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By: **Senator Harris**

Introduced and read first time: February 4, 2005

Assigned to: Finance and Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **No-Fault Cerebral Palsy Insurance Fund**

3 FOR the purpose of establishing certain procedures to be followed if the response to a  
4 claim against a health care provider for damage due to a medical injury includes  
5 an assertion that the claim is subject to certain other procedures relating to  
6 birth-related neurological impairments; altering the purposes of the Maryland  
7 Medical Professional Liability Insurance Rate Stabilization Fund to include  
8 paying certain medical expenses of individuals with birth-related neurological  
9 impairments; requiring a certain portion of the Medical Assistance Program  
10 Account to be used to pay these expenses; requiring disbursements from the  
11 Medical Assistance Program Account to be made to the No-Fault Cerebral Palsy  
12 Insurance Fund in a certain amount; establishing the No-Fault Cerebral Palsy  
13 Insurance Fund to pay certain expenses of claimants who are diagnosed as  
14 having a birth-related neurological impairment under certain circumstances;  
15 requiring the Director to administer the Fund; requiring the Director to be  
16 appointed by and serve at the pleasure of the Insurance Commissioner;  
17 providing that the Fund is a special, nonlapsing fund; requiring the Treasurer to  
18 hold the Fund and the Comptroller to account for the Fund; requiring the  
19 Commissioner to adopt certain regulations; providing that the Fund consists of  
20 revenue distributed to the Fund from the Medical Assistance Program Account,  
21 interest and other income, and certain other money; authorizing the Fund to be  
22 used only to pay claims under the Fund and administrative costs of the Fund;  
23 establishing that the rights and remedies under the Fund exclude all other  
24 rights and remedies for birth-related neurological impairments under certain  
25 circumstances; establishing that filing a civil action for a birth-related  
26 neurological impairment is not precluded under certain circumstances;  
27 establishing procedures for the determination of coverage under the Fund;  
28 establishing procedures to appeal a certain determination of coverage to a  
29 certain arbitration panel; providing for an appeal of the determination of the  
30 arbitration panel to a certain circuit court; establishing procedures for certain  
31 payments from the Fund in certain amounts under certain circumstances;  
32 prohibiting compensation for legal services in connection with claims under the  
33 Fund except under certain circumstances; requiring the Director to report all  
34 claims under the Fund to the State Board of Physician Quality Assurance for a  
35 certain determination; requiring medical professional liability insurers to

1 identify in rate filings any savings that result from the Fund and to decrease  
2 rates to reflect that savings; defining certain terms; providing for the  
3 application of this Act; and generally relating to an insurance fund for children  
4 with birth-related neurological impairments.

5 BY repealing and reenacting, with amendments,  
6 Article - Courts and Judicial Proceedings  
7 Section 3-2A-04(a)  
8 Annotated Code of Maryland  
9 (2002 Replacement Volume and 2004 Supplement)  
10 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special  
11 Session)

12 BY repealing and reenacting, without amendments,  
13 Article - Insurance  
14 Section 19-104.1(a)(1), (3), and (5) and (b)  
15 Annotated Code of Maryland  
16 (2002 Replacement Volume and 2004 Supplement)  
17 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special  
18 Session)

19 BY repealing and reenacting, with amendments,  
20 Article - Insurance  
21 Section 19-104.1(c) and (q)  
22 Annotated Code of Maryland  
23 (2002 Replacement Volume and 2004 Supplement)  
24 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special  
25 Session)

26 BY adding to  
27 Article - Insurance  
28 Section 19-801 through 19-811, inclusive, to be under the new subtitle "Subtitle  
29 8. No-Fault Cerebral Palsy Insurance Fund"  
30 Annotated Code of Maryland  
31 (2002 Replacement Volume and 2004 Supplement)

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

34 **Article - Courts and Judicial Proceedings**

35 3-2A-04.

36 (a) (1) (i) A person having a claim against a health care provider for  
37 damage due to a medical injury shall file the claim with the Director and, if the claim

1 is against a physician, the Director shall forward copies of the claim to the State  
2 Board of Physicians.

3 (ii) The Director shall cause a copy of the claim to be served upon  
4 the health care provider by the appropriate sheriff in accordance with the Maryland  
5 Rules.

6 (iii) The health care provider shall file a response with the Director  
7 and serve a copy on the claimant and all other health care providers named therein  
8 within the time provided in the Maryland Rules for filing a responsive pleading to a  
9 complaint.

10 (iv) The claim and the response may include a statement that the  
11 matter in controversy falls within one or more particular recognized specialties.

12 (2) A third-party claim shall be filed within 30 days of the response of  
13 the third-party claimant to the original claim unless the parties consent to a later  
14 filing or a later filing is allowed by the panel chairman or the court, as the case may  
15 be, for good cause shown.

16 (3) A claimant may not add a new defendant after the arbitration panel  
17 has been selected, or 10 days after the prehearing conference has been held,  
18 whichever is later.

19 (4) Until all costs attributable to the first filing have been satisfied, a  
20 claimant may not file a second claim on the same or substantially the same grounds  
21 against any of the same parties.

22 (5) (I) IF THE RESPONSE OF A HEALTH CARE PROVIDER INCLUDES AN  
23 ASSERTION THAT THE CLAIM IS SUBJECT TO THE EXCLUSIVE PROCEDURES OF TITLE  
24 19, SUBTITLE 8 OF THE INSURANCE ARTICLE:

25 1. THE DIRECTOR SHALL STAY THE PROCEEDINGS UNDER  
26 THIS SUBTITLE; AND

27 2. THE CLAIMANT SHALL FILE A CLAIM FOR COVERAGE  
28 WITH THE NO-FAULT CEREBRAL PALSY INSURANCE FUND UNDER TITLE 19,  
29 SUBTITLE 8 OF THE INSURANCE ARTICLE.

30 (II) IF COVERAGE UNDER TITLE 19, SUBTITLE 8 OF THE INSURANCE  
31 ARTICLE IS GRANTED, THE DIRECTOR SHALL DISMISS THE CLAIM UNDER THIS  
32 SUBTITLE.

33 (III) IF COVERAGE UNDER TITLE 19, SUBTITLE 8 OF THE INSURANCE  
34 ARTICLE IS DENIED AND FURTHER CLAIMS ARE NOT PROHIBITED UNDER § 19-804 OF  
35 THE INSURANCE ARTICLE, THE CLAIMANT MAY PROCEED WITH THE CLAIM UNDER  
36 THIS SUBTITLE.

**Article - Insurance**

19-104.1.

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

(3) "Fund" means the Maryland Medical Professional Liability Insurance Rate Stabilization Fund.

(5) "Medical Assistance Program Account" means an account established within the Fund that is available to the Maryland Medical Assistance Program under the terms provided under subsection (q) of this section.

(b) There is a Maryland Medical Professional Liability Insurance Rate Stabilization Fund.

(c) The purposes of the Fund are to:

(1) retain health care providers in the State by allowing medical professional liability insurers to charge medical professional liability insurance rates that are less than the rates approved under § 11-201 of this article;

(2) increase the fee-for-service rates paid by the Maryland Medical Assistance Program to physicians identified under subsection (q) of this section;

(3) increase capitation payments made to managed care organizations that participate in the Maryland Medical Assistance Program to pay network physicians identified under subsection (q) of this section at least 100% of the fee schedule used in fee-for-service rates paid by the Maryland Medical Assistance Program; [and]

(4) PAY MEDICALLY NECESSARY AND OTHER RELATED EXPENSES OF INDIVIDUALS WITH BIRTH-RELATED NEUROLOGICAL IMPAIRMENTS BY PROVIDING REVENUE TO THE NO-FAULT CEREBRAL PALSY INSURANCE FUND ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE; AND

(5) subsidize the costs incurred by the Commissioner to administer the Fund.

(q) (1) Disbursements from the Medical Assistance Program Account of \$15,000,000 shall be made to the Maryland Medical Assistance Program to increase both fee-for-service physician rates and capitation payments to managed care organizations for procedures commonly performed by:

(i) obstetricians;

(ii) neurosurgeons;

(iii) orthopedic surgeons; and

(iv) emergency medicine physicians.

1 (2) (i) [Portions] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,  
2 PORTIONS of the Medical Assistance Program Account that exceed the amount  
3 provided for under paragraph (1) of this subsection shall be used [only] to increase  
4 payments to physicians and capitation payments to managed care organizations.

5 (ii) 1. Disbursements from the Medical Assistance Program  
6 Account shall be made to increase fee-for-service health care provider rates and rates  
7 paid to managed care organizations for services identified by the Department in  
8 consultation with managed care organizations, Maryland Hospital Association, Med  
9 Chi, American Academy of Pediatrics, Maryland Chapter, and the American College of  
10 Emergency Room Physicians, Maryland Chapter.

11 2. The Department shall submit its plan for Medicaid  
12 reimbursement rate increases to the Senate Budget and Taxation, Senate Finance,  
13 House Appropriations, and House Health and Government Operations committees  
14 prior to adopting regulations implementing the increase.

15 (3) (I) PORTIONS OF THE MEDICAL ASSISTANCE PROGRAM ACCOUNT  
16 THAT EXCEED THE AMOUNT PROVIDED FOR UNDER PARAGRAPH (1) OF THIS  
17 SUBSECTION SHALL BE USED TO PAY MEDICALLY NECESSARY AND OTHER RELATED  
18 EXPENSES OF INDIVIDUALS WITH BIRTH-RELATED NEUROLOGICAL IMPAIRMENTS.

19 (II) DISBURSEMENTS FROM THE MEDICAL ASSISTANCE PROGRAM  
20 ACCOUNT SHALL BE MADE TO THE NO-FAULT CEREBRAL PALSY INSURANCE FUND  
21 ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE IN AN AMOUNT SUFFICIENT TO PAY  
22 ITS CLAIMS AND ADMINISTRATIVE COSTS.

23 SUBTITLE 8. NO-FAULT CEREBRAL PALSY INSURANCE FUND.

24 19-801.

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

27 (B) (1) "BIRTH-RELATED NEUROLOGICAL IMPAIRMENT" OR "CEREBRAL  
28 PALSY" MEANS AN IMPAIRMENT OF THE BRAIN, SPINAL CORD, OR NERVE OF AN  
29 INFANT THAT:

30 (I) OCCURRED OR COULD HAVE OCCURRED DURING PREGNANCY,  
31 BEFORE OR DURING A DELIVERY, OR IN THE IMMEDIATE RESUSCITATIVE PERIOD  
32 AFTER A DELIVERY; AND

33 (II) RESULTS IN A SIGNIFICANT AND NONPROGRESSIVE INABILITY  
34 TO CONTROL MOTOR FUNCTION.

35 (2) A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT OR CEREBRAL  
36 PALSY MAY BE ACCOMPANIED BY ONE OR MORE ASSOCIATED SYMPTOMS  
37 INCLUDING:

38 (I) VISION, SPEECH, HEARING, OR LEARNING DIFFICULTIES;

1 (II) SEIZURES; OR

2 (III) BEHAVIORAL AND PSYCHOLOGICAL PROBLEMS.

3 (3) "BIRTH-RELATED NEUROLOGICAL IMPAIRMENT" OR "CEREBRAL  
4 PALSY" DOES NOT INCLUDE DISABILITY CAUSED BY GENETIC OR CONGENITAL  
5 ABNORMALITY.

6 (C) "CLAIMANT" MEANS AN INFANT BORN IN THE STATE WHO HAS BEEN  
7 DIAGNOSED AS HAVING CEREBRAL PALSY OR A BIRTH-RELATED NEUROLOGICAL  
8 IMPAIRMENT.

9 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE FUND.

10 (E) "FUND" MEANS THE NO-FAULT CEREBRAL PALSY INSURANCE FUND.

11 (F) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN § 19-114 OF THE  
12 HEALTH - GENERAL ARTICLE.

13 (G) "HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL WHO IS LICENSED,  
14 CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS  
15 ARTICLE TO PROVIDE HEALTH CARE SERVICES.

16 (H) (1) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED TO PRACTICE  
17 MEDICINE IN THE STATE.

18 (2) "PHYSICIAN" INCLUDES AN INDIVIDUAL WHO LEGALLY PRACTICES  
19 MEDICINE WITHOUT A LICENSE UNDER § 14-302(1), (2), (3), OR (4) OF THE HEALTH  
20 OCCUPATIONS ARTICLE.

21 19-802.

22 (A) THERE IS A NO-FAULT CEREBRAL PALSY INSURANCE FUND.

23 (B) THE PURPOSE OF THE FUND IS TO PAY TO CLAIMANTS WHO ARE  
24 DIAGNOSED AS HAVING A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT THE  
25 MEDICALLY NECESSARY AND REASONABLE EXPENSES OF MEDICAL, HOSPITAL,  
26 REHABILITATIVE, RESIDENTIAL, AND CUSTODIAL CARE AND SERVICE, SPECIAL  
27 EQUIPMENT OR FACILITIES, AND RELATED TRAVEL NECESSITATED BY THE  
28 BIRTH-RELATED NEUROLOGICAL IMPAIRMENT AND ASSOCIATED DISABILITIES.

29 (C) THE DIRECTOR SHALL ADMINISTER THE FUND.

30 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT  
31 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

32 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE  
33 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

34 (3) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE  
35 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

1 (E) THE FUND CONSISTS OF:

2 (1) REVENUE DISTRIBUTED TO THE FUND FROM THE MEDICAL  
3 ASSISTANCE PROGRAM ACCOUNT OF THE MARYLAND MEDICAL PROFESSIONAL  
4 LIABILITY INSURANCE RATE STABILIZATION FUND ESTABLISHED UNDER § 19-104.1  
5 OF THIS TITLE;

6 (2) INTEREST OR OTHER INCOME EARNED ON THE MONEYS IN THE  
7 FUND; AND

8 (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE  
9 BENEFIT OF THE FUND.

10 (F) THE FUND MAY BE USED ONLY TO PAY:

11 (1) CLAIMS UNDER THIS SUBTITLE; AND

12 (2) THE COSTS OF ADMINISTERING THE FUND.

13 19-803.

14 (A) THE COMMISSIONER SHALL APPOINT THE DIRECTOR OF THE FUND.

15 (B) THE DIRECTOR SERVES AT THE PLEASURE OF THE COMMISSIONER.

16 (C) THE COMMISSIONER MAY ADOPT REASONABLE REGULATIONS TO CARRY  
17 OUT THIS SUBTITLE.

18 19-804.

19 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE RIGHTS AND  
20 REMEDIES GRANTED UNDER THIS SUBTITLE TO A CLAIMANT WHO IS DIAGNOSED AS  
21 HAVING A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT EXCLUDE ALL OTHER  
22 RIGHTS AND REMEDIES OF ANY PERSON FOR BIRTH-RELATED NEUROLOGICAL  
23 INJURIES AGAINST A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY  
24 REGARDLESS OF THE CAUSE OF INJURY.

25 (B) A CLAIMANT OR A CLAIMANT'S LEGAL REPRESENTATIVE IS NOT  
26 PRECLUDED FROM FILING A CIVIL ACTION AGAINST A HEALTH CARE PROVIDER OR  
27 HEALTH CARE FACILITY FOR A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT IF  
28 THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE HEALTH CARE PROVIDER  
29 OR HEALTH CARE FACILITY DELIBERATELY CAUSED THE BIRTH-RELATED  
30 NEUROLOGICAL IMPAIRMENT.

31 19-805.

32 (A) A CLAIM FOR COVERAGE FROM THE FUND UNDER THIS SUBTITLE MAY BE  
33 FILED BY:

34 (1) A CLAIMANT; OR

1 (2) THE LEGAL REPRESENTATIVE OF A CLAIMANT.

2 (B) IF AN INITIAL CLAIM FOR COVERAGE IS NOT FILED BEFORE THE  
3 CLAIMANT'S THIRD BIRTHDAY, COMPENSATION FROM THE FUND SHALL BE LIMITED  
4 TO EXPENSES INCURRED ON OR AFTER THE DATE OF FILING.

5 (C) THE DIRECTOR MAY REQUIRE:

6 (1) ANY PERSON WITH INFORMATION ABOUT THE CLAIM TO PROVIDE  
7 THE INFORMATION THE DIRECTOR CONSIDERS NECESSARY FOR THE EVALUATION  
8 OF THE CLAIM; AND

9 (2) THE CLAIMANT TO SUBMIT TO EXAMINATION OR TESTING.

10 (D) (1) AS SOON AS PRACTICABLE AFTER THE FILING OF A CLAIM FOR  
11 COVERAGE, THE DIRECTOR SHALL EVALUATE THE CLAIM AND DETERMINE  
12 WHETHER OR NOT THE CLAIMANT HAS A BIRTH-RELATED NEUROLOGICAL  
13 IMPAIRMENT.

14 (2) IF THE DIRECTOR IS UNABLE TO DETERMINE WHETHER OR NOT THE  
15 CLAIMANT HAS A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT, THE DIRECTOR  
16 SHALL ISSUE A DETERMINATION THAT THE DIAGNOSIS IS PRESENTLY UNCERTAIN.

17 (3) A CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE MAY:

18 (I) APPEAL A DETERMINATION OF UNCERTAINTY UNDER THIS  
19 SUBSECTION TO AN ARBITRATION PANEL UNDER § 19-806 OF THIS SUBTITLE; OR

20 (II) RESUBMIT THE CLAIM TO THE FUND AT LEAST 1 YEAR BUT NOT  
21 MORE THAN 3 YEARS AFTER THE DETERMINATION OF UNCERTAINTY.

22 (E) THE DIRECTOR SHALL PROMPTLY NOTIFY THE CLAIMANT OR THE  
23 CLAIMANT'S LEGAL REPRESENTATIVE OF THE DIRECTOR'S DETERMINATION UNDER  
24 THIS SECTION.

25 19-806.

26 (A) (1) IF A CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE  
27 DISAGREES WITH THE DETERMINATION UNDER § 19-805(D) OF THIS SUBTITLE, THE  
28 CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE MAY FILE AN APPEAL WITH  
29 THE FUND.

30 (2) AN APPEAL UNDER THIS SECTION SHALL BE FILED WITHIN 60 DAYS  
31 AFTER NOTIFICATION UNDER § 19-805(E) OF THIS SUBTITLE.

32 (B) (1) IF AN APPEAL IS TIMELY FILED, THE DIRECTOR SHALL APPOINT AN  
33 ARBITRATION PANEL OF THREE PHYSICIANS WHO ARE BOARD CERTIFIED IN  
34 NEUROLOGY OR PEDIATRICS TO REVIEW THE DETERMINATION.

35 (2) THE PANEL CONSISTS OF:



1 (I) ONE PHYSICIAN CHOSEN BY THE CLAIMANT OR THE  
2 CLAIMANT'S REPRESENTATIVE;

3 (II) ONE PHYSICIAN CHOSEN BY THE DIRECTOR; AND

4 (III) ONE PHYSICIAN AGREED ON BY THE PHYSICIANS CHOSEN  
5 UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH.

6 (C) THE CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE AND THE  
7 DIRECTOR MAY AGREE ON A SINGLE ARBITRATOR AS AN ALTERNATIVE TO THE  
8 PANEL DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

9 19-807.

10 (A) ON ARBITRATION PANELS CONSISTING OF THREE PHYSICIANS, THE  
11 PHYSICIAN AGREED ON BY THE OTHER TWO PHYSICIANS SHALL SERVE AS CHAIR OF  
12 THE PANEL.

13 (B) A VOTE OF THE MAJORITY OF THE PANEL SHALL BE BINDING ON THE  
14 PANEL.

15 (C) THE PANEL MAY REQUIRE:

16 (1) ANY PERSON WITH INFORMATION ABOUT THE CLAIM TO PROVIDE  
17 THE INFORMATION THE PANEL CONSIDERS NECESSARY FOR THE EVALUATION OF  
18 THE CLAIM; AND

19 (2) THE CLAIMANT TO SUBMIT TO EXAMINATION OR TESTING.

20 (D) (1) THE DETERMINATION OF THE PANEL AS TO WHETHER OR NOT THE  
21 CLAIMANT HAS A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT IS FINAL AND  
22 BINDING ON THE FUND.

23 (2) IF THE PANEL IS UNABLE TO DETERMINE WHETHER OR NOT THE  
24 CLAIMANT HAS A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT, THE PANEL SHALL  
25 ISSUE A DETERMINATION THAT THE DIAGNOSIS IS PRESENTLY UNCERTAIN.

26 (3) A DETERMINATION OF UNCERTAINTY UNDER THIS SUBSECTION  
27 MAY BE RESUBMITTED TO THE FUND AT LEAST 1 YEAR BUT NOT MORE THAN 3 YEARS  
28 AFTER THE DETERMINATION OF UNCERTAINTY.

29 (E) THE PANEL SHALL PROMPTLY NOTIFY THE CLAIMANT OR THE  
30 CLAIMANT'S LEGAL REPRESENTATIVE OF THE PANEL'S DETERMINATION UNDER  
31 THIS SECTION.

32 (F) (1) THE CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE MAY  
33 APPEAL THE PANEL'S DETERMINATION TO THE CIRCUIT COURT FOR THE COUNTY  
34 WHERE THE CLAIMANT WAS BORN.

35 (2) AN APPEAL UNDER THIS SUBSECTION SHALL BE FILED WITHIN 30  
36 DAYS AFTER RECEIPT OF NOTIFICATION UNDER SUBSECTION (E) OF THIS SECTION.

1 (G) THE FUND SHALL PAY THE MEMBERS OF THE PANEL A FEE ESTABLISHED  
2 BY THE DIRECTOR.

3 (H) IF THE PANEL DETERMINES THAT THE APPEAL OF THE ORIGINAL  
4 DETERMINATION WAS FRIVOLOUS, THE PANEL MAY ASSESS ITS FEES AND COSTS  
5 AGAINST THE PARTY THAT FILED THE APPEAL.

6 19-808.

7 (A) FOLLOWING A FINAL DETERMINATION THAT THE CLAIMANT HAS A  
8 BIRTH-RELATED NEUROLOGICAL IMPAIRMENT AND IS COVERED BY THIS SUBTITLE,  
9 THE CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE MAY SUBMIT TO THE  
10 FUND CLAIMS FOR PAYMENT.

11 (B) EXCEPT AS LIMITED BY THIS SECTION, THE FUND SHALL PAY ALL  
12 MEDICALLY NECESSARY AND REASONABLE EXPENSES OF MEDICAL, HOSPITAL,  
13 REHABILITATIVE, RESIDENTIAL, AND CUSTODIAL CARE AND SERVICE, SPECIAL  
14 EQUIPMENT OR FACILITIES, AND RELATED TRAVEL NECESSITATED BY THE  
15 BIRTH-RELATED NEUROLOGICAL IMPAIRMENT AND ASSOCIATED DISABILITIES.

16 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
17 PAYMENTS BY THE FUND:

18 (I) MAY NOT EXCEED \$30,000 EACH YEAR FOR ANY CLAIMANT; AND

19 (II) MAY BE MADE ONLY FOR EXPENSES INCURRED BEFORE THE  
20 CLAIMANT ATTAINS THE AGE OF 21 YEARS.

21 (2) AT THE BEGINNING OF EACH FISCAL YEAR THE DIRECTOR SHALL  
22 ADJUST THE \$30,000 LIMIT ON ANNUAL PAYMENTS TO TAKE INTO ACCOUNT  
23 INCREASES IN THE COST OF MEDICAL CARE.

24 (D) PAYMENTS MADE BY THE FUND MAY NOT INCLUDE EXPENSES FOR ITEMS  
25 THE CLAIMANT HAS RECEIVED OR IS ENTITLED TO RECEIVE:

26 (1) UNDER OTHER STATE OR FEDERAL LAW; OR

27 (2) FROM ANY HEALTH INSURANCE POLICY, NONPROFIT HEALTH  
28 SERVICE PLAN, HEALTH MAINTENANCE ORGANIZATION, OR OTHER PRIVATE  
29 INSURER.

30 19-809.

31 A PERSON MAY NOT CHARGE OR COLLECT COMPENSATION FOR LEGAL  
32 SERVICES IN CONNECTION WITH ANY CLAIMS ARISING UNDER THIS SUBTITLE  
33 UNLESS THE COMPENSATION IS APPROVED BY THE DIRECTOR.

34 19-810.

35 THE DIRECTOR SHALL REPORT ALL CLAIMS UNDER THIS SUBTITLE TO THE  
36 STATE BOARD OF PHYSICIANS FOR REVIEW TO DETERMINE WHETHER THERE ARE

1 GROUNDS FOR DISCIPLINARY ACTION FOR FAILING TO MEET APPROPRIATE  
2 STANDARDS FOR DELIVERY OF QUALITY MEDICAL CARE.

3 19-811.

4 AN INSURER THAT PROVIDES MEDICAL PROFESSIONAL LIABILITY INSURANCE  
5 TO HEALTH CARE PROVIDERS IN THE STATE SHALL:

6 (1) IDENTIFY IN ITS RATE FILING ANY SAVINGS THAT RESULT FROM  
7 THIS SUBTITLE; AND

8 (2) DECREASE THE INSURANCE RATES CHARGED TO HEALTH CARE  
9 PROVIDERS TO REFLECT THAT SAVINGS.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
11 construed to apply only prospectively and may not be applied or interpreted to have  
12 any effect on or application to any individual born before the effective date of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 2005.