
By: Delegates Hubbard, Benson, Bozman, Feldman, Lee, Pendergrass, Rudolph, Taylor, and V. Turner V. Turner, Goldwater, Mandel, Boteler, Boutin, Bromwell, Costa, Donoghue, Elliott, Frank, Hammen, Hurson, Kullen, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, and Weldon

Introduced and read first time: March 2, 2005

Assigned to: Rules and Executive Nominations

Re-referred to: Health and Government Operations, March 14, 2005

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 29, 2005

CHAPTER _____

1 AN ACT concerning

2 **Maryland Quality Home Care Services Commission Act**

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~~

1 ~~relating to the Maryland Quality Home Care Services Commission.~~

2 FOR the purpose of transferring the Office of Personal Assistance Services and the
 3 Attendant Care Program of the Office from the Department of Human
 4 Resources to the Department of Disabilities; repealing a certain Advisory
 5 Committee; repealing a certain reporting requirement; establishing the
 6 Personal Assistance Services Advisory Committee; providing for the purpose and
 7 composition of the Advisory Committee; providing for the terms of the members
 8 of the Advisory Committee; requiring the Advisory Committee to submit certain
 9 reports to the Governor and the General Assembly at a certain time; defining
 10 certain terms; providing that employees of the Office of Personal Assistance
 11 Services of the Department of Human Resources who are transferred under this
 12 Act to the Department of Disabilities be transferred without any diminution of
 13 their rights, benefits, or employment status; providing that nothing in this Act
 14 may be construed to diminish certain powers and duties of the Department of
 15 Health and Mental Hygiene; requiring the publishers of the Annotated Code of
 16 Maryland, subject to the approval of the Department of Legislative Services, to
 17 propose certain corrections to the Code resulting from this Act; and generally
 18 relating to the Maryland Quality Home Care Services Act.

19 ~~BY adding to~~

20 ~~Article Health General~~
 21 ~~Section 20-1101 through 20-1110, inclusive, to be under the new subtitle~~
 22 ~~"Subtitle 11. Maryland Quality Home Care Services Commission"~~
 23 ~~Annotated Code of Maryland~~
 24 ~~(2000 Replacement Volume and 2004 Supplement)~~

25 BY transferring

26 Article 41 - Governor - Executive and Administrative Departments
 27 Section 6-701 through 6-706, respectively, and the subtitle "Subtitle 7.
 28 Attendant Care Program"
 29 Annotated Code of Maryland
 30 (2003 Replacement Volume and 2004 Supplement)

31 to be

32 Article 41 - Governor - Executive and Administrative Departments
 33 Section 18-601 through 18-606, respectively, and the subtitle "Subtitle 6.
 34 Attendant Care Program"
 35 Annotated Code of Maryland
 36 (2003 Replacement Volume and 2004 Supplement)

37 BY repealing and reenacting, without amendments,

38 Article 41 - Governor - Executive and Administrative Departments
 39 Section 18-601(a)
 40 Annotated Code of Maryland
 41 (2003 Replacement Volume and 2004 Supplement)

1 (As enacted by Section 1 of this Act)

2 BY repealing and reenacting, with amendments,

3 Article 41 - Governor - Executive and Administrative Departments

4 Section 18-601(c) and (d) and 18-606

5 Annotated Code of Maryland

6 (2003 Replacement Volume and 2004 Supplement)

7 (As enacted by Section 1 of this Act)

8 BY repealing

9 Article 41 - Governor - Executive and Administrative Departments

10 Section 18-604 and 18-605

11 Annotated Code of Maryland

12 (2003 Replacement Volume and 2004 Supplement)

13 (As enacted by Section 1 of this Act)

14 BY repealing and reenacting, with amendments,

15 Article - State Government

16 Section 9-1118

17 Annotated Code of Maryland

18 (2004 Replacement Volume)

19 BY adding to

20 Article - State Government

21 Section 9-1119

22 Annotated Code of Maryland

23 (2004 Replacement Volume)

24 Preamble

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

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

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

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

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

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

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That Section(s) 6-701 through 6-706, respectively, and the subtitle
 8 "Subtitle 7. Attendant Care Program" of Article 41 - Governor - Executive and
 9 Administrative Departments of the Annotated Code of Maryland be transferred to be
 10 Section(s) 18-601 through 18-606, respectively, and the subtitle "Subtitle 6.
 11 Attendant Care Program" of Article 41 - Governor - Executive and Administrative
 12 Departments of the Annotated Code of Maryland.

13 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
 14 ~~MARYLAND SECTION 2. AND BE IT FURTHER ENACTED,~~ That the Laws of
 15 Maryland read as follows:

16 ~~Article -- Health -- General~~

17 ~~SUBTITLE 11. MARYLAND QUALITY HOME CARE SERVICES COMMISSION.~~

18 ~~20-1101.~~

19 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
 20 ~~INDICATED.~~

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

23 ~~(2) "AGENCY" INCLUDES:~~

24 ~~(I) THE DEPARTMENT;~~

25 ~~(II) THE DEPARTMENT OF HUMAN RESOURCES; AND~~

26 ~~(III) THE DEPARTMENT OF AGING.~~

27 ~~(C) "COMMISSION" MEANS THE MARYLAND QUALITY HOME CARE SERVICES~~
 28 ~~COMMISSION.~~

29 ~~(D) "CONSUMER" MEANS AN INDIVIDUAL WHO RECEIVES PERSONAL HOME~~
 30 ~~CARE SERVICES FROM AN INDIVIDUAL PROVIDER THROUGH AN INDIVIDUAL~~
 31 ~~PROVIDER PROGRAM.~~

32 ~~(E) (1) "INDIVIDUAL PROVIDER" MEANS AN INDIVIDUAL WHO CONTRACTS~~
 33 ~~WITH A STATE AGENCY TO PROVIDE PERSONAL HOME CARE SERVICES TO A~~
 34 ~~CONSUMER THROUGH AN INDIVIDUAL PROVIDER PROGRAM.~~

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

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

5 (I) THE MEDICAL ASSISTANCE PERSONAL CARE PROGRAM;

6 (II) THE COMMUNITY ATTENDANT SERVICES AND SUPPORT
7 PROGRAM, ALSO KNOWN AS LIVING AT HOME; MARYLAND COMMUNITY CHOICES
8 PROGRAM;

9 (III) THE WAIVER FOR OLDER ADULTS;

10 (IV) THE ATTENDANT CARE PROGRAM; AND

11 (V) THE SENIOR CARE PROGRAM.

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

13 (I) MEDICAID HOME HEALTH CARE;

14 (II) MEDICARE HOME HEALTH CARE;

15 (III) ASSISTED LIVING;

16 (IV) A SKILLED NURSING FACILITY SERVICE; OR

17 (V) ANY OTHER FACILITY BASED SERVICES.

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

21 ~~20-1102-~~

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

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

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

28 (2) ENCOURAGE STABILITY IN THE INDIVIDUAL PROVIDER WORKFORCE
29 THROUGH TRAINING OPPORTUNITIES; AND

30 (3) RECRUIT FOR, TRAIN, STABILIZE, AND IMPROVE THE INDIVIDUAL
31 PROVIDER WORKFORCE.

1 ~~20-1103.~~

2 (A) (1) ~~THE COMMISSION CONSISTS OF 13 MEMBERS AND SIX ALTERNATE~~
3 ~~MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE~~
4 ~~SENATE COMMITTEE WITH JURISDICTION OVER THE COMMISSION.~~

5 (2) ~~OF THE 13 MEMBERS:~~

6 (I) ~~SEVEN MEMBERS SHALL BE CURRENT OR FORMER~~
7 ~~CONSUMERS OF PERSONAL HOME CARE SERVICES; AND~~

8 (II) ~~SIX MEMBERS SHALL BE FROM EACH OF THE FOLLOWING~~
9 ~~AGENCIES AND ORGANIZATIONS:~~

10 1. ~~THE DEPARTMENT OF DISABILITIES;~~

11 2. ~~THE MARYLAND MEDICAL ASSISTANCE PROGRAM;~~

12 3. ~~THE MARYLAND STATEWIDE INDEPENDENT LIVING~~
13 ~~COUNCIL;~~

14 4. ~~THE MARYLAND DISABILITY LAW CENTER;~~

15 5. ~~THE DEPARTMENT OF AGING; AND~~

16 6. ~~AN ORGANIZATION REPRESENTING SENIOR CITIZENS.~~

17 (3) ~~THE SIX ALTERNATE MEMBERS:~~

18 (I) ~~SHALL BE FORMER CONSUMERS OF PERSONAL HOME CARE~~
19 ~~SERVICES;~~

20 (II) ~~SHALL ATTEND AND PARTICIPATE IN COMMISSION MEETINGS;~~
21 ~~AND~~

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

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

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

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

29 (4) ~~A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES~~
30 ~~ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND~~
31 ~~QUALIFIES.~~

32 (5) ~~A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.~~

1 ~~20-1104.~~

2 ~~THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR WHO SHALL BE~~
3 ~~THE CHIEF ADMINISTRATIVE OFFICER OF THE COMMISSION.~~

4 ~~20-1105.~~

5 ~~(A) PRIOR TO CARRYING OUT THE AUTHORITY GRANTED TO THE COMMISSION~~
6 ~~UNDER THIS SECTION, THE COMMISSION SHALL:~~

7 ~~(1) CONSULT WITH THE INDIVIDUAL PROVIDER; AND~~

8 ~~(2) AUTHORIZE THE INDIVIDUAL PROVIDER TO SELECT A~~
9 ~~REPRESENTATIVE OR AGENT TO REPRESENT THE VIEWS OF THE INDIVIDUAL~~
10 ~~PROVIDER TO THE COMMISSION.~~

11 ~~(B) THE COMMISSION SHALL:~~

12 ~~(1) ESTABLISH QUALIFICATIONS AND REQUIREMENTS FOR AN~~
13 ~~INDIVIDUAL PROVIDER THAT:~~

14 ~~(i) COMPLY WITH MINIMUM REQUIREMENTS UNDER CURRENT~~
15 ~~LAWS; AND~~

16 ~~(ii) REQUIRE CONFIRMATION THAT AN INDIVIDUAL PROVIDER IS~~
17 ~~NOT LISTED IN ANY LONG TERM CARE ABUSE AND NEGLECT REGISTRY;~~

18 ~~(2) PROVIDE TRAINING OPPORTUNITIES FOR INDIVIDUAL PROVIDERS~~
19 ~~AND CONSUMERS OF PERSONAL HOME CARE SERVICES;~~

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

21 ~~(4) PROVIDE ROUTINE, EMERGENCY, AND RESPITE REFERRALS OF AN~~
22 ~~INDIVIDUAL PROVIDER TO A CONSUMER; AND~~

23 ~~(5) COORDINATE WITH AN AGENCY TO PROVIDE PERSONAL HOME CARE~~
24 ~~SERVICES.~~

25 ~~(C) THE COMMISSION:~~

26 ~~(1) SHALL COORDINATE THE ESTABLISHMENT OR REVISION OF~~
27 ~~QUALIFICATIONS AND REQUIREMENTS OF AN INDIVIDUAL PROVIDER WITH AN~~
28 ~~AGENCY;~~

29 ~~(2) MAY ADVISE AN AGENCY ON REGULATIONS GOVERNING~~
30 ~~QUALIFICATIONS AND REQUIREMENTS OF AN INDIVIDUAL PROVIDER; AND~~

31 ~~(3) MAY NOT PROVIDE A REFERRAL OF AN INDIVIDUAL PROVIDER~~
32 ~~UNLESS THE INDIVIDUAL PROVIDER MEETS:~~

1 (4) ~~QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY THE~~
2 ~~COMMISSION; AND~~

3 (II) ~~MINIMUM REQUIREMENTS FOR TRAINING ESTABLISHED BY~~
4 ~~THE COMMISSION.~~

5 (D) ~~THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THE~~
6 ~~PROVISIONS OF THIS SUBTITLE.~~

7 ~~20-1106.~~

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

9 (1) ~~MAKE, EXECUTE, AND ENTER INTO CONTRACTS AND OTHER~~
10 ~~INSTRUMENTS NECESSARY FOR THE PERFORMANCE OF THE COMMISSION'S DUTIES,~~
11 ~~INCLUDING CONTRACTS WITH PUBLIC AND PRIVATE AGENCIES, ORGANIZATIONS,~~
12 ~~CORPORATIONS, AND INDIVIDUALS TO PAY THE COMMISSION FOR SERVICES~~
13 ~~RENDERED OR FURNISHED;~~

14 (2) ~~MAINTAIN OFFICES;~~

15 (3) ~~EMPLOY AND DISCHARGE EMPLOYEES, AGENTS, AND CONTRACTORS~~
16 ~~AS NECESSARY;~~

17 (4) ~~PRESCRIBE EMPLOYEE DUTIES, POWERS, AND COMPENSATION;~~

18 (5) ~~INCUR EXPENSES FOR THE ADMINISTRATION OF THE COMMISSION;~~

19 (6) ~~SOLICIT AND ACCEPT FOR USE ANY GRANT OF MONEY, SERVICES, OR~~
20 ~~PROPERTY FROM THE FEDERAL OR STATE GOVERNMENT, ANY POLITICAL~~
21 ~~SUBDIVISION, OR AN AGENCY;~~

22 (7) ~~COORDINATE THE COMMISSION'S ACTIVITIES AND COOPERATE WITH~~
23 ~~SIMILAR AGENCIES IN OTHER STATES;~~

24 (8) ~~ESTABLISH A TECHNICAL ADVISORY COMMITTEE TO ASSIST THE~~
25 ~~COMMISSION;~~

26 (9) ~~RETAIN RECORDS;~~

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

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

29 (12) ~~CONSTRUCT, LEASE, OR OTHERWISE PROVIDE FACILITIES FOR THE~~
30 ~~ADMINISTRATION OF THE COMMISSION;~~

31 (13) ~~SUE AND BE SUED;~~

32 (14) ~~DELEGATE AUTHORITY AS NECESSARY TO ADMINISTER THE~~
33 ~~COMMISSION; AND~~

~~1 (15) OFFER RECRUITMENT, TRAINING, AND REFERRAL SERVICES TO
2 OUTSIDE ENTITIES FOR A FEE.~~

~~3 20-1107.~~

~~4 (A) AN INDIVIDUAL PROVIDER MAY NOT BE CONSIDERED AN EMPLOYEE OF
5 THE STATE.~~

~~6 (B) THE COMMISSION MAY NOT BE CONSIDERED THE EMPLOYER OF AN
7 INDIVIDUAL PROVIDER FOR PURPOSES OF VICARIOUS LIABILITY DUE TO
8 NEGLIGENCE OR AN INTENTIONAL TORT OF AN INDIVIDUAL PROVIDER.~~

~~9 20-1108.~~

~~10 (A) A CONSUMER SHALL HAVE THE RIGHT TO SELECT, SUPERVISE, AND
11 TERMINATE THE WORK OF AN INDIVIDUAL PROVIDER WHO PROVIDES PERSONAL
12 HOME CARE SERVICES TO THE CONSUMER.~~

~~13 (B) THE COMMISSION MAY NOT REDUCE THE HOURS OF PERSONAL CARE
14 SERVICES PROVIDED TO A CONSUMER BELOW THE AMOUNT OF HOURS DETERMINED
15 TO BE NECESSARY BY AN AGENCY.~~

~~16 20-1109.~~

~~17 NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO DIMINISH OBLIGATIONS
18 OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION TO AN INDIVIDUAL
19 PROVIDER PROGRAM, INCLUDING:~~

~~20 (1) PAYROLL SERVICES;~~

~~21 (2) FISCAL INTERMEDIARY SERVICES; OR~~

~~22 (3) PROVIDING PARTICULAR BENEFITS TO AN INDIVIDUAL PROVIDER.~~

~~23 20-1110.~~

~~24 (A) ON OR BEFORE OCTOBER 1, 2007, THE COMMISSION, IN CONSULTATION
25 WITH THE DEPARTMENT AND THE DEPARTMENT OF DISABILITIES, SHALL SUBMIT A
26 REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
27 ARTICLE, THE GENERAL ASSEMBLY.~~

~~28 (B) THE REPORT UNDER SUBSECTION (A) OF THIS SECTION SHALL EVALUATE:~~

~~29 (1) THE COMMISSION'S PROGRESS IN IMPROVING SERVICES TO
30 CONSUMERS AND ADDRESSING IMPROVEMENTS IN PERSONAL HOME CARE
31 SERVICES BY CREATING A MORE STABLE WORKFORCE; AND~~

~~32 (2) THE ROLE OF THE COMMISSION IN ADVOCATING IMPROVEMENTS
33 FOR HOME AND COMMUNITY BASED SERVICES IN THE STATE, INCLUDING IN
34 INDIVIDUAL PROVIDER PROGRAMS.~~

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

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

6 (b) ~~maximize efforts to reprioritize funding from the Real Choice Systems~~
 7 ~~Change Grant to be used to fund the Maryland Quality Home Care Services~~
 8 ~~Commission; and~~

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

13 ~~SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial~~
 14 ~~members of the Maryland Quality Home Care Services Commission shall expire as~~
 15 ~~follows:~~

16 (a) ~~Three consumer members and two of the organizational or agency~~
 17 ~~members in 2008; and~~

18 (b) ~~Three consumer members and three of the organizational or agency~~
 19 ~~members in 2009.~~

20 ~~SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
 21 ~~October 1, 2005.~~

22 **Article 41 - Governor - Executive and Administrative Departments**

23 18-601.

24 (a) In this subtitle the following words have the meanings indicated.

25 (c) "Department" means the Department of [Human Resources]
 26 DISABILITIES.

27 (d) "Secretary" means the Secretary of [the Department of Human Resources]
 28 DISABILITIES.

29 [18-604.

30 (a) The Department shall create an Advisory Committee to provide guidance
 31 to the Department in the development of:

32 (1) The sliding payment scale; and

33 (2) Rules and regulations for and an annual report on the Attendant
 34 Care Program.

1 (b) The Committee shall consist of the following:

2 (1) 1 representative each from:

3 (i) The Division of Vocational Rehabilitation of the Department of
4 Education;

5 (ii) The Medicaid Personal Care Program, Policy Administration, of
6 the Department of Health and Mental Hygiene;

7 (iii) The Developmental Disabilities Administration of the
8 Department of Health and Mental Hygiene;

9 (iv) The Department of Budget and Management;

10 (v) The Commission;

11 (vi) The Maryland State Independent Living Council;

12 (vii) The Governor's Committee on Employment of People With
13 Disabilities;

14 (viii) The Maryland Planning Council on Developmental Disabilities;

15 (ix) The In-Home-Aid Service Program, Social Services
16 Administration, of the Department of Human Resources; and

17 (2) 5 citizens, 2 of whom shall be disabled individuals; and

18 (3) 3 representatives from advocacy organizations for disabled
19 individuals.]

20 [18-605.

21 The Department shall submit an annual report on the Attendant Care Program
22 to the Legislative Policy Committee of the State legislature by September 1 each year.
23 The reports shall include demographic, disability, and cost effectiveness data.]

24 [18-606.] 18-604.

25 The Department [of Human Resources] shall administer this subtitle and may
26 adopt rules and regulations necessary to implement it.

27 **Article - State Government**

28 9-1118.

29 The Department shall oversee and administer the following programs:

30 (1) constituent services and ombudsmen programs; [and]

1 (2) the Assistive Technology Guaranteed Loan Program under Article 41,
2 Title 14, Subtitle 9 of the [Code] CODE; AND

3 (3) THE ATTENDANT CARE PROGRAM UNDER ARTICLE 41, TITLE 18,
4 SUBTITLE 6 OF THE CODE.

5 9-1119.

6 (A) THERE IS A PERSONAL ASSISTANCE SERVICES ADVISORY COMMITTEE IN
7 THE DEPARTMENT.

8 (B) THE PURPOSE OF THE ADVISORY COMMITTEE IS TO PROVIDE GUIDANCE
9 TO THE DEPARTMENT ON PERSONAL CARE, ATTENDANT CARE, AND HOME CARE
10 SERVICES, INCLUDING:

11 (1) THE DEVELOPMENT OF STANDARDS FOR THE TRAINING OF
12 PERSONAL CARE WORKERS;

13 (2) THE FEASIBILITY OF ESTABLISHING A REFERRAL SYSTEM OF
14 INDIVIDUAL PROVIDERS;

15 (3) THE FEASIBILITY OF ESTABLISHING A REGISTRY FOR PERSONAL
16 CARE WORKERS; AND

17 (4) COMPENSATION LEVELS PROVIDED TO PERSONAL CARE WORKERS
18 FOR PERSONAL ASSISTANCE SERVICES.

19 (C) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS,
20 APPOINTED BY THE GOVERNOR:

21 (1) 11 REPRESENTATIVES SHALL BE INDIVIDUALS WITH DISABILITIES
22 WHO ARE CURRENT OR FORMER CONSUMERS OF PERSONAL HOME OR ATTENDANT
23 CARE SERVICES;

24 (2) ONE REPRESENTATIVE EACH FROM:

25 (I) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

26 (II) THE MARYLAND DEPARTMENT OF AGING;

27 (III) THE STATE DEPARTMENT OF EDUCATION, DIVISION OF
28 REHABILITATIVE SERVICES;

29 (IV) THE MARYLAND ASSOCIATION OF COMMUNITY COLLEGES OR
30 ITS DESIGNEE;

31 (V) A LOCAL OFFICE ON AGING;

32 (VI) THE MARYLAND STATE INDEPENDENT LIVING COUNCIL;

- 1 (VII) AN ADVOCACY ORGANIZATION REPRESENTING SENIOR
2 CITIZENS;
- 3 (VIII) AN ADVOCACY ORGANIZATION REPRESENTING INDIVIDUALS
4 WITH DISABILITIES;
- 5 (IX) A PROVIDER OF HOME CARE OR PERSONAL ATTENDANT CARE
6 SERVICES; AND
- 7 (X) A HOME HEALTH WORKER.
- 8 (D) (1) THE TERM OF A MEMBER IS 3 YEARS.
- 9 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
10 THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON JULY 1, 2005.
- 11 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
12 SUCCESSOR IS APPOINTED AND QUALIFIES.
- 13 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
14 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
15 QUALIFIES.
- 16 (5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.
- 17 (E) THE OFFICE OF PERSONAL ASSISTANCE SERVICES SHALL PROVIDE STAFF
18 TO THE ADVISORY COMMITTEE.
- 19 (F) THE ADVISORY COMMITTEE SHALL MEET AT LEAST FOUR TIMES A YEAR,
20 IN MEETINGS OPEN TO THE PUBLIC.
- 21 (G) THE ADVISORY COMMITTEE SHALL SUBMIT A REPORT ON THE ADVISORY
22 COMMITTEE'S RECOMMENDATIONS ON PERSONAL CARE ASSISTANCE SERVICES TO
23 THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
24 THE GENERAL ASSEMBLY ON OR BEFORE OCTOBER 1 OF EACH YEAR.
- 25 SECTION 3. AND BE IT FURTHER ENACTED, That the functions and
26 activities of the Attendant Care Program are transferred from the Office of Personal
27 Assistance Services of the Department of Human Resources to the Department of
28 Disabilities.
- 29 SECTION 4. AND BE IT FURTHER ENACTED, That all employees of the
30 Office of Personal Assistance Services of the Department of Human Resources whose
31 positions are transferred to the Department of Disabilities by this Act shall be so
32 transferred on the effective date of this Act without any diminution of their rights,
33 benefits, or employment and retirement status.
- 34 SECTION 5. AND BE IT FURTHER ENACTED, That all persons who are
35 classified employees of the Office of Personal Assistance Services of the Department
36 of Human Resources as of July 1, 2005, and who are transferred to the Department of

1 Disabilities as part of the transfer of the Attendant Care Program shall be transferred
2 without any diminution of their rights, benefits, or employment status, including, if
3 any, merit system and retirement status.

4 SECTION 6. AND BE IT FURTHER ENACTED, That nothing in this Act shall
5 be construed to affect any of the powers and duties of the Department of Health and
6 Mental Hygiene to administer the Living at Home: Maryland Community Choices
7 Medicaid Waiver.

8 SECTION 7. AND BE IT FURTHER ENACTED, That except as otherwise
9 provided in this Act, nothing in this Act affects the term of office of an appointed
10 member of any board, commission, committee, or council. A person who is a member of
11 such a unit on the effective date of this Act shall remain a member for the balance of
12 the term to which the person was appointed, unless the person before the end of the
13 term dies, resigns, or is removed pursuant to the provisions of law.

14 SECTION 8. AND BE IT FURTHER ENACTED, That all property, including
15 real or personal property, records, fixtures, appropriations, credits, assets, liabilities,
16 obligations, rights, and privileges held by the Office of Personal Assistance Services of
17 the Department of Human Resources to carry out the exclusive functions of the
18 Attendant Care Program transferred under this Act shall be transferred to the
19 Department of Disabilities on the effective date of this Act.

20 SECTION 9. AND BE IT FURTHER ENACTED, That, except as otherwise
21 provided by law, all existing laws, rules, and regulations, proposed rules and
22 regulations, standards and guidelines, policies, orders and other directives, forms,
23 plans, memberships, contracts, property, investigations, administrative and judicial
24 responsibilities, rights to sue and be sued, and all other duties and responsibilities
25 associated with the functions of the Office of Personal Assistance Services of the
26 Department of Human Resources and the Attendant Care Program transferred from
27 the Office of Personal Assistance Services prior to the effective date of this Act shall
28 continue in effect under the Department of Disabilities, until completed, withdrawn,
29 canceled, modified, or otherwise changed pursuant to law.

30 SECTION 10. AND BE IT FURTHER ENACTED, That all contracts,
31 agreements, grants, or other obligations entered into by the Office of Personal Care
32 Assistance Services of the Department of Human Resources and the Attendant Care
33 Program transferred from the Office of Personal Care Assistance Services prior to
34 October 1, 2005, are hereby declared to be valid, legal, and binding obligations of the
35 Department of Disabilities, enforceable in accordance with their terms.

36 SECTION 11. AND BE IT FURTHER ENACTED, That the publishers of the
37 Annotated Code of Maryland, subject to the approval of the Department of Legislative
38 Services, shall propose the correction of any agency names and titles throughout the
39 Annotated Code that are rendered incorrect by this Act and any necessary corrections
40 shall be satisfied by passage of the Annual Corrective Bill of 2006.

41 SECTION 12. AND BE IT FURTHER ENACTED, That all appropriations
42 including State and federal funds, held by the Office of Personal Assistance Services

1 to carry out the exclusive functions of the Attendant Care Program transferred under
2 this Act shall be transferred to the Department of Disabilities on the effective date of
3 this Act.

4 SECTION 13. AND BE IT FURTHER ENACTED, That the terms of the initial
5 members of the Personal Assistance Services Advisory Committee shall expire as
6 follows:

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

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

11 SECTION 14. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2005.