.       REDUCE EACH INDIVIDUAL AWARD OF A PRIMARY  
6 CLAIMANT PROPORTIONATELY TO THE TOTAL AWARD OF ALL PRIMARY CLAIMANTS  
7 SO THAT THE TOTAL AWARD TO ALL CLAIMANTS OR BENEFICIARIES CONFORMS TO  
8 THE LIMITATION OR REDUCTION; AND

9                               B.       REDUCE EACH AWARD, IF ANY, TO A SECONDARY  
10 CLAIMANT, AS DESCRIBED UNDER § 3-904(B) OF THIS TITLE, TO ZERO DOLLARS; OR

11                           2.       IF THE AMOUNT OF NONECONOMIC DAMAGES FOR THE  
12 PRIMARY CLAIMANTS DOES NOT EXCEED THE LIMITATION UNDER PARAGRAPH (1) OF  
13 THIS SUBSECTION OR A REDUCTION UNDER SUBPARAGRAPH (IV) OF THIS  
14 PARAGRAPH OR IF THERE IS NO AWARD TO A PRIMARY CLAIMANT, THE COURT  
15 SHALL:

16                           A.       ENTER AN AWARD TO EACH PRIMARY CLAIMANT, IF ANY,  
17 AS DIRECTED BY THE VERDICT; AND

18                           B.       REDUCE EACH INDIVIDUAL AWARD OF A SECONDARY  
19 CLAIMANT PROPORTIONATELY TO THE TOTAL AWARD OF ALL OF THE SECONDARY  
20 CLAIMANTS SO THAT THE TOTAL AWARD TO ALL CLAIMANTS OR BENEFICIARIES  
21 CONFORMS TO THE LIMITATION OR REDUCTION.

22                           (IV)    IN A CASE IN WHICH THERE IS A PERSONAL INJURY ACTION  
23 AND A WRONGFUL DEATH ACTION, IF THE TOTAL AMOUNT AWARDED BY THE JURY  
24 FOR NONECONOMIC DAMAGES FOR BOTH ACTIONS EXCEEDS THE LIMITATION  
25 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL REDUCE THE  
26 AWARD IN EACH ACTION PROPORTIONATELY SO THAT THE TOTAL AWARD FOR  
27 NONECONOMIC DAMAGES FOR BOTH ACTIONS CONFORMS TO THE LIMITATION.

28       (C)       (1)       A VERDICT FOR PAST MEDICAL EXPENSES SHALL BE LIMITED TO:

29                           (I)       THE TOTAL AMOUNT OF PAST MEDICAL EXPENSES PAID BY OR  
30 ON BEHALF OF THE PLAINTIFF; AND

31                           (II)    THE TOTAL AMOUNT OF PAST MEDICAL EXPENSES INCURRED  
32 BUT NOT PAID BY OR ON BEHALF OF THE PLAINTIFF FOR WHICH THE PLAINTIFF OR  
33 ANOTHER PERSON ON BEHALF OF THE PLAINTIFF IS OBLIGATED TO PAY.

34                           (2)       THE VERDICT FOR PAST OR FUTURE LOSS OF EARNINGS SHALL  
35 EXCLUDE ANY AMOUNT FOR FEDERAL, STATE, OR LOCAL INCOME TAXES OR  
36 PAYROLL TAXES, INCLUDING SOCIAL SECURITY AND MEDICARE, THAT THE  
37 PLAINTIFF WOULD HAVE PAID ON THESE EARNINGS, DETERMINED AT THE TAX  
38 RATES IN EFFECT FOR THE PLAINTIFF AT THE TIME THE AWARD OR VERDICT IS  
39 ENTERED.

1                   (3)     (I)     EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THERE  
2 IS A REBUTTABLE PRESUMPTION THAT A VERDICT FOR FUTURE MEDICAL EXPENSES  
3 SHALL BE BASED SOLELY ON MEDICARE REIMBURSEMENT RATES IN EFFECT ON THE  
4 DATE OF THE AWARD OR VERDICT FOR THE LOCALITY IN WHICH THE CARE IS TO BE  
5 PROVIDED, ADJUSTED FOR INFLATION AS PROVIDED IN SUBPARAGRAPH (V) OF THIS  
6 PARAGRAPH.

7                   (II)     IF ON THE DATE OF THE AWARD OR VERDICT, THE MEDICARE  
8 WAIVER UNDER § 1814(B) OF THE FEDERAL SOCIAL SECURITY ACT IS IN EFFECT, A  
9 VERDICT FOR FUTURE MEDICAL EXPENSES FOR HOSPITAL FACILITY SERVICES  
10 SHALL BE BASED SOLELY ON THE RATES APPROVED BY THE HEALTH SERVICES COST  
11 REVIEW COMMISSION IN EFFECT ON THE DATE OF THE AWARD OR VERDICT FOR THE  
12 HOSPITAL FACILITY IN WHICH SERVICES ARE TO BE PROVIDED, ADJUSTED FOR  
13 INFLATION AS PROVIDED IN THE ANNUAL RATE UPDATES APPROVED BY THE  
14 HEALTH SERVICES COST REVIEW COMMISSION.

15                   (III)    A VERDICT FOR FUTURE MEDICAL EXPENSES FOR NURSING  
16 FACILITY SERVICES SHALL BE BASED SOLELY ON THE STATEWIDE AVERAGE  
17 PAYMENT RATE FOR THE MEDICAL ASSISTANCE PROGRAM DETERMINED BY THE  
18 DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN EFFECT ON THE DATE OF THE  
19 AWARD OR VERDICT, ADJUSTED FOR INFLATION AS PROVIDED IN SUBPARAGRAPH (V)  
20 OF THIS PARAGRAPH.

21                   (IV)    A VERDICT FOR FUTURE ECONOMIC DAMAGES FOR WHICH  
22 THERE IS NO MEDICARE REIMBURSEMENT RATE, HOSPITAL FACILITY RATE, OR  
23 STATEWIDE AVERAGE PAYMENT RATE SHALL BE BASED ON ACTUAL COST ON THE  
24 DATE OF THE AWARD OR VERDICT, ADJUSTED FOR INFLATION AS PROVIDED IN  
25 SUBPARAGRAPH (V) OF THIS PARAGRAPH.

26                   (V)     1.     FUTURE ECONOMIC DAMAGES SHALL BE ADJUSTED FOR  
27 INFLATION FOR THE EXPENDITURE CATEGORY OF THE CONSUMER PRICE INDEX  
28 PUBLISHED BY THE BUREAU OF LABOR STATISTICS TO WHICH THE EXPENSE  
29 APPLIES.

30                               2.     THE ADJUSTMENT FOR INFLATION IN THIS PARAGRAPH  
31 SHALL BE BASED ON THE AVERAGE RATE OF INFLATION FOR THE 5 YEARS  
32 IMMEDIATELY PRECEDING THE AWARD OR VERDICT.

33 [3-2A-09.] 3-2A-10.

34     [The] EXCEPT FOR §§ 3-2A-02, 3-2A-06, AND 3-2A-09A OF THIS SUBTITLE, THE  
35 provisions of this subtitle shall be deemed procedural in nature and [shall] MAY not  
36 be construed to create, enlarge, or diminish any cause of action not heretofore  
37 existing, except the defense of failure to comply with the procedures required under  
38 this subtitle.

39 11-108.

40     (c)     An award by the health claims arbitration panel in accordance with [§  
41 3-2A-06] § 3-2A-05 of this article FOR DAMAGES IN WHICH THE CAUSE OF ACTION

1 AROSE BEFORE JANUARY 1, 2005, shall be considered an award for purposes of this  
2 section.

3 (E) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A JUDGMENT  
4 UNDER TITLE 3, SUBTITLE 2A OF THIS ARTICLE FOR DAMAGES IN WHICH THE CAUSE  
5 OF ACTION ARISES ON OR AFTER JANUARY 1, 2005.

6 11-109.

7 (c) (1) The court [or the health claims arbitration panel] may order that all  
8 or part of the future economic damages portion of the award be paid in the form of  
9 annuities or other appropriate financial instruments, or that it be paid in periodic or  
10 other payments consistent with the needs of the plaintiff, funded in full by the  
11 defendant or the defendant's insurer and equal when paid to the amount of the future  
12 economic damages award.

13 (2) In the event that the court [or panel] shall order that the award for  
14 future economic damages be paid in a form other than a lump sum, the court [or  
15 panel] shall order that the defendant or the defendant's insurer provide adequate  
16 security for the payment of all future economic damages.

17 (3) The court [or panel] may appoint a conservator under this  
18 subsection for the plaintiff, upon such terms as the court [or panel] may impose, who  
19 shall have the full and final authority to resolve any dispute between the plaintiff and  
20 the defendant or the defendant's insurer regarding the need or cost of expenses for the  
21 plaintiff's medical, surgical, custodial, or other care or treatment.

22 [(d)] (4) If the plaintiff [under this section] dies before the final periodic  
23 payment of an award is made, the unpaid balance of the award for future loss of  
24 earnings shall revert to the estate of the plaintiff and the unpaid balance of the award  
25 for future medical expenses shall revert to the defendant or to the defendant's insurer  
26 if the insurer provided the funds for the future damages award.

27 (D) IF A HEALTH CLAIMS ARBITRATION PANEL AWARDS FUTURE ECONOMIC  
28 DAMAGES IN ACCORDANCE WITH § 3-2A-05 OF THIS ARTICLE, THE ARBITRATION  
29 PANEL MAY ORDER THAT FUTURE ECONOMIC DAMAGES BE PAID IN ACCORDANCE  
30 WITH THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION.

31 **Article - Health - General**

32 19-319.

33 (I) (1) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE  
34 DEPARTMENT, A HOSPITAL SHALL REPORT AN UNEXPECTED OCCURRENCE  
35 RESULTING IN DEATH OR SERIOUS DISABILITY RELATED TO AN INDIVIDUAL'S  
36 MEDICAL TREATMENT AND NOT RELATED TO THE NATURAL COURSE OF THE  
37 PATIENT'S ILLNESS OR UNDERLYING DISEASE CONDITION.

38 (2) IF A HOSPITAL FAILS TO COMPLY WITH PARAGRAPH (1) OF THIS  
39 SUBSECTION, THE SECRETARY MAY IMPOSE:

1 (I) FOR A FIRST OFFENSE, A CIVIL PENALTY NOT EXCEEDING  
2 \$5,000 FOR EACH VIOLATION; OR

3 (II) FOR A SECOND OR SUBSEQUENT OFFENSE WITHIN 3 YEARS, A  
4 CIVIL PENALTY OF NOT LESS THAN \$1,000 AND NOT MORE THAN \$15,000.

5 (3) THE SECRETARY SHALL PRESCRIBE FORMS FOR HOSPITALS TO USE  
6 WHEN REPORTING ADVERSE EVENTS.

7 **Article - Health Occupations**

8 1-401.

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

10 (2) (i) "Alternative health care system" means a system of health care  
11 delivery other than a hospital or related institution.

12 (ii) "Alternative health care system" includes:

13 1. A health maintenance organization;

14 2. A preferred provider organization;

15 3. An independent practice association;

16 4. A community health center that is a nonprofit,  
17 freestanding ambulatory health care provider governed by a voluntary board of  
18 directors and that provides primary health care services to the medically indigent;

19 5. A freestanding ambulatory care facility as that term is  
20 defined in § 19-3B-01 of the Health - General Article; or

21 6. Any other health care delivery system that utilizes a  
22 medical review committee.

23 (3) "Medical review committee" means a committee or board that:

24 (i) Is within one of the categories described in subsection (b) of this  
25 section; and

26 (ii) Performs functions that include at least one of the functions  
27 listed in subsection (c) of this section.

28 (4) (i) "Provider of health care" means any person who is licensed by  
29 law to provide health care to individuals.

30 (ii) "Provider of health care" does not include any nursing  
31 institution that is conducted by and for those who rely on treatment by spiritual  
32 means through prayer alone in accordance with the tenets and practices of a  
33 recognized church or religious denomination.

1 (5) "The Maryland Institute for Emergency Medical Services Systems"  
2 means the State agency described in § 13-503 of the Education Article.

3 (b) For purposes of this section, a medical review committee is:

4 (1) A regulatory board or agency established by State or federal law to  
5 license, certify, or discipline any provider of health care;

6 (2) A committee of the Faculty or any of its component societies or a  
7 committee of any other professional society or association composed of providers of  
8 health care;

9 (3) A committee appointed by or established in a local health department  
10 for review purposes;

11 (4) A committee appointed by or established in the Maryland Institute  
12 for Emergency Medical Services Systems;

13 (5) A committee of the medical staff or other committee, including any  
14 risk management, credentialing, or utilization review committee established in  
15 accordance with § 19-319 of the Health - General Article, of a hospital, related  
16 institution, or alternative health care system, if the governing board of the hospital,  
17 related institution, or alternative health care system forms and approves the  
18 committee or approves the written bylaws under which the committee operates;

19 (6) A committee or individual designated by the holder of a pharmacy  
20 permit, as defined in § 12-101 of this article, that performs the functions listed in  
21 subsection (c) of this section, as part of a pharmacy's ongoing quality assurance  
22 program;

23 (7) Any person, including a professional standard review organization,  
24 who contracts with an agency of this State or of the federal government to perform  
25 any of the functions listed in subsection (c) of this section;

26 (8) Any person who contracts with a provider of health care to perform  
27 any of those functions listed in subsection (c) of this section that are limited to the  
28 review of services provided by the provider of health care;

29 (9) An organization, established by the Maryland Hospital Association,  
30 Inc. and the Faculty, that contracts with a hospital, related institution, or alternative  
31 delivery system to:

32 (i) Assist in performing the functions listed in subsection (c) of this  
33 section; or

34 (ii) Assist a hospital in meeting the requirements of § 19-319(e) of  
35 the Health - General Article;

36 (10) A committee appointed by or established in an accredited health  
37 occupations school;

1 (11) An organization described under § 14-501 of this article that  
2 contracts with a hospital, related institution, or health maintenance organization to:

3 (i) Assist in performing the functions listed in subsection (c) of this  
4 section; or

5 (ii) Assist a health maintenance organization in meeting the  
6 requirements of Title 19, Subtitle 7 of the Health - General Article, the National  
7 Committee for Quality Assurance (NCQA), or any other applicable credentialing law  
8 or regulation;

9 (12) An accrediting organization as defined in § 14-501 of this article;

10 (13) A Mortality Review Committee established under § 5-801 of the  
11 Health - General Article; or

12 (14) A center designated by the Maryland Health Care Commission as the  
13 Maryland Patient Safety Center that performs the functions listed in subsection (c)(1)  
14 of this section.

15 (c) For purposes of this section, a medical review committee:

16 (1) Evaluates and seeks to improve the quality of health care provided by  
17 providers of health care;

18 (2) Evaluates the need for and the level of performance of health care  
19 provided by providers of health care;

20 (3) Evaluates the qualifications, competence, and performance of  
21 providers of health care; or

22 (4) Evaluates and acts on matters that relate to the discipline of any  
23 provider of health care.

24 (d) (1) Except as otherwise provided in this section, the proceedings,  
25 records, and files of a medical review committee are not discoverable and are not  
26 admissible in evidence in any civil action.

27 (2) The proceedings, records, and files of a medical review committee are  
28 confidential and are not discoverable and are not admissible in evidence in any civil  
29 action arising out of matters that are being reviewed and evaluated by the medical  
30 review committee if requested by the following:

31 (i) The Department of Health and Mental Hygiene to ensure  
32 compliance with the provisions of § 19-319 of the Health - General Article;

33 (ii) A health maintenance organization to ensure compliance with  
34 the provisions of Title 19, Subtitle 7 of the Health - General Article and applicable  
35 regulations;

1 (iii) A health maintenance organization to ensure compliance with  
2 the National Committee for Quality Assurance (NCQA) credentialing requirements;  
3 or

4 (iv) An accrediting organization to ensure compliance with  
5 accreditation requirements or the procedures and policies of the accrediting  
6 organization.

7 (3) If the proceedings, records, and files of a medical review committee  
8 are requested by any person from any of the entities in paragraph (2) of this  
9 subsection:

10 (i) The person shall give the medical review committee notice by  
11 certified mail of the nature of the request and the medical review committee shall be  
12 granted a protective order preventing the release of its proceedings, records, and files;  
13 and

14 (ii) The entities listed in paragraph (2) of this subsection may not  
15 release any of the proceedings, records, and files of the medical review committee.

16 (e) Subsection (d)(1) of this section does not apply to:

17 (1) A civil action brought by a party to the proceedings of the medical  
18 review committee who claims to be aggrieved by the decision of the medical review  
19 committee; or

20 (2) Any record or document that is considered by the medical review  
21 committee and that otherwise would be subject to discovery and introduction into  
22 evidence in a civil trial.

23 (f) (1) A person shall have the immunity from liability described under §  
24 5-637 of the Courts and Judicial Proceedings Article for any action as a member of  
25 the medical review committee or for giving information to, participating in, or  
26 contributing to the function of the medical review committee.

27 (2) A contribution to the function of a medical review committee includes  
28 any statement by any person, regardless of whether it is a direct communication with  
29 the medical review committee, that is made within the context of the person's  
30 employment or is made to a person with a professional interest in the functions of a  
31 medical review committee and is intended to lead to redress of a matter within the  
32 scope of a medical review committee's functions.

33 (G) IN A CIVIL ACTION BROUGHT BY A PARTY TO THE PROCEEDINGS OF A  
34 MEDICAL REVIEW COMMITTEE DESCRIBED IN SUBSECTION (B)(5), (9), OR (11) OF THIS  
35 SECTION WHO CLAIMS TO BE AGGRIEVED BY THE DECISION OF THE MEDICAL  
36 REVIEW COMMITTEE, THE COURT SHALL AWARD COURT COSTS AND REASONABLE  
37 ATTORNEY'S FEES TO THE PREVAILING PARTY, INCLUDING A PERSON DESCRIBED IN  
38 SUBSECTION (F) OF THIS SECTION IF THE PERSON IS A PREVAILING PARTY IN THE  
39 CIVIL ACTION.

1 [(g)] (H) Notwithstanding this section, §§ 14-410 and 14-412 of this article  
2 apply to:

3 (1) The Board of Physicians; and

4 (2) Any other entity, to the extent that it is acting in an investigatory  
5 capacity for the Board of Physicians.

6 14-101.

7 (I) (1) "Practice medicine" means to engage, with or without compensation[,  
8 in medical]:

9 (i) IN MEDICAL;

10 1. Diagnosis;

11 [(ii)] 2. Healing;

12 [(iii)] 3. Treatment; or

13 [(iv)] 4. Surgery; OR

14 (II) IN TESTIFYING OR OFFERING AN OPINION AS A MEDICAL  
15 EXPERT WITNESS REGARDING THE CONDUCT DESCRIBED IN ITEM (I) OF THIS  
16 PARAGRAPH IN THE COURSE OF A LEGAL PROCEEDING.

17 14-302.

18 Subject to the rules, regulations, and orders of the Board, the following  
19 individuals may practice medicine without a license:

20 (1) A medical student or an individual in a postgraduate medical  
21 training program that is approved by the Board, while doing the assigned duties at  
22 any office of a licensed physician, hospital, clinic, or similar facility;

23 (2) A physician licensed by and residing in another jurisdiction, while  
24 engaging in consultation with a physician licensed in this State;

25 (3) A physician employed in the service of the federal government while  
26 performing the duties incident to that employment;

27 (4) A physician who resides in and is authorized to practice medicine by  
28 any state adjoining this State and whose practice extends into this State, if:

29 (i) The physician does not have an office or other regularly  
30 appointed place in this State to meet patients; and

31 (ii) The same privileges are extended to licensed physicians of this  
32 State by the adjoining state; [and]

1           (5)       An individual while under the supervision of a licensed physician  
2 who has specialty training in psychiatry, and whose specialty training in psychiatry  
3 has been approved by the Board, if the individual submits an application to the Board  
4 on or before October 1, 1993, and either:

5                   (i)       1.       Has a master's degree from an accredited college or  
6 university; and

7                               2.       Has completed a graduate program accepted by the Board  
8 in a behavioral science that includes 1,000 hours of supervised clinical psychotherapy  
9 experience; or

10                  (ii)       1.       Has a baccalaureate degree from an accredited college or  
11 university; and

12                               2.       Has 4,000 hours of supervised clinical experience that is  
13 approved by the Board; AND

14           (6)       A PHYSICIAN LICENSED BY AND RESIDING IN ANOTHER  
15 JURISDICTION, WHILE TESTIFYING IN A CIVIL ACTION OR ATTESTING TO  
16 COMPLIANCE WITH OR DEPARTURES FROM STANDARDS OF CARE FOR PURPOSES OF  
17 A CERTIFICATE OF QUALIFIED EXPERT UNDER TITLE 3, SUBTITLE 2A OF THE COURTS  
18 ARTICLE.

19 14-401.

20       (i)       Those individuals not licensed under this title but covered under §  
21 14-302(6) OF THIS TITLE OR § 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the  
22 hearing provisions of § 14-405 of this subtitle.

23 14-404.1.

24       SUBJECT TO THE HEARING PROVISIONS OF § 14-405 OF THIS SUBTITLE AND  
25 APPROPRIATE PEER REVIEW, THE BOARD, ON THE AFFIRMATIVE VOTE OF A  
26 MAJORITY OF THE QUORUM, MAY ISSUE FINDINGS AND A REPORT CONCERNING AN  
27 INDIVIDUAL COVERED UNDER § 14-302(6) OF THIS TITLE WHO FALSELY TESTIFIES OR  
28 FALSELY OFFERS AN OPINION AS A MEDICAL EXPERT WITNESS REGARDING  
29 MEDICAL DIAGNOSIS, HEALING, TREATMENT, OR SURGERY.

30 14-405.

31       (a)       Except as otherwise provided in the Administrative Procedure Act, before  
32 the Board takes any action under § 14-404(a) of this subtitle or § 14-5A-17(a) of this  
33 title, it shall give the individual against whom the action is contemplated an  
34 opportunity for a hearing before a hearing officer.

35       (b)       (1)       The hearing officer shall give notice and hold the hearing in  
36 accordance with the Administrative Procedure Act.

1 (2) [Except as provided in paragraph (3) of this subsection, factual]  
2 FACTUAL findings shall be supported by a preponderance of the evidence.

3 [(3) Factual findings shall be supported by clear and convincing evidence  
4 if the charge of the Board is based on § 14-404(a)(22), § 14-5A-17(a)(18), or §  
5 14-5B-14(a)(18) of this title.]

6 (c) The individual may be represented at the hearing by counsel.

7 (d) If after due notice the individual against whom the action is contemplated  
8 fails or refuses to appear, nevertheless the hearing officer may hear and refer the  
9 matter to the Board for disposition.

10 (e) After performing any necessary hearing under this section, the hearing  
11 officer shall refer proposed factual findings to the Board for the Board's disposition.

12 (f) The Board may adopt regulations to govern the taking of depositions and  
13 discovery in the hearing of charges.

14 (g) The hearing of charges may not be stayed or challenged by any procedural  
15 defects alleged to have occurred prior to the filing of charges.

16 **Article - Insurance**

17 2-213.

18 (A) IN THIS SECTION, "PEOPLE'S COUNSEL" MEANS THE PEOPLE'S INSURANCE  
19 COUNSEL ESTABLISHED UNDER TITLE 6, SUBTITLE 3 OF THE STATE GOVERNMENT  
20 ARTICLE.

21 [(a)] (B) (1) Except as otherwise provided in this subsection, all hearings  
22 shall be open to the public in accordance with Article 41, § 1-205 of the Code.

23 (2) A hearing held by the Commissioner that relates to a filing under  
24 Title 11 of this article is not required to be open to the public.

25 (3) A hearing held by the Commissioner to determine whether an insurer  
26 is being operated in a hazardous manner that could result in its impairment is not  
27 required to be open to the public if:

28 (i) the insurer requests that the hearing not be a public hearing;  
29 and

30 (ii) the Commissioner determines that it is not in the interest of the  
31 public to hold a public hearing.

32 (4) A hearing held by the Commissioner to evaluate the financial  
33 condition of an insurer under the risk based capital standards set out in Title 4,  
34 Subtitle 3 of this article is not required to be open to the public.

29 [(e)] (F) (1) On timely written request by a party to a hearing, the  
30 Commissioner shall have a full stenographic record of the proceedings made by a  
31 competent reporter at the expense of that party.

1 (2) If the stenographic record is transcribed, a copy shall be given on  
2 request to any other party to the hearing at the expense of that party.

3 (3) If the stenographic record is not made or transcribed, the  
4 Commissioner shall prepare an adequate record of the evidence and proceedings.

5 4-401.

6 (a) This section applies to:

7 (1) each insurer that provides professional liability insurance to:

8 (i) a physician, nurse, dentist, podiatrist, optometrist, or  
9 chiropractor licensed under the Health Occupations Article; or

10 (ii) a hospital licensed under the Health - General Article; and

11 (2) each self-insured hospital.

12 (b) An entity subject to this section shall report quarterly any claim or action  
13 for damages for personal injury if the claim or action:

14 (1) is claimed to have been caused by an error, omission, or negligence in  
15 the performance of the insured's professional services or is based on a claimed  
16 performance of the insured's professional services without consent; and

17 (2) resulted in:

18 (i) a final judgment in any amount;

19 (ii) a settlement in any amount; or

20 (iii) a final disposition that does not result in payment on behalf of  
21 the insured.

22 (c) A report required under this section shall contain:

23 (1) the name and address of the insured;

24 (2) the policy number of the insured;

25 (3) the date of the occurrence from which the claim or action arose;

26 (4) the JURISDICTION AND date of filing suit, if any;

27 (5) the date and amount of final judgment or settlement, if any;

28 (6) THE SPECIFIC AMOUNT OF THE FINAL JUDGMENT OR SETTLEMENT,  
29 IF ANY, THAT IS FOR:

30 (I) PAST MEDICAL EXPENSES;

- 1 (II) FUTURE MEDICAL EXPENSES;
- 2 (III) PAST LOST WAGES;
- 3 (IV) FUTURE LOST WAGES;
- 4 (V) ECONOMIC DAMAGES; AND
- 5 (VI) NONECONOMIC DAMAGES;
- 6 (7) THE SPECIFIC AMOUNT OF DAMAGES CLAIMED BY THE PLAINTIFF(S)
- 7 THAT WAS FOR:
- 8 (I) PAST MEDICAL EXPENSES;
- 9 (II) FUTURE MEDICAL EXPENSES;
- 10 (III) PAST LOST WAGES;
- 11 (IV) FUTURE LOST WAGES;
- 12 (V) ECONOMIC DAMAGES; AND
- 13 (VI) NONECONOMIC DAMAGES;
- 14 [(6)] (8) if there is no final judgment or settlement, the date and reason
- 15 for final disposition;
- 16 [(7)] (9) a summary of the occurrence from which the claim or action
- 17 arose; [and]
- 18 (10) WHETHER THERE WAS A CLAIM MADE FOR EXTRACONTRACTUAL
- 19 DAMAGES AND IF SO THE MEDICAL PROFESSIONAL LIABILITY INSURER WHOSE RATE
- 20 FILING IS THE SUBJECT OF THE HEARING; AND
- 21 [(8)] (11) any other information as may be required.
- 22 (d) A report required under this section shall be filed within 90 days after the
- 23 end of the quarter during which an event described in subsection (b)(2)(i), (ii), or (iii)
- 24 of this section occurred.
- 25 (e) (1) A report that relates to a physician shall be filed with the State Board
- 26 of Physicians.
- 27 (2) A report that relates to a hospital shall be filed with the Secretary of
- 28 Health and Mental Hygiene.
- 29 (3) A report that relates to a nurse, dentist, podiatrist, optometrist, or
- 30 chiropractor shall be filed with the appropriate licensing board for these health care
- 31 providers.

1 (4) A REPORT FILED UNDER THIS SUBSECTION SHALL ALSO BE FILED  
2 WITH THE COMMISSIONER.

3 (f) (1) Subject to paragraph (2) of this subsection, a report filed in  
4 accordance with this section shall be treated as a personal record under § 10-624(e) of  
5 the State Government Article.

6 (2) Each report shall be released to the Maryland Health Care  
7 Commission.

8 (g) An insurer that reports under this section or its agents or employees, the  
9 State Board of Physicians or its representatives, and any appropriate licensing  
10 authority that receives a report under this section shall have the immunity from  
11 liability described in § 5-701 of the Courts Article for any action taken by them under  
12 this section.

13 (h) (1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (2) OF THIS  
14 SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING  
15 \$5,000 ON A PERSON WHO FAILS TO REPORT TO THE COMMISSIONER IN ACCORDANCE  
16 WITH THIS SECTION.

17 (2) Failure to report in accordance with this section shall result in the  
18 imposition by a circuit court of a civil penalty of up to \$5,000.

19 4-401.1.

20 (A) (1) AN INSURER DESCRIBED IN § 4-401 OF THIS SUBTITLE SHALL SUBMIT  
21 ANNUALLY TO THE COMMISSIONER INFORMATION ON:

22 (I) THE NATURE AND COST OF REINSURANCE;

23 (II) THE CLAIMS EXPERIENCE BY CATEGORY OF HEALTH CARE  
24 PROVIDERS;

25 (III) THE AMOUNT OF CLAIMS SETTLEMENTS AND CLAIMS AWARDS;

26 (IV) THE NUMBER OF CASES THAT WERE TRIED AND INFORMATION  
27 ON THE VERDICTS, INCLUDING REDUCTIONS IN THE VERDICTS REQUIRED OR  
28 PERMITTED UNDER LAW;

29 (V) THE NUMBER OF HEALTH CARE PROVIDERS INSURED;

30 (VI) INFORMATION RELATING TO THE SURPLUS OF THE INSURER AS  
31 REQUIRED BY THE COMMISSIONER;

32 (VII) THE NUMBER OF CLAIMS MADE, THE NUMBER OF CLAIMS PAID,  
33 AND THE TOTAL AMOUNT OF MONEY PAID FOR CLAIMS;

34 (VIII) INFORMATION RELATING TO THE AMOUNT OF RESERVES OF  
35 THE INSURER, INCLUDING RESERVES FOR CLAIMS INCURRED AND CLAIMS  
36 INCURRED BUT UNREPORTED;

1 (IX) THE NUMBER OF STRUCTURED SETTLEMENTS USED IN THE  
2 PAYMENT OF CLAIMS; AND

3 (X) ANY OTHER INFORMATION RELATING TO HEALTH CARE  
4 MALPRACTICE CLAIMS AS PRESCRIBED BY THE COMMISSIONER IN REGULATIONS.

5 (2) THE COMMISSIONER MAY ADOPT REGULATIONS ON THE  
6 SUBMISSION OF INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

7 (B) THE COMMISSIONER BY REGULATION MAY REQUIRE INSURERS OF OTHER  
8 LINES OF LIABILITY INSURANCE TO SUBMIT REPORTS.

9 (C) THE COMMISSIONER SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF  
10 THE STATE GOVERNMENT ARTICLE, THE COMMISSIONER'S FINDINGS AS TO THE  
11 IMPACT OF CHAPTER \_\_\_\_ (4LR6012/4LR6013) OF THE ACTS OF THE GENERAL  
12 ASSEMBLY OF 2004 ON THE AVAILABILITY OF HEALTH CARE MALPRACTICE AND  
13 OTHER LIABILITY INSURANCE IN THE STATE TO THE GOVERNOR AND THE GENERAL  
14 ASSEMBLY ON OR BEFORE SEPTEMBER 1 OF EACH YEAR.

15 19-104.

16 (a) Each policy that insures a health care provider against damages due to  
17 medical injury arising from providing or failing to provide health care shall contain  
18 provisions that:

19 (1) are consistent with the requirements of Title 3, Subtitle 2A of the  
20 Courts Article; and

21 (2) authorize the insurer, without restriction, to negotiate and effect a  
22 compromise of claims within the limits of the insurer's liability, if the entire amount  
23 settled on is to be paid by the insurer.

24 (b) (1) An insurer may make payments to or on behalf of claimants for  
25 reasonable hospital and medical costs, loss of wages, and expenses for rehabilitation  
26 services and treatment, within the limits of the insurer's liability, before a final  
27 disposition of the claim.

28 (2) A payment made under this subsection:

29 (i) is not an admission of liability to or of damages sustained by a  
30 claimant; and

31 (ii) does not prejudice the insurer or any other party with respect to  
32 any right, claim, or defense.

33 (C) (1) A POLICY ISSUED OR DELIVERED UNDER SUBSECTION (A) OF THIS  
34 SECTION MAY NOT INCLUDE COVERAGE FOR THE DEFENSE OF A HEALTH CARE  
35 PROVIDER IN A DISCIPLINARY HEARING ARISING OUT OF THE PRACTICE OF THE  
36 HEALTH CARE PROVIDER'S PROFESSION.

1 (2) A POLICY PROVIDING COVERAGE FOR THE DEFENSE OF A HEALTH  
2 CARE PROVIDER IN A DISCIPLINARY HEARING ARISING OUT OF THE PRACTICE OF  
3 THE HEALTH CARE PROVIDER'S PROFESSION MAY BE OFFERED AND PRICED  
4 SEPARATELY FROM A POLICY ISSUED OR DELIVERED UNDER SUBSECTION (A) OF  
5 THIS SECTION.

6 24-209.

7 (C) THE SOCIETY MAY NOT DENY MEDICAL LIABILITY INSURANCE COVERAGE  
8 TO ANY PHYSICIAN BASED SOLELY UPON THE PHYSICIAN'S MEDICAL SPECIALTY,  
9 PRACTICE PROFILE, OR GEOGRAPHIC LOCATION OF PRACTICE.

10 **Article - State Government**

11 **SUBTITLE 3. PEOPLE'S INSURANCE COUNSEL.**

12 6-301.

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

15 (B) "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.

16 (C) "MEDICAL PROFESSIONAL LIABILITY INSURER" MEANS AN INSURER THAT:

17 (1) HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE  
18 COMMISSIONER; AND

19 (2) ISSUES OR DELIVERS POLICIES OF MEDICAL PROFESSIONAL  
20 LIABILITY INSURANCE IN THE STATE.

21 (D) "PREMIUM" HAS THE MEANING STATED IN § 1-101 OF THE INSURANCE  
22 ARTICLE TO THE EXTENT IT IS ALLOCATED TO THIS STATE.

23 6-302.

24 (A) (1) THERE IS A PEOPLE'S INSURANCE COUNSEL IN THE OFFICE OF THE  
25 ATTORNEY GENERAL.

26 (2) THE PEOPLE'S INSURANCE COUNSEL SHALL BE AN ASSISTANT  
27 ATTORNEY GENERAL AND SHALL BE APPOINTED BY THE ATTORNEY GENERAL.

28 (B) THE PEOPLE'S INSURANCE COUNSEL:

29 (1) SHALL BE ADMITTED TO PRACTICE LAW IN THE STATE;

30 (2) SHALL HAVE KNOWLEDGE AND EXPERTISE IN THE BUSINESS OF  
31 INSURANCE; AND

1 (3) MAY NOT BE FINANCIALLY INTERESTED IN AN INSURER, INSURANCE  
2 AGENCY, OR INSURANCE TRANSACTION, OTHER THAN AS A POLICY HOLDER OR  
3 CLAIMANT UNDER A POLICY.

4 6-303.

5 (A) THE OFFICE OF THE ATTORNEY GENERAL SHALL INCLUDE IN ITS ANNUAL  
6 BUDGET SUFFICIENT MONEY TO PERFORM THE DUTIES OF THE PEOPLE'S  
7 INSURANCE COUNSEL SET FORTH UNDER THIS SUBTITLE.

8 (B) THE PEOPLE'S INSURANCE COUNSEL MAY RETAIN, AS NECESSARY FOR A  
9 PARTICULAR MATTER, EXPERTS IN THE FIELD OF INSURANCE RATE MAKING,  
10 INCLUDING ACCOUNTANTS AND ACTUARIES.

11 6-304.

12 (A) THE COMMISSIONER SHALL:

13 (1) COLLECT AN ANNUAL ASSESSMENT FROM EACH MEDICAL  
14 PROFESSIONAL LIABILITY INSURER FOR THE COSTS AND EXPENSES INCURRED BY  
15 THE OFFICE OF THE ATTORNEY GENERAL IN CARRYING OUT THE DUTIES UNDER  
16 THIS SUBTITLE; AND

17 (2) PAY THE AMOUNTS COLLECTED TO THE OFFICE OF THE ATTORNEY  
18 GENERAL TO BE USED ONLY FOR THE EXPENSES OF THE PEOPLE'S INSURANCE  
19 COUNSEL.

20 (B) THE ASSESSMENT IS THE PRODUCT OF THE FRACTION OBTAINED BY  
21 DIVIDING THE GROSS DIRECT PREMIUM WRITTEN BY THE MEDICAL PROFESSIONAL  
22 LIABILITY INSURER IN THE PRIOR CALENDAR YEAR BY THE TOTAL AMOUNT OF  
23 GROSS DIRECT PREMIUM WRITTEN BY ALL MEDICAL PROFESSIONAL LIABILITY  
24 INSURERS IN THE PRIOR CALENDAR YEAR, MULTIPLIED BY THE AMOUNT OF THE  
25 TOTAL COSTS AND EXPENSES DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION.

26 6-305.

27 (A) (1) THE PEOPLE'S INSURANCE COUNSEL SHALL REVIEW AND  
28 INVESTIGATE ANY PROPOSED RATE INCREASE OF 10% OR MORE FILED WITH THE  
29 COMMISSIONER BY A MEDICAL PROFESSIONAL LIABILITY INSURER.

30 (2) IF THE PEOPLE'S INSURANCE COUNSEL FINDS THAT THE PROPOSED  
31 RATE INCREASE IS EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY, THE  
32 PEOPLE'S INSURANCE COUNSEL SHALL:

33 (I) REQUEST A HEARING BEFORE THE COMMISSIONER ON THE  
34 RATE FILING; AND

35 (II) APPEAR AT THE RATE FILING TO:

1                               1.       PRESENT EVIDENCE, INCLUDING THE REPORT AND  
2 TESTIMONY OF AN ACCREDITED ACTUARY, THAT THE PROPOSED RATE IS EXCESSIVE,  
3 INADEQUATE, OR UNFAIRLY DISCRIMINATORY;

4                               2.       IDENTIFY AN ALTERNATIVE RATE; AND

5                               3.       PRESENT EVIDENCE, INCLUDING THE REPORT AND  
6 TESTIMONY OF AN ACCREDITED ACTUARY, THAT THE ALTERNATIVE RATE IS NOT  
7 EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

8                   (3)       FOR ALL PURPOSES RELATED TO THE RATE FILINGS OF MEDICAL  
9 PROFESSIONAL LIABILITY INSURERS, THE PEOPLE'S INSURANCE COUNSEL SHALL BE  
10 CONSIDERED TO BE A PERSON AGGRIEVED BY THE FILING.

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

13                               **Article - Courts and Judicial Proceedings**

14 3-2A-08.

15       (a)       (1)       Evidence of advanced payments made under § 19-104(b) of the  
16 Insurance Article is not admissible in any [arbitration or] judicial proceeding for  
17 damages due to medical injury until there is [an award, in the case of arbitration  
18 proceedings, or] a verdict[, in the case of judicial proceedings,] in favor of the  
19 [claimant or] plaintiff and against the person who made the advanced payments.

20               (2)       Upon the finding of such [an award or] A verdict, [the arbitration  
21 panel, or] the trier of fact[,], shall make a finding of total damages, and shall then  
22 deduct whatever amounts it finds were paid by or on behalf of the defendants under  
23 § 19-104(b) of the Insurance Article.

24               (3)       The net amount, after this deduction, shall be entered as its [award  
25 or] verdict.

26       (b)       (1)       THE PROVISIONS OF THIS SUBSECTION DO NOT APPLY TO A VERDICT  
27 FOR DAMAGES UNDER THIS SUBTITLE IN WHICH THE CAUSE OF ACTION ARISES ON  
28 OR AFTER JANUARY 1, 2005.

29               (2)       [If] FOR A VERDICT FOR DAMAGES UNDER THIS SUBTITLE IN WHICH  
30 THE CAUSE OF ACTION AROSE BEFORE JANUARY 1, 2005, the [award or] verdict  
31 exceeds the amount of advanced payments and [the arbitration panel or] the court  
32 finds that the advanced payments were reasonable, the [panel or the] court may:

33                       (i)       Order that the amount by which the [award or] verdict exceeds  
34 the amount of advanced payments be paid over a period of time consistent with the  
35 needs of the [claimant or] plaintiff, rather than in a lump sum; and

36                       (ii)       Authorize, as part of its order, the creation of a trust or other  
37 mechanism to assure the periodic payments.

1 (3) The [panel or] court shall provide to the [claimant or] plaintiff the  
2 option to choose either a lump sum or payments paid over a period of time.

3 (c) (1) If the advanced payment exceeds the liability of the person making it,  
4 [the arbitration panel or] the court [on appeal] may order such adjustments as  
5 justice may require under the [award or] verdict[,] including, where appropriate,  
6 contribution by other parties found to be liable.

7 (2) In no event shall an advance payment in excess of the liability of the  
8 person making it be repayable by the person receiving it.

9 11-108.

10 [(c) An award by the health claims arbitration panel in accordance with §  
11 3-2A-05 of this article for damages in which the cause of action arose before January  
12 1, 2005, shall be considered an award for purposes of this section.]

13 [(d)] (C) (1) In a jury trial, the jury may not be informed of the limitation  
14 established under subsection (b) of this section.

15 (2) (i) If the jury awards an amount for noneconomic damages that  
16 exceeds the limitation established under subsection (b) of this section, the court shall  
17 reduce the amount to conform to the limitation.

18 (ii) In a wrongful death action in which there are two or more  
19 claimants or beneficiaries, if the jury awards an amount for noneconomic damages  
20 that exceeds the limitation established under subsection (b)(3)(ii) of this section, the  
21 court shall:

22 1. If the amount of noneconomic damages for the primary  
23 claimants equals or exceeds the limitation under subsection (b)(3)(ii) of this section:

24 A. Reduce each individual award of a primary claimant  
25 proportionately to the total award of all of the primary claimants so that the total  
26 award to all claimants or beneficiaries conforms to the limitation; and

27 B. Reduce each award, if any, to a secondary claimant to zero  
28 dollars; or

29 2. If the amount of noneconomic damages for the primary  
30 claimants does not exceed the limitation under subsection (b)(3)(ii) of this section or if  
31 there is no award to a primary claimant:

32 A. Enter an award to the primary claimant, if any, as  
33 directed by the verdict; and

34 B. Reduce each individual award of a secondary claimant  
35 proportionately to the total award of all of the secondary claimants so that the total  
36 award to all claimants or beneficiaries conforms to the limitation.

1 [(e)] (D) The provisions of this section do not apply to a judgment under Title  
2 3, Subtitle 2A of this article for damages in which the cause of action arises on or after  
3 January 1, 2005.

4 11-109.

5 [(d) If a health claims arbitration panel awards future economic damages in  
6 accordance with § 3-2A-05 of this article, the arbitration panel may order that future  
7 economic damages be paid in accordance with the provisions of subsection (c) of this  
8 section.]

9 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
10 read as follows:

11 **Article - Courts and Judicial Proceedings**

12 8-306.

13 In a civil action in which a jury trial is permitted, the jury shall consist of AT  
14 LEAST 6 jurors.

15 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
16 read as follows:

17 **Article - Insurance**

18 1-202.

19 This article does not apply to:

20 (3) an organization that:

21 (vii) pays the premium tax imposed by Title 6 of this article on all  
22 premiums allocable to this State for life insurance and health insurance in effect for  
23 residents of this State; [or]

24 (4) a voluntary noncontractual religious publication arrangement that:

25 (xii) provides the following verbatim written disclaimer as a  
26 separate cover sheet for any and all documents distributed by or on behalf of the  
27 exempt arrangement, including applications, guidelines, promotional, or  
28 informational material and all periodic publications:

29 "Notice

30 This publication is not issued by an insurance company nor is it offered through  
31 an insurance company. It does not guarantee or promise that your medical bills will  
32 be published or assigned to others for payment. No other subscriber will be compelled  
33 to contribute toward the cost of your medical bills. Therefore, this publication should  
34 never be considered a substitute for an insurance policy. This activity is not regulated

1 by the State Insurance Administration, and your liabilities are not covered by the Life  
2 and Health Guaranty Fund. Whether or not you receive any payments for medical  
3 expenses and whether or not this entity continues to operate, you are always liable for  
4 any unpaid bills."; OR

5 (5) THE MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE  
6 STABILIZATION PLAN EXCEPT AS OTHERWISE PROVIDED IN TITLE 29 OF THIS  
7 ARTICLE.

8 TITLE 29. MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE STABILIZATION  
9 PLAN.

10 SUBTITLE 1. DEFINITIONS.

11 29-101.

12 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

13 (B) "APPROVED RATE" MEANS THE RATE APPROVED BY THE COMMISSIONER  
14 IN ACCORDANCE WITH TITLE 11 OF THIS ARTICLE.

15 (C) "BOARD" MEANS THE BOARD OF DIRECTORS FOR THE MARYLAND  
16 MEDICAL PROFESSIONAL LIABILITY RATE STABILIZATION PLAN.

17 (D) "CEDING INSURER" MEANS A MEDICAL PROFESSIONAL LIABILITY  
18 INSURER THAT ELECTS TO ENTER INTO A REINSURANCE AGREEMENT AUTHORIZED  
19 BY THIS TITLE.

20 (E) "CESSION EFFECTIVE DATE" MEANS THE DATE IDENTIFIED IN A  
21 REINSURANCE AGREEMENT ON WHEN RISK IS TRANSFERRED TO THE PLAN BY THE  
22 CEDING INSURER.

23 (F) "FUND" MEANS THE MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE  
24 STABILIZATION PLAN FUND.

25 (G) "MEDICAL PROFESSIONAL LIABILITY INSURER" MEANS AN INSURER THAT:

26 (1) HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE  
27 COMMISSIONER;

28 (2) IS NOT FORMED UNDER THE CAPTIVE INSURANCE LAWS OF ANY  
29 JURISDICTION OR THE FEDERAL RISK RETENTION ACT; AND

30 (3) ISSUES OR DELIVERS POLICIES OF MEDICAL PROFESSIONAL  
31 LIABILITY INSURANCE IN THE STATE.

32 (H) "PLAN" MEANS THE MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE  
33 STABILIZATION PLAN.

1 (I) "REINSURANCE AGREEMENT" MEANS A CONTRACT BETWEEN THE PLAN  
2 AND A CEDING INSURER THAT IS MADE IN ACCORDANCE WITH THIS TITLE.

3 (J) "STABILIZED RATE" MEANS A RATE THAT:

4 (1) IS DETERMINED BY THE PLAN AND APPROVED BY THE  
5 COMMISSIONER IN ACCORDANCE WITH THIS TITLE; AND

6 (2) IS CHARGED BY A CEDING INSURER THAT ELECTS TO ENTER INTO A  
7 REINSURANCE AGREEMENT WITH THE PLAN.

8 SUBTITLE 2. MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE STABILIZATION  
9 PLAN.

10 29-201.

11 (A) THERE IS A MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE  
12 STABILIZATION PLAN CREATED AS A UNIT IN THE EXECUTIVE DEPARTMENT.

13 (B) THE PURPOSE OF THE PLAN IS:

14 (1) TO PROTECT THE PUBLIC WELFARE AND TO ENSURE THE  
15 CONTINUITY, AFFORDABILITY, AND ACCESSIBILITY OF HEALTH CARE FOR CITIZENS  
16 OF THE STATE; AND

17 (2) TO STABILIZE THE RATES APPLICABLE TO MEDICAL PROFESSIONAL  
18 LIABILITY INSURANCE BY:

19 (I) ALLOWING A MEDICAL PROFESSIONAL LIABILITY INSURER TO  
20 ISSUE MEDICAL PROFESSIONAL LIABILITY INSURANCE AT A RATE THAT IS LESS  
21 THAN ITS APPROVED RATE; AND

22 (II) MAKING FUNDS AVAILABLE TO THE MEDICAL PROFESSIONAL  
23 LIABILITY INSURER THROUGH REINSURANCE IN AN AMOUNT EQUAL TO THE  
24 DIFFERENCE BETWEEN THE PREMIUM EARNED BY THE APPLICATION OF THE  
25 CEDING INSURER'S STABILIZED RATE AND THE PREMIUM THAT WOULD HAVE BEEN  
26 EARNED BY APPLICATION OF THE CEDING INSURER'S APPROVED RATE.

27 (C) THE PLAN IS AN INDEPENDENT UNIT IN THE EXECUTIVE BRANCH OF  
28 STATE GOVERNMENT.

29 29-202.

30 (A) THERE IS A BOARD OF DIRECTORS OF THE PLAN.

31 (B) THE PLAN SHALL OPERATE SUBJECT TO THE SUPERVISION AND CONTROL  
32 OF THE BOARD.

33 (C) THE BOARD SHALL BE COMPOSED OF FIVE MEMBERS, INCLUDING:

34 (1) THREE MEMBERS APPOINTED BY THE GOVERNOR;

- 1           (2)     ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE; AND
- 2           (3)     ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF  
3 DELEGATES.
- 4     (D)     OF THE THREE MEMBERS APPOINTED BY THE GOVERNOR, ONE SHALL  
5 HAVE EXPERIENCE AND EXPERTISE IN MEDICAL PROFESSIONAL LIABILITY  
6 INSURANCE MATTERS.
- 7     (E)     A MEMBER OF THE BOARD MAY NOT BE EMPLOYED BY OR AFFILIATED  
8 WITH ANY ENTITY THAT OFFERS OR PROVIDES MEDICAL PROFESSIONAL LIABILITY  
9 INSURANCE TO HEALTH CARE PROVIDERS IN THE STATE.
- 10    (F)     (1)     THE TERM OF A MEMBER IS 4 YEARS.
- 11           (2)     THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE  
12 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON THE EFFECTIVE DATE OF THIS  
13 SECTION.
- 14           (3)     AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
15 SUCCESSOR IS APPOINTED AND QUALIFIES.
- 16           (4)     A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
17 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
18 QUALIFIES.
- 19           (5)     A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.
- 20    (G)     THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR  
21 MISCONDUCT.
- 22    (H)     FROM AMONG THE MEMBERS, THE GOVERNOR SHALL APPOINT THE  
23 CHAIRMAN.
- 24    (I)     A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A  
25 QUORUM.
- 26    (J)     THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS  
27 MEETINGS.
- 28    (K)     A MEMBER OF THE BOARD:
- 29           (1)     MAY NOT RECEIVE COMPENSATION; BUT
- 30           (2)     IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
31 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

1 29-203.

2 (A) (1) WITH THE APPROVAL OF THE GOVERNOR, THE BOARD SHALL  
3 APPOINT AN EXECUTIVE DIRECTOR WHO SHALL BE THE CHIEF ADMINISTRATIVE  
4 OFFICER OF THE PLAN.

5 (2) IF THE BOARD DETERMINES THAT THE OPERATION OF THE PLAN  
6 MAY BE ADMINISTERED SUITABLY AND EFFICIENTLY BY A THIRD PARTY, THE BOARD  
7 MAY, IN LIEU OF APPOINTING AN EXECUTIVE DIRECTOR, WITH THE APPROVAL OF  
8 THE GOVERNOR, ENTER INTO A CONTRACT, NOT TO EXCEED 5 YEARS IN DURATION,  
9 WITH A THIRD PARTY TO ADMINISTER THE OPERATION OF THE PLAN UNDER THE  
10 CONTINUING DIRECTION OF THE BOARD.

11 (B) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

12 (C) THE BOARD SHALL DETERMINE THE APPROPRIATE COMPENSATION FOR  
13 THE EXECUTIVE DIRECTOR, AS PROVIDED IN THE STATE BUDGET.

14 (D) THE EXECUTIVE DIRECTOR SHALL:

15 (1) MANAGE THE DAY-TO-DAY OPERATION AND OVERSIGHT OF THE  
16 PLAN IN CONFORMITY WITH THE DIRECTIONS OF THE BOARD;

17 (2) REPORT ON THE OPERATION OF THE PLAN TO THE BOARD;

18 (3) HIRE, WITH THE CONSENT OF THE BOARD, THE PERSONNEL  
19 NECESSARY TO CONDUCT THE BUSINESS OF THE PLAN; AND

20 (4) RETAIN, WITH THE CONSENT OF THE BOARD, PROFESSIONAL  
21 CONSULTANTS, INCLUDING ACTUARIES, ACCOUNTANTS, AUDITORS, AND  
22 INVESTMENT ADVISERS.

23 SUBTITLE 3. MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE STABILIZATION  
24 PLAN FUND.

25 29-301.

26 (A) THERE IS A MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE  
27 STABILIZATION PLAN FUND.

28 (B) (1) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT  
29 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

30 (2) SUBJECT TO SUBSECTION (G) OF THIS SECTION, ANY UNSPENT  
31 PORTIONS OF THE FUND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL  
32 FUND OR ANY SPECIAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND TO BE  
33 USED FOR THE PURPOSES SPECIFIED IN THIS TITLE.

34 (3) THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER  
35 SHALL SEPARATELY ACCOUNT FOR THE FUND.

1           (4)     THE FUND SHALL BE INVESTED AND REINVESTED AT THE  
2 DIRECTION OF THE BOARD.

3           (5)     ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT  
4 OF THE FUND.

5       (C)     THE FUND CONSISTS OF:

6           (1)     MONEY APPROPRIATED BY THE STATE TO THE FUND;

7           (2)     INCOME FROM INVESTMENTS THAT THE BOARD MAKES OR  
8 AUTHORIZES ON BEHALF OF THE FUND;

9           (3)     INTEREST ON DEPOSITS OR INVESTMENTS OF MONEY FROM THE  
10 FUND;

11          (4)     MONEY COLLECTED BY THE BOARD AS A RESULT OF LEGAL OR  
12 OTHER ACTIONS TAKEN BY THE BOARD ON BEHALF OF THE FUND;

13          (5)     MONEY DONATED TO THE FUND; AND

14          (6)     MONEY AWARDED TO THE FUND THROUGH GRANTS.

15       (D)     THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET FOR FISCAL  
16 YEAR 2006 AND FISCAL YEAR 2007 AN APPROPRIATION TO THE FUND.

17       (E)     THE ASSETS OF THE FUND MAY BE USED ONLY:

18           (1)     TO PAY THE ADMINISTRATIVE EXPENSES OF THE PLAN AND THE  
19 FUND, INCLUDING THE PURCHASE OF COMMERCIAL REINSURANCE BY THE PLAN;  
20 AND

21           (2)     TO SATISFY THE CONTRACTUAL OBLIGATIONS ASSUMED BY THE  
22 PLAN UNDER REINSURANCE AGREEMENTS ISSUED BY THE PLAN IN ACCORDANCE  
23 WITH THIS TITLE.

24       (F)     AT LEAST ANNUALLY, THE PLAN SHALL ACTUARIALLY DETERMINE AND  
25 ESTABLISH RESERVES WITHIN THE FUND FOR LOSSES ANTICIPATED UNDER  
26 REINSURANCE AGREEMENTS ISSUED BY THE PLAN.

27       (G)     EACH SEPTEMBER 1:

28           (1)     THE PLAN SHALL DETERMINE THE AGGREGATE MAXIMUM  
29 CONTRACTUAL LIABILITY OF THE PLAN UNDER ALL REINSURANCE AGREEMENTS  
30 ISSUED BY THE PLAN, PLUS ALL INCURRED EXPENSES AND LIABILITIES OF THE  
31 PLAN; AND

32           (2)     UNSPENT PORTIONS OF THE FUND THAT EXCEED THE AMOUNT  
33 DETERMINED SHALL REVERT TO THE GENERAL FUND.

## SUBTITLE 4. REINSURANCE AGREEMENTS.

2 29-401.

3 (A) (1) THE PLAN IS AUTHORIZED TO ENTER INTO REINSURANCE  
4 AGREEMENTS WITH MEDICAL PROFESSIONAL LIABILITY INSURERS.

5 (2) ALL REINSURANCE AGREEMENTS ISSUED BY THE PLAN IN  
6 CALENDAR YEAR 2005 SHALL HAVE A CESSION EFFECTIVE DATE OF JANUARY 1, 2005  
7 OR THE EFFECTIVE DATE OF THE LAST RATE INCREASE APPROVED FOR THE CEDING  
8 INSURER BY THE COMMISSIONER, WHICHEVER IS LATER IN TIME, REGARDLESS OF  
9 THE ACTUAL DATE ON WHICH THE REINSURANCE AGREEMENT IS ISSUED.

10 (B) THE PLAN AND THE COMMISSIONER JOINTLY SHALL ADOPT  
11 REGULATIONS THAT ESTABLISH:

12 (1) THE SCOPE OF THE RISKS ASSUMED BY A MEDICAL PROFESSIONAL  
13 LIABILITY INSURER THAT MAY BE CEDED TO THE PLAN;

14 (2) THE TERMS OF THE REINSURANCE AGREEMENTS TO BE ISSUED BY  
15 THE PLAN, PROVIDED THAT ANY AGREEMENT ISSUED BY THE PLAN:

16 (I) SHALL HAVE A TERM OF NOT MORE THAN 1 YEAR;

17 (II) MAY NOT HAVE A CESSION EFFECTIVE DATE PRIOR TO  
18 JANUARY 1, 2005;

19 (III) MAY NOT ALLOW ANY RISK TO BE CEDED TO THE PLAN AFTER  
20 DECEMBER 31, 2007;

21 (IV) SHALL LIMIT THE LIABILITY OF THE PLAN TO:

22 1. THE DIFFERENCE BETWEEN THE PREMIUM EARNED BY  
23 THE APPLICATION OF THE CEDING INSURER'S STABILIZED RATE AND THE PREMIUM  
24 THAT WOULD HAVE BEEN EARNED BY THE APPLICATION OF THE CEDING INSURER'S  
25 APPROVED RATE; AND

26 2. INTEREST ON THE DIFFERENCE CALCULATED IN A  
27 MANNER DETERMINED BY THE PLAN;

28 (V) SHALL CONTAIN A CLAUSE THAT PROVIDES THAT ALL  
29 OBLIGATIONS UNDER THE REINSURANCE AGREEMENT SHALL BE EXTINGUISHED  
30 AND RELEASED 6 YEARS FROM THE CESSION EFFECTIVE DATE OR BY DECEMBER 31,  
31 2012, WHICHEVER IS EARLIER IN TIME, TO THE CEDING INSURER IN CONSIDERATION  
32 OF THE PLAN'S PAYMENT OF AN AMOUNT TO BE DETERMINED THROUGH A FORMULA  
33 DEVELOPED BY THE PLAN AND SET FORTH IN THE REINSURANCE AGREEMENT; AND

34 (VI) SHALL INCLUDE A CLAUSE THAT PLAINLY STATES THAT ALL  
35 DEBTS, OBLIGATIONS, AND LIABILITIES OF THE PLAN UNDER REINSURANCE  
36 AGREEMENTS ISSUED BY THE PLAN DO NOT CONSTITUTE DEBTS, OBLIGATIONS, OR

1 LIABILITIES OF THE STATE OR THE STATE'S AGENCIES, INSTRUMENTALITIES,  
2 OFFICERS, OR EMPLOYEES TO WHICH THE FULL FAITH AND CREDIT OF THE STATE IS  
3 PLEDGED;

4 (3) PROCEDURES FOR CEDING INSURERS TO OBTAIN PAYMENTS FROM  
5 THE FUND UNDER REINSURANCE AGREEMENTS ISSUED BY THE PLAN; AND

6 (4) THE METHOD BY WHICH THE PLAN WILL DETERMINE THE  
7 STABILIZED RATE FOR A CEDING INSURER UNDER A REINSURANCE AGREEMENT  
8 ISSUED BY THE PLAN, PROVIDED THAT THE REGULATIONS SHALL REQUIRE THAT:

9 (I) A STABILIZED RATE MAY NOT BE LESS THAN THE APPROVED  
10 RATE IN EFFECT FOR THE CEDING INSURER AS OF DECEMBER 31, 2004; AND

11 (II) THE APPLICATION OF THE STABILIZED RATES BY ALL CEDING  
12 INSURERS MAY NOT RESULT IN AN AGGREGATE LIABILITY TO THE FUND THAT  
13 EXCEEDS THE AMOUNT OF THE APPROPRIATIONS TO THE FUND, MINUS THE  
14 PROJECTED EXPENSES OF THE FUND.

15 (C) THE REGULATIONS MAY AUTHORIZE DIFFERENT STABILIZED RATES FOR  
16 DIFFERENT HEALTH CARE PROVIDERS INSURED BY A CEDING INSURER, BASED ON  
17 PROFESSION OR AREA OF PRACTICE.

18 (D) (1) ALL DEBTS, OBLIGATIONS, AND LIABILITIES OF THE PLAN,  
19 INCLUDING THE OBLIGATIONS ASSUMED BY THE PLAN UNDER REINSURANCE  
20 AGREEMENTS ISSUED BY THE PLAN, SHALL BE THE DEBTS, OBLIGATIONS, AND  
21 LIABILITIES OF THE PLAN AND THE FUND ONLY AND NOT OF THE STATE OR THE  
22 STATE'S AGENCIES, INSTRUMENTALITIES, OFFICERS, OR EMPLOYEES.

23 (2) A DEBT OR OBLIGATION OF THE PLAN, INCLUDING AN OBLIGATION  
24 ASSUMED BY THE PLAN UNDER A REINSURANCE AGREEMENT ISSUED BY THE PLAN,  
25 IS NOT A DEBT OF THE STATE OR A PLEDGE OF CREDIT OF THE STATE.

26 29-402.

27 (A) (1) BEFORE ANY REINSURANCE AGREEMENT BETWEEN THE PLAN AND  
28 A CEDING INSURER MAY BE ISSUED, THE PLAN SHALL SUBMIT THE REINSURANCE  
29 AGREEMENT TO THE COMMISSIONER FOR APPROVAL.

30 (2) THE COMMISSIONER SHALL REVIEW REINSURANCE AGREEMENTS  
31 SUBMITTED BY THE PLAN TO DETERMINE WHETHER THEY COMPLY WITH THE  
32 REQUIREMENTS OF THE REGULATIONS ADOPTED UNDER THIS SUBTITLE AND THE  
33 PURPOSES OF THIS TITLE.

34 (B) (1) BEFORE ANY STABILIZED RATE DETERMINED BY THE PLAN MAY BE  
35 IMPLEMENTED BY A CEDING INSURER, THE PLAN SHALL SUBMIT THE RATE TO THE  
36 COMMISSIONER FOR APPROVAL.

1 (2) THE COMMISSIONER SHALL REVIEW THE STABILIZED RATES  
2 SUBMITTED BY THE PLAN TO DETERMINE WHETHER THE RATES COMPLY WITH THE  
3 REGULATIONS ADOPTED UNDER THIS SUBTITLE AND THE PURPOSES OF THIS TITLE.

4 29-403.

5 (A) IF A CEDING INSURER ENTERS INTO A REINSURANCE AGREEMENT WITH  
6 THE PLAN, THE CEDING INSURER MAY ONLY CHARGE ITS STABILIZED RATE FOR ANY  
7 MEDICAL PROFESSIONAL LIABILITY INSURANCE POLICY ISSUED BY THE CEDING  
8 INSURER AFTER THE CESSION EFFECTIVE DATE.

9 (B) TO THE EXTENT THAT A CEDING INSURER HAS CHARGED AND COLLECTED  
10 PREMIUM IN EXCESS OF THE AMOUNT OF PREMIUM DUE BY THE APPLICATION OF  
11 ITS STABILIZED RATE:

12 (1) IF THE PREMIUM HAS BEEN PAID IN FULL, THE CEDING INSURER  
13 SHALL REFUND THE EXCESS TO ITS POLICYHOLDER WITHIN 60 DAYS OF THE  
14 ISSUANCE OF THE REINSURANCE AGREEMENT THAT SETS FORTH THE STABILIZED  
15 RATE; AND

16 (2) IF THE PREMIUM IS BEING PAID IN ACCORDANCE WITH AN  
17 APPROVED INSTALLMENT PLAN, THE CEDING INSURER SHALL CREDIT THE EXCESS,  
18 IN FULL, TO THE NEXT INSTALLMENT PAYMENT DUE FROM THE POLICYHOLDER.

19 (C) A CEDING INSURER THAT CONDUCTS BUSINESS AS A MUTUAL COMPANY  
20 MAY NOT ISSUE A DIVIDEND DURING THE TERM OF A REINSURANCE AGREEMENT.

21 SUBTITLE 5. REPORTS.

22 29-501.

23 (A) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE PLAN SHALL SUBMIT A  
24 REPORT TO THE GOVERNOR, THE COMMISSIONER, AND, SUBJECT TO § 2-1246 OF THE  
25 STATE GOVERNMENT ARTICLE, TO THE PRESIDENT OF THE SENATE AND THE  
26 SPEAKER OF THE HOUSE OF DELEGATES THAT INCLUDES:

27 (1) A SUMMARY OF THE PLAN'S ACTIVITIES;

28 (2) A STATEMENT OF THE LOSSES ANTICIPATED UNDER REINSURANCE  
29 AGREEMENTS ISSUED BY THE PLAN;

30 (3) A STATEMENT OF CLAIMS MADE AGAINST THE PLAN;

31 (4) A STATEMENT OF THE VALUE OF THE FUND AND THE RESERVES  
32 WITHIN THE FUND;

33 (5) A STATEMENT OF EXPENSES INCURRED BY THE PLAN; AND

34 (6) ANY OTHER INFORMATION THAT THE PLAN CONSIDERS  
35 APPROPRIATE OR THAT THE COMMISSIONER REQUIRES.

1 (B) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE PLAN SHALL SUBMIT TO  
2 THE GOVERNOR A RECOMMENDATION BY THE PLAN REGARDING THE AMOUNT OF  
3 MONEY TO BE APPROPRIATED TO THE FUND IN THE NEXT FISCAL YEAR.

4 29-502.

5 THE PLAN IS SUBJECT TO § 19-112 OF THIS ARTICLE.

6 **Article - State Finance and Procurement**

7 11-203.

8 (a) Except as provided in subsection (b) of this section, this Division II does  
9 not apply to:

10 (1) procurement by:

11 (xviii) the Maryland Energy Administration, when negotiating or  
12 entering into grants or cooperative agreements with private entities to meet federal  
13 specifications or solicitation requirements related to energy conservation, energy  
14 efficiency, or renewable energy products that benefit the State; [and]

15 (xix) the Maryland Developmental Disabilities Administration of the  
16 Department of Health and Mental Hygiene for family and individual support services,  
17 and individual family care services, as those terms are defined by the Department of  
18 Health and Mental Hygiene in regulation; AND

19 (XX) THE MARYLAND MEDICAL PROFESSIONAL LIABILITY RATE  
20 STABILIZATION PLAN ESTABLISHED UNDER TITLE 29 OF THE INSURANCE ARTICLE.

21 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 3-2A-01(b)  
22 and (e) and 3-2A-03 through 3-2A-07, inclusive, of Article - Courts and Judicial  
23 Proceedings of the Annotated Code of Maryland be repealed.

24 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 3-2A-01(c),  
25 (d), and (f) through (m), respectively, of Article - Courts and Judicial Proceedings of  
26 the Annotated Code of Maryland be renumbered to be Section(s) 3-2A-01 (b), (c), and  
27 (d) through (k), respectively.

28 SECTION 7. AND BE IT FURTHER ENACTED, That §§ 3-2A-06E and  
29 3-2A-08A of the Courts Article, as enacted by Section 1 of this Act, shall be construed  
30 to apply only prospectively and may not be applied or interpreted to have any effect  
31 on or application to any case filed before the effective date of this Act.

32 SECTION 8. AND BE IT FURTHER ENACTED, That Section 3 of this Act  
33 shall be construed to apply only prospectively to an initial complaint filed on or after  
34 the effective date of this Act.

1 SECTION 9. AND BE IT FURTHER ENACTED, That the terms of the initial  
2 members of the Board of Directors for the Maryland Medical Professional Liability  
3 Reinsurance Program shall expire as follows:

4 (1) One of the members appointed by the Governor on the first  
5 anniversary of the effective date of this Act;

6 (2) The member appointed by the Speaker of the House of Delegates on  
7 the second anniversary of the effective date of this Act;

8 (3) The member appointed by the President of the Senate of Maryland on  
9 the third anniversary of the effective date of this Act; and

10 (4) The remaining two members appointed by the Governor on the fourth  
11 anniversary of the effective date of this Act.

12 SECTION 10. AND BE IT FURTHER ENACTED, That on January 1, 2013,  
13 any money that remains in the Maryland Medical Professional Liability Rate  
14 Stabilization Plan Fund shall be transferred to the General Fund of the State.

15 SECTION 11. AND BE IT FURTHER ENACTED, That on January 1, 2013, in  
16 accordance with § 10-702 of the State Government Article, all records of the  
17 Maryland Medical Professional Liability Rate Stabilization Plan shall be transferred  
18 to the State Archives and all other property of the Maryland Medical Professional  
19 Liability Rate Stabilization Plan shall be transferred to the Board of Public Works.

20 SECTION 12. AND BE IT FURTHER ENACTED, That if any provision of this  
21 Act or the application thereof to any person or circumstance is held invalid for any  
22 reason in a court of competent jurisdiction, the invalidity does not affect other  
23 provisions or any other application of this Act which can be given effect without the  
24 invalid provision or application, and for this purpose the provisions of this Act are  
25 declared severable.

26 SECTION 13. AND BE IT FURTHER ENACTED, That the Director of the  
27 Health Claims Arbitration Office shall notify in writing the Department of Legislative  
28 Services, 90 State Circle, Annapolis, Maryland 21401 on the date when there are no  
29 claims pending before the Health Claims Arbitration Office.

30 SECTION 14. AND BE IT FURTHER ENACTED, That the State has placed a  
31 high priority on improving patient safety in Maryland hospitals. Recent efforts have  
32 included the Maryland Health Care Commission's designation of the Maryland  
33 Patient Safety Center with funding support from the Health Services Cost Review  
34 Commission, adoption of enhanced patient safety regulations by the Department of  
35 Health and Mental Hygiene, and implementation of new patient safety criteria for  
36 hospital capital expenditures under the certificate of need program. In order to  
37 further these efforts, the Health Services Cost Review Commission shall include a  
38 reasonable amount of additional funding in hospital approved rates for hospital  
39 patient safety related initiatives and infrastructure.

1       SECTION 15. AND BE IT FURTHER ENACTED, That an insurer, nonprofit  
2 health service plan, health maintenance organization, dental plan organization, or  
3 any other person that provides health benefit plans subject to regulation by the State  
4 may not reimburse an obstetrician, neurologist, orthopedist, or emergency room  
5 physician in an amount less than the global fee, capitation rate, or per unit sum or  
6 rate being paid to the health care practitioner on November 1, 2004.

7       SECTION 16. AND BE IT FURTHER ENACTED, That Sections 2, 5, and 6 of  
8 this Act shall take effect contingent on the written notification of the Director of the  
9 Health Claims Arbitration Office sent to the Department of Legislative Services  
10 under Section 13 of this Act.

11       SECTION 17. AND BE IT FURTHER ENACTED, That Section 4 of this Act is  
12 an emergency measure, is necessary for the immediate preservation of the public  
13 health or safety, has been passed by a ye and nay vote supported by three-fifths of  
14 all the members elected to each of the two Houses of the General Assembly, and shall  
15 take effect from the date it is enacted. It shall remain effective through December 31,  
16 2012, and at the end of December 31, 2012, with no further action required by the  
17 General Assembly, Section 4 of this Act shall be abrogated and of no further force and  
18 effect.

19       SECTION 18. AND BE IT FURTHER ENACTED, That, subject to Sections 16  
20 and 17 of this Act, this Act is an emergency measure, is necessary for the immediate  
21 preservation of the public health or safety, has been passed by a ye and nay vote  
22 supported by three-fifths of all the members elected to each of the two Houses of the  
23 General Assembly, and shall take effect from the date it is enacted.