

(PRE-FILED)

By: **Delegate Boschert**
 Requested: August 9, 2004
 Introduced and read first time: January 12, 2005
 Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Association Health Plan Act**

3 FOR the purpose of authorizing an Association Health Benefit Plan as a health
 4 benefit plan for the association market; specifying the persons to which an
 5 association or a consortium of associations may offer an Association Health
 6 Benefit Plan; establishing certain requirements that a health insurance carrier
 7 must meet before the carrier may sell an Association Health Benefit Plan;
 8 authorizing an Association Health Benefit Plan to exclude certain health care
 9 services, benefits, coverages, or reimbursements; prohibiting a carrier from
 10 limiting coverage for a preexisting condition and from applying an exclusion of
 11 coverage for preexisting conditions to certain health care services; authorizing a
 12 certain exception; authorizing certain deductibles and cost sharing to exceed
 13 certain standard amounts, under certain circumstances; providing that certain
 14 requirements and limitations do not apply to an Association Health Benefit
 15 Plan; requiring a carrier to use a certain methodology in establishing a rate for
 16 an Association Health Benefit Plan; specifying certain risk adjustment factors
 17 and the manner in which they must be applied; requiring a carrier to file an
 18 actuarial certification with the Maryland Insurance Commissioner on or before
 19 a certain date each year, in a certain form, and based on a certain examination;
 20 requiring the Commissioner to adopt certain regulations; defining certain
 21 terms; and generally relating to an Association Health Benefit Plan.

22 BY adding to
 23 Article - Insurance
 24 Section 15-1701 through 15-1710, inclusive, to be under the new subtitle
 25 "Subtitle 17. Maryland Association Health Plan Act"
 26 Annotated Code of Maryland
 27 (2002 Replacement Volume and 2004 Supplement)

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

1 **Article - Insurance**

2 SUBTITLE 17. MARYLAND ASSOCIATION HEALTH PLAN ACT.

3 15-1701.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "ASSOCIATION" MEANS AN ASSOCIATION THAT:

7 (1) HAS BEEN ACTIVELY IN EXISTENCE FOR AT LEAST 3 YEARS;

8 (2) HAS BEEN FORMED AND MAINTAINED IN GOOD FAITH FOR
9 PURPOSES OTHER THAN OBTAINING INSURANCE;10 (3) DOES NOT CONDITION MEMBERSHIP IN THE ASSOCIATION ON THE
11 PURCHASE OF ASSOCIATION-SPONSORED INSURANCE;12 (4) DOES NOT CONDITION MEMBERSHIP IN THE ASSOCIATION ON ANY
13 HEALTH STATUS-RELATED FACTOR RELATING TO AN INDIVIDUAL AND STATES THIS
14 CLEARLY IN ALL MEMBERSHIP AND APPLICATION MATERIALS;15 (5) MAKES HEALTH INSURANCE COVERAGE OFFERED THROUGH THE
16 ASSOCIATION AVAILABLE TO ALL MEMBERS REGARDLESS OF ANY HEALTH
17 STATUS-RELATED FACTOR RELATING TO THE MEMBERS OR INDIVIDUALS ELIGIBLE
18 FOR COVERAGE THROUGH A MEMBER AND STATES THIS CLEARLY IN ALL
19 MEMBERSHIP AND APPLICATION MATERIALS;20 (6) DOES NOT MAKE HEALTH INSURANCE COVERAGE OFFERED
21 THROUGH THE ASSOCIATION AVAILABLE OTHER THAN IN CONNECTION WITH
22 MEMBERSHIP IN THE ASSOCIATION AND STATES THIS CLEARLY IN ALL MARKETING
23 AND APPLICATION MATERIALS; AND24 (7) (I) HAS AN AFFILIATION WITH A PROFESSION, INDUSTRY, OR
25 TRADE;

26 (II) IS A CHAMBER OF COMMERCE; OR

27 (III) IS AN ASSOCIATION OF NONPROFIT ENTITIES.

28 (C) "ASSOCIATION HEALTH BENEFIT PLAN" MEANS A HEALTH BENEFIT PLAN
29 OFFERED BY A CARRIER IN THE ASSOCIATION MARKET IN ACCORDANCE WITH THIS
30 SUBTITLE.

31 (D) "CARRIER" MEANS A PERSON THAT IS:

32 (1) AN AUTHORIZED INSURER THAT PROVIDES HEALTH INSURANCE IN
33 THE STATE;

1 (2) A NONPROFIT HEALTH SERVICE PLAN THAT IS LICENSED TO
2 OPERATE IN THE STATE;

3 (3) A HEALTH MAINTENANCE ORGANIZATION THAT IS LICENSED TO
4 OPERATE IN THE STATE; OR

5 (4) ANY OTHER PERSON OR ORGANIZATION THAT PROVIDES HEALTH
6 BENEFIT PLANS SUBJECT TO STATE INSURANCE REGULATION.

7 (E) "EMPLOYER" MEANS AN EMPLOYER THAT:

8 (1) IS A MEMBER OF THE ASSOCIATION; OR

9 (2) HAS A PARTNER, OFFICER, OR DIRECTOR THAT IS:

10 (I) AN INDIVIDUAL MEMBER OF THE ASSOCIATION; AND

11 (II) AN ACTIVE PARTICIPANT IN THE EMPLOYER'S BUSINESS.

12 (F) (1) "HEALTH BENEFIT PLAN" MEANS:

13 (I) A POLICY OR CERTIFICATE FOR HOSPITAL OR MEDICAL
14 BENEFITS;

15 (II) A NONPROFIT HEALTH SERVICE PLAN;

16 (III) A HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER OR
17 GROUP MASTER CONTRACT; OR

18 (IV) FIXED INDEMNITY INSURANCE.

19 (2) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE:

20 (I) ACCIDENT-ONLY INSURANCE;

21 (II) CREDIT HEALTH INSURANCE;

22 (III) MEDICARE SUPPLEMENT POLICIES;

23 (IV) CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE
24 UNIFORMED SERVICES (CHAMPUS) SUPPLEMENT POLICIES;

25 (V) LONG-TERM CARE INSURANCE;

26 (VI) DISABILITY INCOME INSURANCE;

27 (VII) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY
28 INSURANCE;

29 (VIII) WORKERS' COMPENSATION OR SIMILAR INSURANCE; OR

30 (IX) AUTOMOBILE MEDICAL PAYMENT INSURANCE.

1 (G) "HEALTH STATUS-RELATED FACTOR" MEANS A FACTOR RELATED TO:

2 (1) HEALTH STATUS;

3 (2) MEDICAL CONDITION;

4 (3) CLAIMS EXPERIENCE;

5 (4) RECEIPT OF HEALTH CARE;

6 (5) MEDICAL HISTORY;

7 (6) GENETIC INFORMATION;

8 (7) EVIDENCE OF INSURABILITY INCLUDING CONDITIONS ARISING OUT
9 OF ACTS OF DOMESTIC VIOLENCE; OR

10 (8) DISABILITY.

11 (H) "LATE ENROLLEE" MEANS AN INDIVIDUAL ELIGIBLE FOR COVERAGE
12 UNDER § 15-1702 OF THIS SUBTITLE WHO REQUESTS ENROLLMENT IN AN
13 ASSOCIATION HEALTH BENEFIT PLAN AFTER THE INITIAL ENROLLMENT PERIOD
14 PROVIDED UNDER THE ASSOCIATION HEALTH BENEFIT PLAN.

15 (I) "MEMBER" MEANS A PERSON THAT HAS QUALIFIED AND BEEN ACCEPTED
16 FOR MEMBERSHIP IN AN ASSOCIATION IN ACCORDANCE WITH THE ASSOCIATION'S
17 GOVERNING DOCUMENTS.

18 15-1702.

19 AN ASSOCIATION OR A CONSORTIUM OF ASSOCIATIONS MAY OFFER THE
20 ASSOCIATION HEALTH BENEFIT PLAN ONLY TO A PERSON THAT IS:

21 (1) AN EMPLOYEE OF THE ASSOCIATION;

22 (2) A MEMBER;

23 (3) AN ACTIVE OR RETIRED PARTNER, OFFICER, DIRECTOR, OR ELIGIBLE
24 EMPLOYEE OF A PARTICIPATING EMPLOYER; OR

25 (4) A DEPENDENT OF AN INDIVIDUAL DESCRIBED IN ITEM (1), (2), OR (3)
26 OF THIS SECTION.

27 15-1703.

28 IN ADDITION TO ANY OTHER REQUIREMENT UNDER THIS ARTICLE, BEFORE A
29 CARRIER MAY SELL AN ASSOCIATION HEALTH BENEFIT PLAN, THE CARRIER SHALL:

30 (1) HAVE DEMONSTRATED THE CAPACITY TO ADMINISTER AN
31 ASSOCIATION HEALTH BENEFIT PLAN, INCLUDING ADEQUATE NUMBERS AND TYPES
32 OF ADMINISTRATIVE PERSONNEL;

1 (2) HAVE A SATISFACTORY GRIEVANCE PROCEDURE AND ABILITY TO
2 RESPOND TO CALLS, QUESTIONS, AND COMPLAINTS;

3 (3) PROVIDE, IN THE CASE OF INDIVIDUALS COVERED UNDER MORE
4 THAN ONE HEALTH BENEFIT PLAN, FOR COORDINATION OF COVERAGE UNDER ALL
5 OF THOSE HEALTH BENEFIT PLANS IN AN EQUITABLE MANNER; AND

6 (4) DESIGN POLICIES TO HELP ENSURE ADEQUATE ACCESS TO
7 PROVIDERS OF HEALTH CARE.

8 15-1704.

9 AN ASSOCIATION HEALTH BENEFIT PLAN MAY EXCLUDE:

10 (1) A HEALTH CARE SERVICE, BENEFIT, COVERAGE, OR
11 REIMBURSEMENT FOR COVERED HEALTH CARE SERVICES THAT IS REQUIRED
12 UNDER THIS ARTICLE OR THE HEALTH - GENERAL ARTICLE TO BE PROVIDED OR
13 OFFERED IN A HEALTH BENEFIT PLAN THAT IS ISSUED OR DELIVERED IN THE STATE
14 BY A CARRIER; OR

15 (2) REIMBURSEMENT REQUIRED BY STATUTE, BY A HEALTH BENEFIT
16 PLAN FOR A SERVICE WHEN THAT SERVICE IS PERFORMED BY A HEALTH CARE
17 PROVIDER WHO IS LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE AND
18 WHOSE SCOPE OF PRACTICE INCLUDES THAT SERVICE.

19 15-1705.

20 (A) (1) A CARRIER MAY NOT LIMIT COVERAGE UNDER AN ASSOCIATION
21 HEALTH BENEFIT PLAN FOR A PREEXISTING CONDITION.

22 (2) AN EXCLUSION OF COVERAGE FOR PREEXISTING CONDITIONS MAY
23 NOT BE APPLIED TO HEALTH CARE SERVICES FURNISHED FOR PREGNANCY OR
24 NEWBORNS.

25 (B) (1) THIS SUBSECTION DOES NOT APPLY TO A LATE ENROLLEE IF:

26 (I) THE INDIVIDUAL REQUESTS ENROLLMENT WITHIN 30 DAYS
27 AFTER BECOMING ELIGIBLE FOR COVERAGE UNDER THE ASSOCIATION HEALTH
28 BENEFIT PLAN;

29 (II) A COURT HAS ORDERED COVERAGE TO BE PROVIDED FOR A
30 SPOUSE OR MINOR CHILD OF AN INDIVIDUAL COVERED UNDER THE ASSOCIATION
31 HEALTH BENEFIT PLAN; OR

32 (III) A REQUEST FOR ENROLLMENT IS MADE WITHIN 30 DAYS AFTER
33 THE MARRIAGE, OR THE BIRTH OR ADOPTION OF A CHILD, OF AN INDIVIDUAL
34 COVERED UNDER THE ASSOCIATION HEALTH BENEFIT PLAN.

35 (2) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A LATE
36 ENROLLEE MAY BE SUBJECT TO A 12-MONTH PREEXISTING CONDITION PROVISION.

1 (C) FOR A PERIOD NOT TO EXCEED 6 MONTHS AFTER THE DATE AN
2 INDIVIDUAL BECOMES ELIGIBLE FOR COVERAGE, AN ASSOCIATION HEALTH
3 BENEFIT PLAN MAY REQUIRE DEDUCTIBLES AND COST SHARING FOR BENEFITS FOR
4 A PREEXISTING CONDITION OF THE INDIVIDUAL IN AMOUNTS NOT EXCEEDING 1.5
5 TIMES THE AMOUNT OF THE STANDARD DEDUCTIBLES AND COST SHARING OF
6 OTHER INDIVIDUALS ELIGIBLE FOR COVERAGE IF THE INDIVIDUAL WAS NOT
7 PREVIOUSLY COVERED BY A PUBLIC OR PRIVATE PLAN OF HEALTH INSURANCE OR
8 ANOTHER HEALTH BENEFIT ARRANGEMENT.

9 15-1706.

10 THE REQUIREMENTS AND LIMITATIONS CONTAINED IN SUBTITLE 12 OF THIS
11 TITLE DO NOT APPLY TO AN ASSOCIATION HEALTH BENEFIT PLAN OFFERED OR SOLD
12 UNDER THIS SUBTITLE.

13 15-1707.

14 (A) (1) IN ESTABLISHING A RATE FOR AN ASSOCIATION HEALTH BENEFIT
15 PLAN, A CARRIER SHALL USE A RATING METHODOLOGY THAT IS BASED ON THE
16 EXPERIENCE OF ALL RISKS COVERED BY THE ASSOCIATION HEALTH BENEFIT PLAN
17 WITHOUT REGARD TO HEALTH STATUS OR OCCUPATION OR ANY OTHER FACTOR NOT
18 SPECIFICALLY AUTHORIZED UNDER THIS SUBSECTION.

19 (2) A CARRIER MAY ADJUST THE RATE ONLY FOR:

20 (I) AGE; AND

21 (II) GEOGRAPHY BASED ON THE FOLLOWING CONTIGUOUS AREAS
22 OF THE STATE:

23 1. THE BALTIMORE METROPOLITAN AREA;

24 2. THE DISTRICT OF COLUMBIA METROPOLITAN AREA;

25 3. WESTERN MARYLAND; AND

26 4. EASTERN AND SOUTHERN MARYLAND.

27 (3) RATES FOR AN ASSOCIATION HEALTH BENEFIT PLAN MAY VARY
28 BASED ON FAMILY COMPOSITION AS APPROVED BY THE COMMISSIONER.

29 (B) A CARRIER SHALL APPLY ALL RISK ADJUSTMENT FACTORS UNDER
30 SUBSECTION (A) OF THIS SECTION CONSISTENTLY WITH RESPECT TO ALL
31 ASSOCIATION HEALTH BENEFIT PLANS THAT ARE ISSUED, DELIVERED, OR RENEWED
32 IN THE STATE BY THAT CARRIER.

33 (C) (1) A CARRIER SHALL BASE ITS RATING METHODS AND PRACTICES ON
34 COMMONLY ACCEPTED ACTUARIAL ASSUMPTIONS AND SOUND ACTUARIAL
35 PRINCIPLES.

1 (2) A CARRIER THAT IS A HEALTH MAINTENANCE ORGANIZATION AND
2 THAT INCLUDES A SUBROGATION PROVISION IN ITS CONTRACT AS AUTHORIZED
3 UNDER § 19-713.1(D) OF THE HEALTH - GENERAL ARTICLE SHALL:

4 (I) USE IN ITS RATING METHODOLOGY AN ADJUSTMENT THAT
5 REFLECTS THE SUBROGATION; AND

6 (II) IDENTIFY IN ITS RATE FILING WITH THE INSURANCE
7 ADMINISTRATION, AND ANNUALLY IN A FORM APPROVED BY THE COMMISSIONER,
8 ALL AMOUNTS RECOVERED THROUGH SUBROGATION.

9 15-1708.

10 (A) ON OR BEFORE MARCH 15 OF EACH YEAR, EACH CARRIER SHALL FILE AN
11 ACTUARIAL CERTIFICATION WITH THE COMMISSIONER.

12 (B) THE ACTUARIAL CERTIFICATION SHALL BE WRITTEN IN A FORM THAT
13 THE COMMISSIONER APPROVES BY A MEMBER OF THE AMERICAN ACADEMY OF
14 ACTUARIES OR ANOTHER PERSON ACCEPTABLE TO THE COMMISSIONER AND SHALL
15 STATE THAT THE CARRIER IS IN COMPLIANCE WITH THIS SUBTITLE AND HAS
16 FOLLOWED THE RATING PRACTICES IMPOSED UNDER § 15-1707 OF THIS SUBTITLE.

17 (C) THE ACTUARIAL CERTIFICATION SHALL BE BASED ON AN EXAMINATION
18 THAT INCLUDES A REVIEW OF APPROPRIATE RECORDS AND ACTUARIAL
19 ASSUMPTIONS AND METHODS USED BY THE CARRIER.

20 15-1709.

21 THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
22 SUBTITLE.

23 15-1710.

24 THIS SUBTITLE MAY BE CITED AS THE MARYLAND ASSOCIATION HEALTH PLAN
25 ACT.

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