
By: **Delegates Hubbard, Benson, Bozman, Feldman, Lee, Pendergrass,
Rudolph, Taylor, and V. Turner**

Introduced and read first time: March 2, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Quality Home Care Services Commission**

3 FOR the purpose of establishing the Maryland Quality Home Care Services
4 Commission; providing for the purpose and composition of the Commission;
5 providing for the terms of members of the Commission; requiring the
6 Commission to appoint an executive director; requiring the Commission to
7 consult with certain individual providers before taking certain actions; requiring
8 the Commission to establish certain qualifications and requirements, provide
9 certain training opportunities, provide certain referrals, and coordinate with
10 certain agencies; authorizing the Commission to advise certain agencies on
11 certain regulations; prohibiting the Commission from providing a certain
12 referral under certain circumstances; authorizing the Commission to adopt
13 certain regulations; prohibiting a certain provider from being considered as a
14 certain employee; prohibiting the Commission from being considered the
15 employer of a certain provider for certain purposes; providing that consumers
16 have certain rights concerning the employment of certain providers; prohibiting
17 the Commission from reducing certain hours of certain services; providing for
18 the construction of this Act; requiring the Commission, in consultation with
19 certain entities, to submit a certain report on or before a certain date; requiring
20 the report to include certain information; specifying the terms of the initial
21 members of the Commission; requiring the Department of Health and Mental
22 Hygiene to seek certain federal funding to make a certain report to certain
23 committees of the General Assembly; defining certain terms; and generally
24 relating to the Maryland Quality Home Care Services Commission.

25 BY adding to

26 Article - Health - General

27 Section 20-1101 through 20-1110, inclusive, to be under the new subtitle

28 "Subtitle 11. Maryland Quality Home Care Services Commission"

29 Annotated Code of Maryland

30 (2000 Replacement Volume and 2004 Supplement)

1 Preamble

2 WHEREAS, Thousands of Maryland seniors and individuals with disabilities
3 live independently in their own homes, which they prefer and which is less costly
4 than institutional care such as nursing homes; and

5 WHEREAS, Many Maryland seniors and individuals with disabilities currently
6 receive personal home care services from individual providers hired directly by the
7 individuals under State and federally funded programs; and

8 WHEREAS, Quality personal home care services allow Maryland seniors,
9 individuals with disabilities, and the individuals' families the choice of allowing
10 seniors and individuals with disabilities to remain in their homes, rather than forcing
11 them into institutional care; and

12 WHEREAS, Home- and community-based options are less costly than nursing
13 homes and other institutional care, and therefore save Maryland taxpayers
14 significant amounts of money; and

15 WHEREAS, There is a growing shortage of qualified individuals to provide
16 personal home care services to seniors and individuals with disabilities in the State;
17 and

18 WHEREAS, Consumers are well served by programs that support
19 self-direction, individual autonomy, dignity, and choice; now, therefore,

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

22 **Article - Health - General**

23 SUBTITLE 11. MARYLAND QUALITY HOME CARE SERVICES COMMISSION.

24 20-1101.

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

27 (B) (1) "AGENCY" MEANS A STATE OR LOCAL AGENCY THAT COORDINATES
28 PERSONAL HOME CARE SERVICES THROUGH AN INDIVIDUAL PROVIDER PROGRAM.

29 (2) "AGENCY" INCLUDES:

30 (I) THE DEPARTMENT;

31 (II) THE DEPARTMENT OF HUMAN RESOURCES; AND

32 (III) THE DEPARTMENT OF AGING.

1 (C) "COMMISSION" MEANS THE MARYLAND QUALITY HOME CARE SERVICES
2 COMMISSION.

3 (D) "CONSUMER" MEANS AN INDIVIDUAL WHO RECEIVES PERSONAL HOME
4 CARE SERVICES FROM AN INDIVIDUAL PROVIDER THROUGH AN INDIVIDUAL
5 PROVIDER PROGRAM.

6 (E) (1) "INDIVIDUAL PROVIDER" MEANS AN INDIVIDUAL WHO CONTRACTS
7 WITH A STATE AGENCY TO PROVIDE PERSONAL HOME CARE SERVICES TO A
8 CONSUMER THROUGH AN INDIVIDUAL PROVIDER PROGRAM.

9 (2) "INDIVIDUAL PROVIDER" INCLUDES AN ATTENDANT, COMMUNITY
10 ATTENDANT, OR PERSONAL ASSISTANT PROVIDING SERVICES DESCRIBED IN
11 PARAGRAPH (1) OF THIS SUBSECTION.

12 (F) (1) "INDIVIDUAL PROVIDER PROGRAM" MEANS:

13 (I) THE MEDICAL ASSISTANCE PERSONAL CARE PROGRAM;

14 (II) THE COMMUNITY ATTENDANT SERVICES AND SUPPORT
15 PROGRAM, ALSO KNOWN AS LIVING AT HOME: MARYLAND COMMUNITY CHOICES
16 PROGRAM;

17 (III) THE WAIVER FOR OLDER ADULTS;

18 (IV) THE ATTENDANT CARE PROGRAM; AND

19 (V) THE SENIOR CARE PROGRAM.

20 (2) "INDIVIDUAL PROVIDER PROGRAM" DOES NOT INCLUDE:

21 (I) MEDICAID HOME HEALTH CARE;

22 (II) MEDICARE HOME HEALTH CARE;

23 (III) ASSISTED LIVING;

24 (IV) A SKILLED NURSING FACILITY SERVICE; OR

25 (V) ANY OTHER FACILITY-BASED SERVICES.

26 (G) "PERSONAL HOME CARE SERVICES" MEANS PERSONAL CARE OR RESPITE
27 CARE SERVICES PROVIDED TO A CONSUMER IN THE CONSUMER'S HOME THROUGH
28 AN INDIVIDUAL PROVIDER PROGRAM.

29 20-1102.

30 (A) THERE IS A MARYLAND QUALITY HOME CARE SERVICES COMMISSION.

31 (B) THE PURPOSE OF THE COMMISSION IS TO:

1 (1) ENSURE THAT THE QUALITY OF PERSONAL HOME CARE SERVICES
2 PROVIDED BY INDIVIDUAL PROVIDERS IS IMPROVED THROUGH REGULATION,
3 INCREASED ACCOUNTABILITY, AND THE ENHANCED ABILITY OF CONSUMERS TO
4 OBTAIN PERSONAL HOME CARE SERVICES;

5 (2) ENCOURAGE STABILITY IN THE INDIVIDUAL PROVIDER WORKFORCE
6 THROUGH TRAINING OPPORTUNITIES; AND

7 (3) RECRUIT FOR, TRAIN, STABILIZE, AND IMPROVE THE INDIVIDUAL
8 PROVIDER WORKFORCE.

9 20-1103.

10 (A) (1) THE COMMISSION CONSISTS OF 13 MEMBERS AND SIX ALTERNATE
11 MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE
12 SENATE COMMITTEE WITH JURISDICTION OVER THE COMMISSION.

13 (2) OF THE 13 MEMBERS:

14 (I) SEVEN MEMBERS SHALL BE CURRENT OR FORMER
15 CONSUMERS OF PERSONAL HOME CARE SERVICES; AND

16 (II) SIX MEMBERS SHALL BE FROM EACH OF THE FOLLOWING
17 AGENCIES AND ORGANIZATIONS:

18 1. THE DEPARTMENT OF DISABILITIES;

19 2. THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

20 3. THE MARYLAND STATEWIDE INDEPENDENT LIVING
21 COUNCIL;

22 4. THE MARYLAND DISABILITY LAW CENTER;

23 5. THE DEPARTMENT OF AGING; AND

24 6. AN ORGANIZATION REPRESENTING SENIOR CITIZENS.

25 (3) THE SIX ALTERNATE MEMBERS:

26 (I) SHALL BE FORMER CONSUMERS OF PERSONAL HOME CARE
27 SERVICES;

28 (II) SHALL ATTEND AND PARTICIPATE IN COMMISSION MEETINGS;
29 AND

30 (III) MAY ONLY VOTE IN THE ABSENCE OF THE CONSUMER MEMBER
31 FOR WHOM THE INDIVIDUAL SERVES AS AN ALTERNATE.

32 (B) (1) THE TERM OF A MEMBER IS 3 YEARS.

1 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
2 THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2005.

3 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
4 SUCCESSOR IS APPOINTED AND QUALIFIES.

5 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
6 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
7 QUALIFIES.

8 (5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.
9 20-1104.

10 THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR WHO SHALL BE
11 THE CHIEF ADMINISTRATIVE OFFICER OF THE COMMISSION.

12 20-1105.

13 (A) PRIOR TO CARRYING OUT THE AUTHORITY GRANTED TO THE COMMISSION
14 UNDER THIS SECTION, THE COMMISSION SHALL:

15 (1) CONSULT WITH THE INDIVIDUAL PROVIDER; AND

16 (2) AUTHORIZE THE INDIVIDUAL PROVIDER TO SELECT A
17 REPRESENTATIVE OR AGENT TO REPRESENT THE VIEWS OF THE INDIVIDUAL
18 PROVIDER TO THE COMMISSION.

19 (B) THE COMMISSION SHALL:

20 (1) ESTABLISH QUALIFICATIONS AND REQUIREMENTS FOR AN
21 INDIVIDUAL PROVIDER THAT:

22 (I) COMPLY WITH MINIMUM REQUIREMENTS UNDER CURRENT
23 LAWS; AND

24 (II) REQUIRE CONFIRMATION THAT AN INDIVIDUAL PROVIDER IS
25 NOT LISTED IN ANY LONG-TERM CARE ABUSE AND NEGLECT REGISTRY;

26 (2) PROVIDE TRAINING OPPORTUNITIES FOR INDIVIDUAL PROVIDERS
27 AND CONSUMERS OF PERSONAL HOME CARE SERVICES;

28 (3) ESTABLISH OR USE A REFERRAL LIST OF INDIVIDUAL PROVIDERS;

29 (4) PROVIDE ROUTINE, EMERGENCY, AND RESPITE REFERRALS OF AN
30 INDIVIDUAL PROVIDER TO A CONSUMER; AND

31 (5) COORDINATE WITH AN AGENCY TO PROVIDE PERSONAL HOME CARE
32 SERVICES.

33 (C) THE COMMISSION:

1 (1) SHALL COORDINATE THE ESTABLISHMENT OR REVISION OF
2 QUALIFICATIONS AND REQUIREMENTS OF AN INDIVIDUAL PROVIDER WITH AN
3 AGENCY;

4 (2) MAY ADVISE AN AGENCY ON REGULATIONS GOVERNING
5 QUALIFICATIONS AND REQUIREMENTS OF AN INDIVIDUAL PROVIDER; AND

6 (3) MAY NOT PROVIDE A REFERRAL OF AN INDIVIDUAL PROVIDER
7 UNLESS THE INDIVIDUAL PROVIDER MEETS:

8 (I) QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY THE
9 COMMISSION; AND

10 (II) MINIMUM REQUIREMENTS FOR TRAINING ESTABLISHED BY
11 THE COMMISSION.

12 (D) THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THE
13 PROVISIONS OF THIS SUBTITLE.

14 20-1106.

15 IN CARRYING OUT THE PROVISIONS OF THIS SUBTITLE, THE COMMISSION MAY:

16 (1) MAKE, EXECUTE, AND ENTER INTO CONTRACTS AND OTHER
17 INSTRUMENTS NECESSARY FOR THE PERFORMANCE OF THE COMMISSION'S DUTIES,
18 INCLUDING CONTRACTS WITH PUBLIC AND PRIVATE AGENCIES, ORGANIZATIONS,
19 CORPORATIONS, AND INDIVIDUALS TO PAY THE COMMISSION FOR SERVICES
20 RENDERED OR FURNISHED;

21 (2) MAINTAIN OFFICES;

22 (3) EMPLOY AND DISCHARGE EMPLOYEES, AGENTS, AND CONTRACTORS
23 AS NECESSARY;

24 (4) PRESCRIBE EMPLOYEE DUTIES, POWERS, AND COMPENSATION;

25 (5) INCUR EXPENSES FOR THE ADMINISTRATION OF THE COMMISSION;

26 (6) SOLICIT AND ACCEPT FOR USE ANY GRANT OF MONEY, SERVICES, OR
27 PROPERTY FROM THE FEDERAL OR STATE GOVERNMENT, ANY POLITICAL
28 SUBDIVISION, OR AN AGENCY;

29 (7) COORDINATE THE COMMISSION'S ACTIVITIES AND COOPERATE WITH
30 SIMILAR AGENCIES IN OTHER STATES;

31 (8) ESTABLISH A TECHNICAL ADVISORY COMMITTEE TO ASSIST THE
32 COMMISSION;

33 (9) RETAIN RECORDS;

34 (10) ENGAGE IN RESEARCH AND GATHERING OF RELEVANT STATISTICS;

1 (11) ACQUIRE, HOLD, OR DISPOSE OF REAL OR PERSONAL PROPERTY;

2 (12) CONSTRUCT, LEASE, OR OTHERWISE PROVIDE FACILITIES FOR THE
3 ADMINISTRATION OF THE COMMISSION;

4 (13) SUE AND BE SUED;

5 (14) DELEGATE AUTHORITY AS NECESSARY TO ADMINISTER THE
6 COMMISSION; AND

7 (15) OFFER RECRUITMENT, TRAINING, AND REFERRAL SERVICES TO
8 OUTSIDE ENTITIES FOR A FEE.

9 20-1107.

10 (A) AN INDIVIDUAL PROVIDER MAY NOT BE CONSIDERED AN EMPLOYEE OF
11 THE STATE.

12 (B) THE COMMISSION MAY NOT BE CONSIDERED THE EMPLOYER OF AN
13 INDIVIDUAL PROVIDER FOR PURPOSES OF VICARIOUS LIABILITY DUE TO
14 NEGLIGENCE OR AN INTENTIONAL TORT OF AN INDIVIDUAL PROVIDER.

15 20-1108.

16 (A) A CONSUMER SHALL HAVE THE RIGHT TO SELECT, SUPERVISE, AND
17 TERMINATE THE WORK OF AN INDIVIDUAL PROVIDER WHO PROVIDES PERSONAL
18 HOME CARE SERVICES TO THE CONSUMER.

19 (B) THE COMMISSION MAY NOT REDUCE THE HOURS OF PERSONAL CARE
20 SERVICES PROVIDED TO A CONSUMER BELOW THE AMOUNT OF HOURS DETERMINED
21 TO BE NECESSARY BY AN AGENCY.

22 20-1109.

23 NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO DIMINISH OBLIGATIONS
24 OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION TO AN INDIVIDUAL
25 PROVIDER PROGRAM, INCLUDING:

26 (1) PAYROLL SERVICES;

27 (2) FISCAL INTERMEDIARY SERVICES; OR

28 (3) PROVIDING PARTICULAR BENEFITS TO AN INDIVIDUAL PROVIDER.

29 20-1110.

30 (A) ON OR BEFORE OCTOBER 1, 2007, THE COMMISSION, IN CONSULTATION
31 WITH THE DEPARTMENT AND THE DEPARTMENT OF DISABILITIES, SHALL SUBMIT A
32 REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
33 ARTICLE, THE GENERAL ASSEMBLY.

1 (B) THE REPORT UNDER SUBSECTION (A) OF THIS SECTION SHALL EVALUATE:

2 (1) THE COMMISSION'S PROGRESS IN IMPROVING SERVICES TO
3 CONSUMERS AND ADDRESSING IMPROVEMENTS IN PERSONAL HOME CARE
4 SERVICES BY CREATING A MORE STABLE WORKFORCE; AND

5 (2) THE ROLE OF THE COMMISSION IN ADVOCATING IMPROVEMENTS
6 FOR HOME- AND COMMUNITY-BASED SERVICES IN THE STATE, INCLUDING IN
7 INDIVIDUAL PROVIDER PROGRAMS.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
9 Health and Mental Hygiene shall:

10 (a) seek federal funding for the Maryland Quality Home Care Services
11 Commission established under this Act by applying for federal matching funds from
12 the Centers for Medicare and Medicaid Services;

13 (b) maximize efforts to reprioritize funding from the Real Choice Systems
14 Change Grant to be used to fund the Maryland Quality Home Care Services
15 Commission; and

16 (c) report, in accordance with § 2-1246 of the State Government Article, to the
17 Senate Finance Committee and the House Health and Government Operations
18 Committee, on or before July 1, 2006, on the efforts to access federal funding as
19 required under items (a) and (b) of this section.

20 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
21 members of the Maryland Quality Home Care Services Commission shall expire as
22 follows:

23 (a) Three consumer members and two of the organizational or agency
24 members in 2008; and

25 (b) Three consumer members and three of the organizational or agency
26 members in 2009.

27 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2005.