

(PRE-FILED)

By: **Delegate Boschert**

Requested: September 7, 2004

Introduced and read first time: January 12, 2005

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Patient Protection Insurance**

3 FOR the purpose of authorizing the Insurance Commissioner to issue a limited lines
4 license to physicians who sell policies of patient protection insurance under
5 certain circumstances; establishing a program to provide certain patient
6 protection insurance in the State; requiring the program to obtain the approval
7 of the Commissioner; requiring physicians to pay a certain fee to participate in
8 the program; requiring a policy of patient protection insurance to provide
9 certain coverage; setting a certain maximum allowable amount of coverage
10 under a policy; prohibiting an insured under a policy from determining any
11 issue of professional negligence by lawsuit or resort to court process; requiring
12 the Commissioner to adopt certain regulations; defining certain terms; and
13 generally relating to patient protection insurance.

14 BY repealing and reenacting, without amendments,
15 Article - Insurance
16 Section 10-122
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2004 Supplement)

19 BY adding to
20 Article - Insurance
21 Section 10-122.1
22 Annotated Code of Maryland
23 (2003 Replacement Volume and 2004 Supplement)

24 BY adding to
25 Article - Insurance
26 Section 15-1104
27 Annotated Code of Maryland
28 (2002 Replacement Volume and 2004 Supplement)

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

3 **Article - Insurance**

4 10-122.

5 (a) Without regard to the education, experience, or examination requirements
6 of this subtitle, the Commissioner may issue a limited lines license to an individual
7 who sells transportation tickets of a common carrier of persons and property.

8 (b) A limited lines license issued under this section authorizes the holder to
9 act as an insurance producer only as to travel ticket policies of life insurance, accident
10 insurance, or baggage insurance on personal effects.

11 (c) The Commissioner may require and provide special forms requiring
12 information the Commissioner considers proper in connection with the application for
13 or renewal of limited lines licenses issued under this section.

14 10-122.1.

15 (A) WITHOUT REGARD TO THE EDUCATION, EXPERIENCE, OR EXAMINATION
16 REQUIREMENTS OF THIS SUBTITLE, THE COMMISSIONER MAY ISSUE A LIMITED
17 LINES LICENSE TO A PHYSICIAN WHO SELLS POLICIES OF PATIENT PROTECTION
18 INSURANCE IN THE OFFICE OF THE PHYSICIAN TO PATIENTS OF THE PHYSICIAN.

19 (B) A LIMITED LINES LICENSE ISSUED UNDER THIS SECTION AUTHORIZES
20 THE HOLDER TO ACT AS AN INSURANCE PRODUCER ONLY AS TO POLICIES OF
21 PATIENT PROTECTION INSURANCE.

22 (C) THE COMMISSIONER MAY REQUIRE AND PROVIDE SPECIAL FORMS
23 REQUIRING INFORMATION THE COMMISSIONER CONSIDERS PROPER IN
24 CONNECTION WITH THE APPLICATION FOR RENEWAL OF LIMITED LINES LICENSES
25 ISSUED UNDER THIS SECTION.

26 15-1104.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (2) "PATIENT PROTECTION INSURANCE" MEANS A POLICY OF
30 INSURANCE THAT:

31 (I) HAS AS ITS DOMINANT FEATURE THE PROTECTION OF THE
32 INSURED FROM THE HAZARD OF PROFESSIONAL NEGLIGENCE DURING A MEDICAL
33 PROCEDURE OR OPERATION; AND

34 (II) IS SOLD IN THE OFFICES OF PHYSICIANS BY PHYSICIANS
35 ENGAGED IN PROVIDING MEDICAL PROCEDURES OR OPERATIONS TO INDIVIDUALS.

1 (3) "PHYSICIAN" MEANS AN INDIVIDUAL WHO IS LICENSED UNDER THE
2 HEALTH OCCUPATIONS ARTICLE TO PRACTICE MEDICINE.

3 (4) "PROFESSIONAL NEGLIGENCE" MEANS A NEGLIGENT ACT OR
4 OMISSION TO ACT BY A PHYSICIAN IN THE RENDERING OF PROFESSIONAL SERVICES,
5 IF THE ACT OR OMISSION IS THE PROXIMATE CAUSE OF A PERSONAL INJURY OR
6 WRONGFUL DEATH AND IF THE SERVICES ARE WITHIN THE SCOPE OF SERVICES FOR
7 WHICH THE PHYSICIAN IS LICENSED.

8 (B) (1) THERE SHALL BE A PROGRAM TO PROVIDE PATIENT PROTECTION
9 INSURANCE IN THE STATE.

10 (2) BEFORE THE PROGRAM MAY OPERATE, THE PROGRAM MUST OBTAIN
11 THE APPROVAL OF THE COMMISSIONER.

12 (3) THE PROGRAM MAY OPERATE AS A SELF-INSURANCE GROUP FOR
13 PHYSICIANS TO OFFER POLICIES OF PATIENT PROTECTION INSURANCE TO
14 INDIVIDUALS WHO WILL UNDERGO MEDICAL PROCEDURES OR OPERATIONS
15 PERFORMED BY THE PHYSICIANS.

16 (4) TO PARTICIPATE IN THIS PROGRAM, A PHYSICIAN SHALL PAY A FEE
17 INTO THE PROGRAM.

18 (5) THE FEE SHALL BE IN THE AMOUNT OF A PERCENTAGE OF THE
19 MEDICAL PROFESSIONAL LIABILITY INSURANCE PREMIUM THAT THE PHYSICIAN
20 WOULD OTHERWISE PAY TO THE PHYSICIAN'S MEDICAL PROFESSIONAL LIABILITY
21 INSURER.

22 (C) A POLICY OF PATIENT PROTECTION INSURANCE SHALL PROVIDE
23 COVERAGE IN THE AMOUNT PURCHASED FOR ACCIDENTAL DEATH OR INJURY THAT
24 OCCURS DURING A MEDICAL PROCEDURE OR OPERATION.

25 (D) THE MAXIMUM ALLOWABLE COVERAGE UNDER A POLICY OF PATIENT
26 PROTECTION INSURANCE IS \$500,000 PER INSURED PER COVERED PROCEDURE.

27 (E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A POLICY OF
28 PATIENT PROTECTION INSURANCE MAY NOT BE SOLD IN THE STATE UNLESS IT
29 CONFORMS TO THE GENERAL PROVISIONS OF THIS TITLE THAT RELATE TO HEALTH
30 INSURANCE.

31 (F) (1) AN INSURED UNDER A POLICY OF PATIENT PROTECTION INSURANCE
32 SHALL AGREE THAT:

33 (I) ANY ISSUE OF LIABILITY FOR PROFESSIONAL NEGLIGENCE IS
34 WAIVED ONCE PAYMENT IS MADE TO THE INSURED UNDER THE TERMS OF THE
35 POLICY; AND

36 (II) THE INSURED WILL NOT DETERMINE ANY ISSUE OF
37 PROFESSIONAL NEGLIGENCE BY A LAWSUIT OR RESORT TO COURT PROCESS.

1 (2) BOTH PARTIES TO A CONTRACT UNDER THIS SUBSECTION ARE
2 GIVING UP THEIR RIGHT TO HAVE ANY DISPUTE DECIDED IN A COURT OF LAW
3 BEFORE A JURY AND INSTEAD ARE ACCEPTING THE TERMS OF THE POLICY AS TO
4 ISSUES OF PROFESSIONAL NEGLIGENCE.

5 (G) THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT THIS
6 SECTION.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2005.