

UNOFFICIAL COPY OF SENATE BILL 836
EMERGENCY BILL

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5lr1625
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By: **Senators Frosh, Miller, and Middleton**
Introduced and read first time: February 11, 2005
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Patients' Access to Quality Health Care Act of 2004 -**
3 **Implementation and Corrective Provisions**

4 FOR the purpose of requiring the Secretary of Health and Mental Hygiene, in
5 consultation with the Maryland Insurance Commissioner when developing
6 certain rates, to consider certain expenses imposed on managed care
7 organizations; providing the Insurance Commissioner with the authority to
8 deny, refuse to renew, suspend, or revoke a certificate of authority if an insurer
9 fails to pay a certain assessment by the People's Insurance Counsel; clarifying
10 the grounds for a circuit court imposing a certain civil penalty for the failure of
11 an insurer to make certain reports under certain circumstances; altering a
12 certain provision of law specifying the information that medical professional
13 liability insurers must submit to the Insurance Commissioner; requiring the
14 Commissioner to adopt certain regulations on the submission of certain
15 information by insurers; requiring the Commissioner to impose a certain civil
16 penalty under certain circumstances; repealing a certain provision of law
17 establishing the Maryland Medical Professional Liability Insurance Rate
18 Stabilization Fund; establishing the Maryland Health Care Provider Rate
19 Stabilization Fund; establishing the purposes of the Fund; providing that the
20 Fund consists of the revenue imposed from the premium tax on health
21 maintenance organizations and managed care organizations and interest on and
22 other income from the Fund; providing that the Fund is a special, nonlapsing
23 fund; requiring the State Treasurer to hold the Fund and the Comptroller to
24 account for the Fund; requiring that interest on and other income from the Fund
25 be separately accounted for; establishing that the Fund is comprised of the Rate
26 Stabilization Account and the Medical Assistance Program Account; requiring
27 the Maryland Insurance Commissioner to administer the Fund; requiring the
28 Commissioner to deposit certain premium tax revenue into the Fund; providing
29 that the Commissioner may distribute a certain amount from the Fund for costs
30 associated with administering the Fund; providing for certain allocations from
31 the Fund to the Rate Stabilization Account and the Medical Assistance Program
32 Account; providing for the distribution of certain unallocated balances
33 remaining in the Fund; authorizing the Commissioner to allocate a certain
34 percentage of the Rate Stabilization Account to certain insurers under certain
35 circumstances and to make a certain reduction in certain funds; providing for

1 the order of distribution of money from the Fund; requiring that certain unused
2 portions of the Rate Stabilization Account be used for certain purposes;
3 requiring that certain disbursements from the Rate Stabilization Account be
4 returned to the State Treasurer under certain circumstances; requiring an
5 insurer to make a certain reduction in subsidy under certain circumstances;
6 requiring an insurer seeking a certain reimbursement to make a certain
7 determination and to send a certain notice to policyholders; requiring an insurer
8 to make a certain calculation of a certain subsidy; providing for a certain
9 procedure for making a certain election not to receive a certain subsidy;
10 requiring insurers to apply to the Rate Stabilization Account on a form and in a
11 manner approved by the Commissioner; requiring insurers to submit certain
12 information when applying to the Rate Stabilization Account; requiring the
13 Commissioner to make certain disbursements from the Rate Stabilization
14 Account within a certain time after receipt of reimbursement; requiring an
15 insurer to provide a certain rate reduction, credit, or refund to certain
16 policyholders; providing that an insurer that is a mutual company may not issue
17 a certain dividend; prohibiting disbursements from the Rate Stabilization
18 Account to the Medical Mutual Liability Insurance Society of Maryland under
19 certain circumstances; requiring the Commissioner or the Commissioner's
20 designee to conduct an annual audit of certain information submitted by
21 insurers; requiring the Commissioner to make a certain determination and to
22 notify certain insurers and a certain committee of the General Assembly of the
23 determination; requiring the Commissioner to make certain disbursements from
24 the Medical Assistance Program Account to the Secretary of Health and Mental
25 Hygiene; requiring the Secretary to use certain disbursements from the Medical
26 Assistance Program Account in a certain manner; requiring the Secretary to
27 make certain health care provider rate increases in consultation with certain
28 groups; requiring the Secretary to submit a certain plan for health care provider
29 rate increases to certain committees of the General Assembly; requiring the
30 Legislative Auditor to conduct an annual audit of the receipts and
31 disbursements of the Fund; requiring the Commissioner to report certain
32 information to the Legislative Policy Committee on or before a certain date each
33 year; repealing a certain provision of law relating to a certain rate increase that
34 would trigger a certain determination by the Insurance Commissioner;
35 authorizing the Commissioner to make a certain determination when a certain
36 rate increase is requested by the Society and when the surplus of the Society is
37 a certain amount; authorizing the Commissioner to reduce a certain rate filing
38 under certain circumstances; repealing a certain provision of law requiring the
39 Society to offer insurance policies directly to policyholders and to offer a
40 premium discount or rebate on those insurance policies; amending the effective
41 date of a certain provision of law relating to the amount of commission paid by
42 the Society; repealing a certain provision of law relating to the appointment of
43 the People's Insurance Counsel; providing that the People's Insurance Counsel
44 and certain employees of the People's Insurance Counsel Division may not
45 maintain a certain relationship or hold a certain pecuniary interest; providing
46 that a certain assessment is due and payable in a certain manner; providing for
47 certain fines for failure to pay a certain assessment; requiring the Division to
48 review certain rate increases by certain insurers; clarifying certain provisions of

1 law relating to depositions by the Division in proceedings before the
2 Commissioner and proceeding in court; requiring the Governor to include in the
3 annual budget certain amounts allocated to the Fund; authorizing the Governor
4 to make a certain amendment through the executive budget amendment process
5 for certain fiscal years; altering the application of a certain tax imposed on
6 managed care organizations; defining certain terms; making this Act an
7 emergency measure; and generally relating to implementation and corrective
8 provisions of the Maryland Patient's Access to Quality Care Act of 2004.

9 BY repealing and reenacting, with amendments,
10 Article - Health - General
11 Section 15-103(b)(18)
12 Annotated Code of Maryland
13 (2000 Replacement Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Insurance
16 Section 4-113(a) and 4-401
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2004 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Insurance
21 Section 4-405
22 Annotated Code of Maryland
23 (2003 Replacement Volume and 2004 Supplement)
24 (As enacted by Ch. 5 of the Acts of the General Assembly of the 2004 Special
25 Session)

26 BY repealing
27 Article - Insurance
28 Section 19-104.1
29 Annotated Code of Maryland
30 (2002 Replacement Volume and 2004 Supplement)
31 (As enacted by Ch. 5 of the Acts of the General Assembly of the 2004 Special
32 Session)

33 BY adding to
34 Article - Insurance
35 Section 19-801 through 19-808, inclusive, to be under the new subtitle "Subtitle
36 8. Maryland Health Care Provider Rate Stabilization Fund"; and
37 24-201(g)
38 Annotated Code of Maryland
39 (2002 Replacement Volume and 2004 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Insurance
3 Section 24-201(a)
4 Annotated Code of Maryland
5 (2002 Replacement Volume and 2004 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Insurance
8 Section 24-211(b), 24-212, 24-214, and 27-501(a)
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2004 Supplement)
11 (As enacted by Ch. 5 of the Acts of the General Assembly of the 2004 Special
12 Session)

13 BY repealing and reenacting, with amendments,
14 Article - State Government
15 Section 6-301, 6-302(c), 6-306, and 6-307(a) and (b)
16 Annotated Code of Maryland
17 (2004 Replacement Volume)
18 (As enacted by Ch. 5 of the Acts of the General Assembly of the 2004 Special
19 Session)

20 BY repealing and reenacting, without amendments,
21 Article - State Government
22 Section 6-302(a)
23 Annotated Code of Maryland
24 (2004 Replacement Volume)
25 (As enacted by Ch. 5 of the Acts of the General Assembly of the 2004 Special
26 Session)

27 BY adding to
28 Article - State Government
29 Section 6-302(f) and 6-304(c)
30 Annotated Code of Maryland
31 (2004 Replacement Volume)
32 (As enacted by Ch. 5 of the Acts of the General Assembly of the 2004 Special
33 Session)

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

Article - Health - General

1 15-103.

2 (b) (18) (i) The Department shall make capitation payments to each
3 managed care organization as provided in this paragraph.

4 (ii) In consultation with the Insurance Commissioner, the Secretary
5 shall:

6 1. Set capitation payments at a level that is actuarially
7 adjusted to the benefits provided; and

8 2. Actuarially adjust the capitation payments to reflect the
9 relative risk assumed by the managed care organization.

10 (III) IN ACTUARIALY ADJUSTING CAPITATION PAYMENTS UNDER
11 SUBPARAGRAPH (II)(2) OF THIS PARAGRAPH, THE SECRETARY, IN CONSULTATION
12 WITH THE INSURANCE COMMISSIONER, SHALL TAKE INTO ACCOUNT, TO THE
13 EXTENT ALLOWED UNDER FEDERAL LAW, THE EXPENSES INCURRED BY THE
14 MANAGED CARE ORGANIZATION APPLICABLE TO THE BUSINESS OF PROVIDING CARE
15 TO ENROLLED INDIVIDUALS.

Article - Insurance

16 4-113.

17 (a) The Commissioner shall deny a certificate of authority to an applicant or
18 refuse to renew, suspend, or revoke a certificate of authority if:

19 (1) the action is required by any provision of this article OR BY § 6-304(C)
20 OF THE STATE GOVERNMENT ARTICLE;

21 (2) the insurer no longer meets the requirements for the certificate of
22 authority because of a deficiency in assets or any other reason;

23 (3) the business of the insurer is fraudulently conducted;

24 (4) the insurer is insolvent, or its assets are not sufficient for carrying on
25 its business;

26 (5) the insurer fails to pay taxes on premiums required under this
27 article;

28 (6) the insurer willfully fails to provide the Commissioner with required
29 information about medical malpractice insurance issued by the insurer in this State
30 or any other state;

31 (7) the issuance or renewal of a certificate of authority is contrary to the
32 public interest;

1 (8) the Commissioner finds that the principal management personnel of
2 the insurer is:

3 (i) untrustworthy or not of good character; or

4 (ii) so lacking in insurer managerial experience as to make the
5 proposed operation hazardous to the insurance-buying public or to the insurer's
6 stockholders; or

7 (9) the Commissioner has good reason to believe that the insurer is
8 affiliated, directly or indirectly, through ownership, control, management,
9 reinsurance transactions, or other insurance or business relations with a person
10 whose business operations are or have been marked by the manipulation of assets,
11 accounts, or reinsurance or by bad faith, to the detriment of insureds, stockholders, or
12 creditors.

13 4-401.

14 (a) This section applies to:

15 (1) each insurer that provides professional liability insurance to:

16 (i) a physician, nurse, dentist, podiatrist, optometrist, or
17 chiropractor licensed under the Health Occupations Article; or

18 (ii) a hospital licensed under the Health - General Article; and

19 (2) each self-insured hospital.

20 (b) An entity subject to this section shall report quarterly any claim or action
21 for damages for personal injury if the claim or action:

22 (1) is claimed to have been caused by an error, omission, or negligence in
23 the performance of the insured's professional services or is based on a claimed
24 performance of the insured's professional services without consent; and

25 (2) resulted in:

26 (i) a final judgment in any amount;

27 (ii) a settlement in any amount; or

28 (iii) a final disposition that does not result in payment on behalf of
29 the insured.

30 (c) A report required under this section shall contain THE INFORMATION
31 REQUIRED UNDER § 4-405 (B) OF THIS SUBTITLE[;

32 (1) the name and address of the insured;

33 (2) the policy number of the insured;

- 1 (3) the date of the occurrence from which the claim or action arose;
- 2 (4) the date of filing suit, if any;
- 3 (5) the date and amount of final judgment or settlement, if any;
- 4 (6) if there is no final judgment or settlement, the date and reason for
5 final disposition;
- 6 (7) a summary of the occurrence from which the claim or action arose;
7 and
- 8 (8) any other information as may be required].

9 (d) A report required under this section shall be filed within 90 days after the
10 end of the quarter during which an event described in subsection (b)(2)(i), (ii), or (iii)
11 of this section occurred.

12 (e) (1) A report that relates to a physician shall be filed with the State Board
13 of Physicians.

14 (2) A report that relates to a hospital shall be filed with the Secretary of
15 Health and Mental Hygiene.

16 (3) A report that relates to a nurse, dentist, podiatrist, optometrist, or
17 chiropractor shall be filed with the appropriate licensing board for these health care
18 providers.

19 (f) (1) Subject to paragraph (2) of this subsection, a report filed in
20 accordance with this section shall be treated as a personal record under § 10-624(e) of
21 the State Government Article.

22 (2) Each report shall be released to the Maryland Health Care
23 Commission.

24 (g) An insurer that reports under this section or its agents or employees, the
25 State Board of Physicians or its representatives, and any appropriate licensing
26 authority that receives a report under this section shall have the immunity from
27 liability described in § 5-701 of the Courts Article for any action taken by them under
28 this section.

29 (h) Failure to report [in accordance with this section] TO AN ENTITY
30 SPECIFIED IN SUBSECTION (E)(1), (2), OR (3) OF THIS SECTION shall result in the
31 imposition by a circuit court of a civil penalty of up to \$5,000.

32 4-405.

33 (a) (1) Each insurer providing professional liability insurance to a health
34 care provider in the State shall submit to the Commissioner information on:

35 (i) the nature and cost of reinsurance;

- 1 (ii) the claims experience, by category, of health care providers;
- 2 (iii) the amount of claim settlements and claim awards;
- 3 (iv) the amount of reserves for claims incurred and incurred but
4 unreported claims;
- 5 (v) the number of structured settlements used in payment of
6 claims; and
- 7 (vi) any other information relating to health care malpractice claims
8 prescribed by the Commissioner in regulation.

9 (2) [The Commissioner shall adopt regulations on the submission of
10 information described in paragraph (1) of this subsection] AN INSURER SUBJECT TO
11 REPORTING UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL NOTIFY THE
12 COMMISSIONER OF ANY INFORMATION THE INSURER CONSIDERS PROPRIETARY AND
13 THIS INFORMATION SHALL BE TREATED AS CONFIDENTIAL AND MAY NOT BE
14 DISCLOSED BY THE COMMISSIONER.

15 (b) In addition to the information required under subsection (a) of this section,
16 FOR EACH CLAIM FILED WITH THE DIRECTOR OF THE HEALTH CARE ALTERNATIVE
17 DISPUTE RESOLUTION OFFICE UNDER § 3-2A-04 OF THE COURTS ARTICLE, each
18 insurer providing professional liability insurance to a health care provider in the
19 State shall submit to the Commissioner the following information:

- 20 (1) (i) name of insurer;
- 21 (ii) name of insurer group;
- 22 (iii) claim file identification;
- 23 (iv) name of person completing form;
- 24 (v) telephone number (area code); and
- 25 (vi) date form completed;
- 26 (2) (i) date of injury;
- 27 (ii) date injury reported to insurer; and
- 28 (iii) date claim closed;
- 29 (3) age AND GENDER of insured person at time of injury;
- 30 [(4) whether the injured person was employed at the time of injury;
- 31 (5)] (4) (i) type of injury; [and]
- 32 (ii) description of injury; AND

1 (III) IF THE CLAIM IS AGAINST A HEALTH CARE PROVIDER COVERED
 2 UNDER A POLICY ISSUED OR DELIVERED BY THE INSURER COMPLETING THIS FORM,
 3 THE NAME OF THE HEALTH FACILITY WHERE THE INJURY OCCURRED;

4 [(6)] (5) (i) type of medical professional liability policy;

5 [(ii) hospital or related institution classification exposure by
 6 number of beds;

7 [(iii) hospital or related institution classification exposure by
 8 number of outpatients;]

9 [(iv)] (II) IF KNOWN, whether the patient was:

10 1. an inpatient;

11 2. an emergency room outpatient; or

12 3. other outpatient;

13 [(v)] (III) physician ISO classification, OR EQUIVALENT
 14 CLASSIFICATION;

15 [(vi) other health care provider, including dental ISO classification;

16 [(vii)] (IV) health care provider name and license number; and

17 [(viii)] (V) policy limits for:

18 1. each claim or medical incident; and

19 2. annual aggregate;

20 [(7)] (6) (i) [state] IF KNOWN, THE FACILITY, OFFICE, OR COUNTY
 21 where injury occurred;

22 [(ii) if the injury occurred in Maryland, the county where injury
 23 occurred;

24 [(iii) date of filing suit, if any;] and

25 [(iv)] (II) [if the injury occurred in Maryland,] the CASE NUMBER
 26 AND THE NAME AND LOCATION OF THE COURT [county where the suit was filed and
 27 the case was tried];

28 [(8)] (i) whether the plaintiff was represented by an attorney;

29 [(ii) whether the insured was represented by an attorney and, if so,
 30 at whose expense; and

31 [(iii) whether the insurer was represented by a separate attorney;

1 (9)] (7) (i) whether settlement was reached or award was made at
2 one of the following stages:

- 3 1. arbitration;
- 4 2. mediation;
- 5 3. before suit was filed;
- 6 4. after suit was filed, but before trial;
- 7 5. during trial, but before court verdict;
- 8 6. court verdict;
- 9 7. after verdict; or
- 10 8. after appeal was filed;

11 (ii) if settlement was reached or award was made by court verdict,
12 whether the result was:

- 13 1. directed verdict for plaintiff;
- 14 2. directed verdict for defendant;
- 15 3. judgment notwithstanding the verdict for the plaintiff;
- 16 4. judgment notwithstanding the verdict for the defendant;
- 17 5. judgment for the plaintiff;
- 18 6. judgment for the defendant;
- 19 7. for plaintiff, after appeal;
- 20 8. for defendant, after appeal; or
- 21 9. any other;

22 (iii) if there was no final judgment or settlement, the date and
23 reason for the final disposition; and

24 (iv) if case did go to trial, whether the case tried by a jury;

25 [(10) (i) whether there were defendants other than the insured included
26 in the original claim or an amended version of the claim and, if so, how many other
27 defendants there were and whether the other defendants were:

- 28 1. physicians or surgeons; or
- 29 2. hospitals or other health care providers;

1 (ii) if a physician or surgeon was a defendant, the defendant's name
2 and license number; and

3 (iii) if a hospital or other health care provider was a defendant, the
4 defendant's name and license number;

5 (11) (i) if case was tried to verdict, and if applicable, the percentage of
6 fault assigned to your insured;

7 (ii) if claim was settled, and if applicable, an estimate of the
8 percentage of fault for the insured; and

9 (iii) the percentage of the final award or settlement paid by the
10 insurer;

11 (12)] (8) with respect to the total amount paid to the claimant:

12 (i) the amount paid by the insurer;

13 (ii) the amount paid by the insured due to retention or deductible;

14 (iii) IF KNOWN, the amount paid by an excess carrier;

15 (iv) IF KNOWN, the amount paid by the insured due to settlement or
16 award in excess of policy limits;

17 (v) IF KNOWN, the amount paid by other defendants or
18 contributors; and

19 (vi) the total amount of settlement or award;

20 [(13) (i) whether there were collateral sources, such as medical
21 insurance, disability insurance, Social Security disability, or workers' compensation
22 available to the injured party; and

23 (ii) if collateral sources were available, the type and amount;]

24 [(14)] (9) a summary of the occurrence from which the claim or action
25 arose, including:

26 (i) [the final diagnosis for which treatment was sought or
27 rendered, including the patient's actual condition;]

28 [(ii)] a description of the misdiagnosis OR ALLEGED MISDIAGNOSIS
29 made, if any, of the patient's actual condition;

30 [(iii)] (II) [the operation, diagnostic, or treatment procedure] A
31 DESCRIPTION OF THE PROCEDURE GIVING RISE TO THE CLAIM; AND

32 [(iv)] (III) a description of the principal injury giving rise to the
33 claim; [and

1 (v) the safety management steps that have been taken by the
2 insured to prevent similar occurrences or injuries in the future;]

3 [(15)] (10) (i) whether a structured settlement or periodic payment was
4 used in closing this claim; and

5 (ii) if a structured settlement or periodic payment was used:

6 1. [whether the structured settlement or periodic payment
7 applied to plaintiff's attorney's fees as well as indemnity payments;]

8 [2.] the amount of immediate payment;

9 [3.] 2. the present value of the projected total future payout
10 (price of annuity if purchased); and

11 [4.] 3. the projected total future payout;

12 [(16)] (11) [the injured person's:

13 (i) medical expenses through date of closing;

14 (ii) anticipated future medical expense;

15 (iii) wage loss through date of closing;

16 (iv) anticipated future wage loss;

17 (v) other expenses through date of closing; and

18 (vi) anticipated future other expenses;] IF A NEUTRAL EXPERT
19 WITNESS IS EMPLOYED UNDER § 3-2A-09(D)(2) OF THE COURTS AND JUDICIAL
20 PROCEEDINGS ARTICLE, THE FINDINGS OF A NEUTRAL EXPERT WITNESS AS TO A
21 PLAINTIFF'S FUTURE MEDICAL EXPENSES OR FUTURE LOSS OF EARNINGS;

22 [(17)] (12) IF CASE WAS TRIED TO VERDICT, the amount of noneconomic
23 damages;

24 [(18)] (i) the actual amount of prejudgment interest, if any, paid on
25 award; and

26 (ii) the estimated amount of prejudgment interest, if any, reflected
27 in settlement;] and

28 [(19)] (13) (i) [the amount paid to outside defense counsel] THE TOTAL
29 ALLOCATED LOSS ADJUSTMENT EXPENSE BY FEES AND EXPENSES PAID TO DEFENSE
30 COUNSEL; AND

31 (ii) [the amount of other allocated loss adjustment expenses, such
32 as court costs and stenographer's fees; and]

1 [(iii)] the total allocated loss adjustment expense.

2 (c) The Commissioner:

3 (1) SHALL ADOPT REGULATIONS ON THE SUBMISSION OF INFORMATION
4 DESCRIBED IN THIS SECTION; AND

5 (2) may adopt regulations that require insurers of other lines of liability
6 insurance to submit reports containing information that is substantially similar to
7 the information described in subsection (a) of this section.

8 (d) FAILURE TO REPORT IN ACCORDANCE WITH THIS SECTION SHALL RESULT
9 IN THE IMPOSITION BY THE COMMISSIONER OF A CIVIL PENALTY OF UP TO \$5,000.

10 (E) The Commissioner shall report, in accordance with § 2-1246 of the State
11 Government Article, the Commissioner's findings as to the impact of Chapter 5 of the
12 Acts of the 2004 Special Session of the General Assembly (H.B. 2) and Chapter 477 of
13 the Acts of the General Assembly of 1994 on the availability of health care malpractice
14 and other liability insurance in the State to the Legislative Policy Committee on or
15 before September 1 of each year.

16 [19-104.1.

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

18 (2) "Agreement" means a contract between the Maryland Insurance
19 Administration and a medical professional liability insurer under subsection (j) of this
20 section.

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

23 (4) (i) "Health care provider" means a health care practitioner
24 licensed under Title 14 of the Health Occupations Article.

25 (ii) "Health care provider" does not include:

- 26 1. a respiratory care practitioner;
- 27 2. a radiation oncology/therapy technologist;
- 28 3. a medical radiation technologist; or
- 29 4. a nuclear medicine technologist.

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

33 (6) "Medical injury" has the meaning stated in § 3-2A-01 of the Courts
34 Article.

1 (7) "Medical professional liability insurer" means an insurer that:

2 (i) on or before January 1, 2005, holds a certificate of authority
3 issued by the Commissioner under § 4-109 or § 4-112 of this article; and

4 (ii) issues or delivers a policy in the State that insures a health care
5 provider against damages due to a medical injury.

6 (8) "Rate stabilization account" means an account established within the
7 Fund that is available to subsidize agreements under subsection (j) of this section.

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

10 (c) The purposes of the Fund are to:

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

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

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

21 (4) subsidize the costs incurred by the Commissioner to administer the
22 Fund.

23 (d) The Commissioner shall administer the Fund.

24 (e) The Fund is a special nonlapsing fund that is not subject to § 7-302 of the
25 State Finance and Procurement Article.

26 (f) The State Treasurer shall hold the Fund separately and the Comptroller
27 shall account for the Fund.

28 (g) The State Treasurer shall invest the money of the Fund in the same
29 manner as other State money may be invested.

30 (h) The debts and obligations of the Fund are not debts and obligations of the
31 State or a pledge of the full faith and credit of the State.

32 (i) Notwithstanding § 2-114 of this article:

33 (1) the Commissioner shall deposit the revenue from the tax imposed on
34 health maintenance organizations and managed care organizations under § 6-102 of
35 this article in the Fund;

1 (2) subject to items (3) and (4) of this subsection, the Fund shall consist
2 of:

3 (i) the revenue from the tax imposed on managed care
4 organizations and health maintenance organizations under § 6-102 of this article;

5 (ii) interest or other income earned on the moneys in the Fund; and

6 (iii) any other money from any other source accepted for the benefit
7 of the Fund;

8 (3) the Commissioner shall distribute from the Fund an amount, not to
9 exceed 0.5% of the total revenue collected in each year, sufficient to cover the costs of
10 administering the Fund; and

11 (4) after distributing the amounts required under item (3) of this
12 subsection, the revenue remaining in the Fund shall be allocated according to the
13 following schedule:

14 (i) in fiscal year 2005, \$6,000,000 to the Medical Assistance
15 Program Account;

16 (ii) in fiscal year 2006:

17 1. \$40,700,000 to the Rate Stabilization Account to subsidize
18 agreements for calendar year 2005; and

19 2. \$39,300,000 to the Medical Assistance Program Account;

20 (iii) in fiscal year 2007:

21 1. \$33,400,000 to the Rate Stabilization Account to subsidize
22 agreements for calendar year 2006; and

23 2. \$46,600,000 to the Medical Assistance Program Account;

24 (iv) in fiscal year 2008:

25 1. \$26,100,000 to the Rate Stabilization Account to subsidize
26 agreements for calendar year 2007; and

27 2. the remaining balance to the Medical Assistance Program
28 Account;

29 (v) in fiscal year 2009:

30 1. \$18,800,000 to the Rate Stabilization Account to subsidize
31 agreements for calendar year 2008; and

32 2. the remaining balance to the Medical Assistance Program
33 Account; and

1 (vi) in fiscal year 2010 and annually thereafter, 100% to the Medical
2 Assistance Program Account.

3 (j) (1) The Commissioner may enter into four 1-year agreements with a
4 medical professional liability insurer to:

5 (i) subject to paragraph (2) of this subsection, for an agreement
6 applicable to a 12-month period initiated on or after January 1, 2005, maintain
7 medical professional liability insurance policies issued or delivered in the State at
8 rates allowed under an approved rate filing for that period, less the value of the
9 guarantee provided under subsection (m) of this section;

10 (ii) for an agreement applicable to a 12-month period initiated on
11 or after January 1, 2006, maintain medical professional liability insurance policies
12 issued or delivered in the State at rates allowed under an approved rate filing for that
13 period, less the value of the guarantee provided under subsection (m) of this section;

14 (iii) for an agreement applicable to a 12-month period initiated on
15 or after January 1, 2007, maintain medical professional liability insurance policies
16 issued or delivered in the State at rates allowed under an approved rate filing for that
17 period, less the value of the guarantee provided under subsection (m) of this section;
18 and

19 (iv) for an agreement applicable to a 12-month period initiated on
20 or after January 1, 2008, maintain medical professional liability insurance policies
21 issued or delivered in the State at rates allowed under an approved rate filing for that
22 period, less the value of the guarantee provided under subsection (m) of this section.

23 (2) For an agreement under paragraph (1)(i) of this subsection, the base
24 premium allowed under an approved rate filing, less the value of the guarantee
25 provided under subsection (m) of this section for each specialty, may not exceed the
26 base premium for the previous 12-month period by more than 5%.

27 (k) (1) A medical professional liability insurer entering into an agreement
28 with the Commissioner shall establish a separate account:

29 (i) that is credited with:

30 1. earned premiums on medical professional liability
31 insurance policies issued or delivered in the State during the period in which an
32 agreement is in effect;

33 2. investment income earned on the average monthly
34 balance of the account at a stated monthly rate of interest equivalent to the 2-year
35 United States Treasury rate of interest, as published by the Federal Reserve Board, in
36 effect on the effective date of the agreement plus 50 basis points;

37 3. for a medical professional liability insurer that is a mutual
38 insurer, the value of a dividend, if any, that may be issued during the period in which
39 an agreement is in effect; and

1 disbursements made from the Rate Stabilization Account to a medical professional
2 liability insurer.

3 (p) (1) Disbursement from the Fund may not exceed the revenue from the
4 premium tax imposed under § 6-102 of this article on managed care organizations
5 and health maintenance organizations, including interest earned.

6 (2) A disbursement may not be made from the Fund to the Medical
7 Mutual Liability Insurance Society of Maryland during any period for which the
8 Commissioner has determined, under § 24-212 of this article, that the surplus of the
9 Society is excessive.

10 (q) (1) Disbursements from the Medical Assistance Program Account of
11 \$15,000,000 shall be made to the Maryland Medical Assistance Program to increase
12 both fee-for-service physician rates and capitation payments to managed care
13 organizations for procedures commonly performed by:

14 (i) obstetricians;

15 (ii) neurosurgeons;

16 (iii) orthopedic surgeons; and

17 (iv) emergency medicine physicians.

18 (2) (i) Portions of the Medical Assistance Program Account that exceed
19 the amount provided for under paragraph (1) of this subsection shall be used only to
20 increase payments to physicians and capitation payments to managed care
21 organizations.

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

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

32 (r) All receipts and disbursements of the Fund shall be audited yearly by the
33 Office of Legislative Audits and a report of the audit shall be included in and become
34 part of the annual report required under subsection (t) of this section.

35 (s) The Commissioner shall adopt regulations that specify the information
36 that a medical professional liability insurer shall submit to receive a disbursement
37 from the Rate Stabilization Account.

1 (t) On or before March 1 of each year, the Commissioner shall report to the
2 Legislative Policy Committee, in accordance with § 2-1246 of the State Government
3 Article, on:

4 (1) the amount of money in the Fund, the Rate Stabilization Account,
5 and the Medical Assistance Program Account on the last day of the previous calendar
6 year;

7 (2) the amount of money applied for by medical professional liability
8 insurers during the previous calendar year;

9 (3) the amount of money disbursed to medical professional liability
10 insurers during the previous calendar year;

11 (4) the costs incurred in administering the Fund during the previous
12 fiscal year; and

13 (5) the report of audited receipts and disbursements of the Fund as
14 required under subsection (r) of this section.]

15 SUBTITLE 8. MARYLAND HEALTH CARE PROVIDER RATE STABILIZATION FUND.

16 19-801.

17 (A) IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (B) "FUND" MEANS THE MARYLAND HEALTH CARE PROVIDER RATE
20 STABILIZATION FUND.

21 (C) (1) "HEALTH CARE PROVIDER" MEANS A HEALTH CARE PRACTITIONER:

22 (I) LICENSED UNDER TITLE 14 OF THE HEALTH OCCUPATIONS
23 ARTICLE; OR

24 (II) CERTIFIED AS A NURSE MIDWIFE UNDER TITLE 8 OF THE
25 HEALTH OCCUPATIONS ARTICLE.

26 (2) "HEALTH CARE PROVIDER" DOES NOT INCLUDE:

27 (I) A RESPIRATORY CARE PRACTITIONER;

28 (II) A RADIATION ONCOLOGY/THERAPY TECHNOLOGIST;

29 (III) A MEDICAL RADIATION TECHNOLOGIST; OR

30 (IV) A NUCLEAR MEDICINE TECHNOLOGIST.

31 (D) "INCREASED RATE FACTOR" MEANS:

1 (1) FOR MEDICAL PROFESSIONAL LIABILITY INSURANCE POLICIES
2 SUBJECT TO RATES THAT WERE APPROVED FOR AN INITIAL EFFECTIVE DATE ON OR
3 AFTER JANUARY 1, 2005, BUT PRIOR TO JANUARY 1, 2006, 105% OF THE APPROVED
4 RATES IN EFFECT 1 YEAR PRIOR TO THE EFFECTIVE DATE OF THE POLICY; AND

5 (2) FOR POLICIES EFFECTIVE FOR THE 3 YEARS SUBSEQUENT TO THE
6 PERIOD SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION, A PERCENTAGE, AS
7 DETERMINED ANNUALLY BY THE COMMISSIONER, OF THE APPROVED RATES IN
8 EFFECT 1 YEAR PRIOR TO THE EFFECTIVE DATE OF THE POLICY.

9 (E) "MEDICAL INJURY" HAS THE MEANING STATED IN § 3-2A-01 OF THE
10 COURTS ARTICLE.

11 (F) "MEDICAL PROFESSIONAL LIABILITY INSURER" MEANS AN INSURER THAT:

12 (1) HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE
13 COMMISSIONER UNDER § 4-109 OR § 4-112 OF THIS ARTICLE; AND

14 (2) ISSUES OR DELIVERS A POLICY IN THE STATE THAT INSURES A
15 HEALTH CARE PROVIDER AGAINST DAMAGES DUE TO MEDICAL INJURY.

16 (G) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
17 HYGIENE.

18 (H) "STABILIZED RATE" MEANS THE APPROVED RATE BY CLASSIFICATION,
19 GEOGRAPHIC TERRITORY, AND THE POLICYHOLDER'S CLAIMS MADE YEAR USING
20 THE RATE TABLES IN EFFECT 1 YEAR PRIOR TO THE EFFECTIVE DATE OF THE POLICY,
21 MULTIPLIED BY THE INCREASED RATE FACTOR.

22 19-802.

23 (A) THERE IS A MARYLAND HEALTH CARE PROVIDER RATE STABILIZATION
24 FUND.

25 (B) THE PURPOSES OF THE FUND ARE TO:

26 (1) RETAIN HEALTH CARE PROVIDERS IN THE STATE BY ALLOWING
27 MEDICAL PROFESSIONAL LIABILITY INSURERS TO CHARGE RATES THAT ARE LESS
28 THAN THE RATES APPROVED UNDER § 11-201 OF THIS ARTICLE;

29 (2) INCREASE FEE-FOR-SERVICE RATES PAID BY THE MARYLAND
30 MEDICAL ASSISTANCE PROGRAM TO HEALTH CARE PROVIDERS IDENTIFIED UNDER §
31 19-807 OF THIS SUBTITLE;

32 (3) PAY MANAGED CARE ORGANIZATION HEALTH CARE PROVIDERS
33 IDENTIFIED UNDER § 19-807 OF THIS SUBTITLE CONSISTENT WITH
34 FEE-FOR-SERVICE HEALTH CARE PROVIDER RATES;

35 (4) INCREASE CAPITATION PAYMENTS TO MANAGED CARE
36 ORGANIZATIONS PARTICIPATING IN THE MARYLAND MEDICAL ASSISTANCE

1 PROGRAM CONSISTENT WITH § 15-103(B)(18) OF THE HEALTH - GENERAL ARTICLE;
2 AND

3 (5) DURING THE PERIOD THAT AN ALLOCATION IS MADE TO THE RATE
4 STABILIZATION ACCOUNT, SUBSIDIZE UP TO \$150,000 ANNUALLY TO PROVIDE FOR
5 THE COSTS INCURRED BY THE COMMISSIONER TO ADMINISTER THE FUND.

6 (C) THE FUND SHALL CONSIST OF:

7 (1) THE REVENUE FROM THE TAX IMPOSED ON HEALTH MAINTENANCE
8 ORGANIZATIONS AND MANAGED CARE ORGANIZATIONS UNDER § 6-102 OF THIS
9 ARTICLE;

10 (2) INTEREST OR OTHER INCOME EARNED ON THE MONEYS IN THE
11 FUND; AND

12 (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE
13 BENEFIT OF THE FUND.

14 (D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO §
15 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

16 (E) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
17 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

18 (F) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
19 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

20 (G) THE FUND COMPRISES:

21 (1) THE RATE STABILIZATION ACCOUNT FROM WHICH DISBURSEMENTS
22 SHALL BE MADE TO PAY FOR HEALTH CARE PROVIDER RATE SUBSIDIES; AND

23 (2) THE MEDICAL ASSISTANCE PROGRAM ACCOUNT FROM WHICH
24 DISBURSEMENTS SHALL BE MADE TO:

25 (I) PROVIDE AN INCREASE IN FEE-FOR-SERVICE HEALTH CARE
26 PROVIDER RATES PAID BY THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

27 (II) PROVIDE AN INCREASE FOR MANAGED CARE ORGANIZATION
28 HEALTH CARE PROVIDERS CONSISTENT WITH FEE-FOR-SERVICE HEALTH CARE
29 PROVIDER RATE INCREASES;

30 (III) PROVIDE AN INCREASE IN CAPITATION PAYMENTS TO
31 MANAGED CARE ORGANIZATIONS PARTICIPATING IN THE MARYLAND MEDICAL
32 ASSISTANCE PROGRAM CONSISTENT WITH § 15-103(B)(18) OF THE HEALTH - GENERAL
33 ARTICLE; AND

34 (IV) AFTER 2009, MAINTAIN RATES FOR HEALTH CARE PROVIDERS
35 AND GENERALLY TO SUPPORT THE OPERATIONS OF THE MARYLAND MEDICAL
36 ASSISTANCE PROGRAM.

1 19-803.

2 (A) THE COMMISSIONER SHALL ADMINISTER THE FUND.

3 (B) NOTWITHSTANDING § 2-114 OF THIS ARTICLE:

4 (1) THE COMMISSIONER SHALL DEPOSIT THE REVENUE FROM THE TAX
5 IMPOSED ON HEALTH MAINTENANCE ORGANIZATIONS AND MANAGED CARE
6 ORGANIZATIONS UNDER § 6-102 OF THIS ARTICLE IN THE FUND;

7 (2) DURING THE PERIOD AN ALLOCATION IS MADE TO THE RATE
8 STABILIZATION ACCOUNT, THE COMMISSIONER MAY DISTRIBUTE UP TO \$150,000
9 ANNUALLY FROM THE REVENUE ESTIMATED TO BE RECEIVED BY THE FUND IN A
10 FISCAL YEAR TO PROVIDE FOR THE COSTS INCURRED BY THE COMMISSIONER TO
11 ADMINISTER THE FUND;

12 (3) AFTER DISTRIBUTING THE AMOUNT REQUIRED UNDER PARAGRAPH
13 (2) OF THIS SUBSECTION, THE COMMISSIONER SHALL ALLOCATE THE REVENUE AND
14 UNALLOCATED BALANCE OF THE FUND ACCORDING TO THE FOLLOWING SCHEDULE:

15 (I) IN FISCAL YEAR 2005, \$3,500,000 TO THE MEDICAL ASSISTANCE
16 PROGRAM ACCOUNT;

17 (II) IN FISCAL YEAR 2006:

18 1. \$52,000,000 TO THE RATE STABILIZATION ACCOUNT TO PAY
19 FOR HEALTH CARE PROVIDER RATE REDUCTIONS, CREDITS, OR REFUNDS IN
20 CALENDAR YEAR 2005; AND

21 2. \$30,000,000 TO THE MEDICAL ASSISTANCE PROGRAM
22 ACCOUNT;

23 (III) IN FISCAL YEAR 2007:

24 1. \$45,000,000 TO THE RATE STABILIZATION ACCOUNT TO PAY
25 FOR HEALTH CARE PROVIDER RATE REDUCTIONS, CREDITS, OR REFUNDS IN
26 CALENDAR YEAR 2006; AND

27 2. \$45,000,000 TO THE MEDICAL ASSISTANCE PROGRAM
28 ACCOUNT;

29 (IV) IN FISCAL YEAR 2008:

30 1. \$35,000,000 TO THE RATE STABILIZATION ACCOUNT TO PAY
31 FOR HEALTH CARE PROVIDER RATE REDUCTIONS, CREDITS, OR REFUNDS IN
32 CALENDAR YEAR 2007; AND

33 2. \$65,000,000 TO THE MEDICAL ASSISTANCE PROGRAM
34 ACCOUNT;

35 (V) IN FISCAL YEAR 2009:

1 1. \$25,000,000 TO THE RATE STABILIZATION ACCOUNT TO PAY
2 FOR HEALTH CARE PROVIDER RATE REDUCTIONS, CREDITS, OR REFUNDS IN
3 CALENDAR YEAR 2008; AND

4 2. THE REMAINING REVENUE TO THE MEDICAL ASSISTANCE
5 PROGRAM ACCOUNT; AND

6 (VI) IN FISCAL YEAR 2010 AND ANNUALLY THEREAFTER, 100% TO
7 THE MEDICAL ASSISTANCE PROGRAM ACCOUNT.

8 (C) (1) ANY REVENUE REMAINING IN THE FUND AFTER FISCAL YEAR 2005
9 SHALL REMAIN IN THE FUND UNTIL OTHERWISE DIRECTED BY LAW.

10 (2) IF IN ANY FISCAL YEAR THE ALLOCATIONS MADE UNDER THIS
11 SECTION EXCEED THE REVENUES ESTIMATED FOR THAT YEAR, AMOUNTS
12 AVAILABLE IN THE UNALLOCATED BALANCE OF THE FUND MAY BE SUBSTITUTED TO
13 THE EXTENT OF A FUND DEFICIT.

14 (D) (1) IF A MEDICAL PROFESSIONAL LIABILITY INSURER PROVIDES
15 COVERAGE TO A HEALTH CARE PROVIDER AND THAT INSURER DID NOT EARN
16 PREMIUMS IN THE PREVIOUS CALENDAR YEAR, THAT INSURER SHALL BE
17 ALLOCATED 5% OF THE BALANCE OF THE RATE STABILIZATION ACCOUNT OR A
18 LESSER AMOUNT AS DETERMINED BY THE COMMISSIONER.

19 (2) IF AN ALLOCATION IS MADE UNDER PARAGRAPH (1) OF THIS
20 SUBSECTION, THE FUNDS AVAILABLE TO OTHER MEDICAL PROFESSIONAL LIABILITY
21 INSURERS SHALL BE REDUCED ON A PRO RATA BASIS.

22 19-804.

23 (A) THE ORDER OF PREFERENCE FOR DISTRIBUTION FROM THE FUND SHALL
24 BE AS FOLLOWS:

25 (1) DISBURSEMENTS FROM THE RATE STABILIZATION ACCOUNT TO
26 SUBSIDIZE HEALTH CARE PROVIDER RATES UNDER § 19-805 OF THIS SUBTITLE;

27 (2) DISBURSEMENTS FROM THE MEDICAL ASSISTANCE PROGRAM
28 ACCOUNT SUFFICIENT TO:

29 (I) PAY FOR INCREASE RATES TO HEALTH CARE PROVIDERS
30 IDENTIFIED UNDER § 19-807 (B)(2) OF THIS SUBTITLE; AND

31 (II) TO PAY MANAGED CARE ORGANIZATION HEALTH CARE
32 PROVIDERS IDENTIFIED UNDER § 19-807 (B)(2) OF THIS SUBTITLE CONSISTENT WITH
33 THE FEE-FOR-SERVICE HEALTH CARE PROVIDER RATE INCREASES;

34 (3) DISBURSEMENTS TO MAINTAIN THE INCREASE IN HEALTH CARE
35 PROVIDER REIMBURSEMENTS UNDER § 19-807 (B)(2) OF THIS SUBTITLE;

1 (4) DISBURSEMENTS TO INCREASE CAPITATION PAYMENTS TO
2 MANAGED CARE ORGANIZATIONS PARTICIPATING IN THE MARYLAND MEDICAL
3 ASSISTANCE PROGRAM CONSISTENT WITH § 15-103(B)(18) OF THE HEALTH - GENERAL
4 ARTICLE; AND

5 (5) DISBURSEMENTS FROM THE MEDICAL ASSISTANCE PROGRAM
6 ACCOUNT TO:

7 (I) INCREASE FEE-FOR-SERVICE HEALTH CARE PROVIDER RATES
8 UNDER § 19-807 OF THIS SUBTITLE; AND

9 (II) TO PAY MANAGED CARE ORGANIZATION HEALTH CARE
10 PROVIDERS CONSISTENT WITH FEE-FOR-SERVICE HEALTH CARE PROVIDER RATES
11 UNDER § 19-807 (B)(3) OF THIS SUBTITLE.

12 (B) DISBURSEMENTS FROM THE RATE STABILIZATION ACCOUNT TO A
13 MEDICAL PROFESSIONAL LIABILITY INSURER MAY NOT EXCEED THE AMOUNT
14 NECESSARY TO PROVIDE A RATE REDUCTION, CREDIT, OR REFUND TO HEALTH CARE
15 PROVIDERS.

16 (C) (1) PORTIONS OF THE RATE STABILIZATION ACCOUNT THAT EXCEED
17 THE AMOUNT NECESSARY TO PAY FOR HEALTH CARE PROVIDER SUBSIDIES SHALL
18 REMAIN IN THE RATE STABILIZATION ACCOUNT TO BE USED:

19 (I) TO PAY FOR HEALTH CARE PROVIDER SUBSIDIES IN CALENDAR
20 YEARS 2006 THROUGH 2008; AND

21 (II) AFTER THE FISCAL YEAR 2009 ALLOCATION TO THE RATE
22 STABILIZATION ACCOUNT UNDER § 19-803 (B) OF THIS SUBTITLE, BY THE MEDICAL
23 ASSISTANCE PROGRAM ACCOUNT FOR THE PURPOSES SPECIFIED UNDER § 19-807 (B)
24 OF THIS SUBTITLE.

25 (2) ANY DISBURSEMENTS FROM THE RATE STABILIZATION ACCOUNT TO
26 A MEDICAL PROFESSIONAL LIABILITY INSURER THAT IS NOT USED TO PROVIDE A
27 RATE REDUCTION, CREDIT, OR REFUND TO A HEALTH CARE PROVIDER SHALL BE
28 RETURNED TO THE STATE TREASURER FOR REVERSION TO THE FUND.

29 (D) A MEDICAL PROFESSIONAL LIABILITY INSURER SHALL REDUCE THE
30 SUBSIDY PAID TO EACH HEALTH CARE PROVIDER ELECTING TO RECEIVE A SUBSIDY
31 IF THE BALANCE OF THE RATE STABILIZATION ACCOUNT IS INSUFFICIENT TO PAY
32 HEALTH CARE PROVIDER SUBSIDIES.

33 19-805.

34 (A) ON AT LEAST AN ANNUAL BASIS, A MEDICAL PROFESSIONAL LIABILITY
35 INSURER SEEKING REIMBURSEMENT FROM THE RATE STABILIZATION ACCOUNT
36 SHALL:

37 (1) DETERMINE THE STABILIZED RATE FOR EACH POLICYHOLDER; AND

1 (2) SEND A WRITTEN NOTICE TO EACH POLICYHOLDER STATING:

2 (I) THE AMOUNT OF THE ANNUAL SUBSIDY PROVIDED BY THE
3 STATE; AND

4 (II) THE PROCEDURE A HEALTH CARE PROVIDER SHALL FOLLOW IF
5 ELECTING NOT TO RECEIVE A RATE REDUCTION, CREDIT, OR REFUND.

6 (B) SUBJECT TO § 19-804 (D) OF THIS SUBTITLE AND SUBSECTION (C) OF THIS
7 SECTION, THE SUBSIDY PROVIDED TO EACH POLICYHOLDER SHALL EQUAL THE
8 DIFFERENCE BETWEEN:

9 (1) THE AMOUNT OF THE ANNUAL BASE PREMIUM RATE CHARGED ON
10 THE POLICY BY THE INSURER AT THE APPROVED RATE; AND

11 (2) THE AMOUNT OF THE ANNUAL BASE PREMIUM RATE CHARGED BY
12 THE INSURER ON THE POLICY AT THE STABILIZED RATE.

13 (C) THE STATE SUBSIDY CALCULATED UNDER SUBSECTION (B) OF THIS
14 SECTION MAY NOT INCLUDE THE AMOUNT OF A RATE INCREASE RESULTING FROM A
15 PREMIUM SURCHARGE OR THE LOSS OF A DISCOUNT DUE TO A HEALTH CARE
16 PROVIDER'S LOSS EXPERIENCE.

17 (D) A HEALTH CARE PROVIDER MAY ELECT NOT TO RECEIVE A RATE
18 REDUCTION, CREDIT, OR REFUND BY:

19 (1) NOTIFYING THE MEDICAL PROFESSIONAL LIABILITY INSURER
20 WITHIN 15 DAYS OF RECEIVING THE NOTICE UNDER SUBSECTION (A) OF THIS
21 SECTION OF THE HEALTH CARE PROVIDER'S INTENT NOT TO ACCEPT A RATE
22 REDUCTION, CREDIT, OR REFUND; AND

23 (2) PAYING, EITHER IN FULL, OR ON AN INSTALLMENT BASIS, THE
24 AMOUNT OF PREMIUM BILLED BY THE MEDICAL PROFESSIONAL LIABILITY INSURER.

25 (E) (1) ON AT LEAST AN ANNUAL BASIS, A MEDICAL PROFESSIONAL
26 LIABILITY INSURER SEEKING REIMBURSEMENT FROM THE RATE STABILIZATION
27 ACCOUNT ON BEHALF OF HEALTH CARE PROVIDERS SHALL APPLY TO THE RATE
28 STABILIZATION ACCOUNT ON A FORM AND IN A MANNER APPROVED BY THE
29 COMMISSIONER.

30 (2) THE COMMISSIONER SHALL ADOPT REGULATIONS THAT SPECIFY
31 THE INFORMATION THAT MEDICAL PROFESSIONAL LIABILITY INSURERS SHALL
32 SUBMIT TO RECEIVE MONEY FROM THE RATE STABILIZATION ACCOUNT.

33 (3) THE INFORMATION REQUIRED SHALL INCLUDE:

34 (I) BY HEALTH CARE PROVIDER CLASSIFICATION AND
35 GEOGRAPHIC TERRITORY, THE AMOUNT OF THE BASE PREMIUM RATE CHARGED BY
36 THE INSURER AT THE APPROVED RATE;

1 (II) BY HEALTH CARE PROVIDER CLASSIFICATION AND
2 GEOGRAPHIC TERRITORY, THE AMOUNT OF THE BASE PREMIUM RATE CHARGED BY
3 THE INSURER AT THE STABILIZED RATE;

4 (III) THE NUMBER OF HEALTH CARE PROVIDERS IN EACH
5 CLASSIFICATION AND GEOGRAPHIC TERRITORY;

6 (IV) THE TOTAL AMOUNT OF REIMBURSEMENT REQUESTED FROM
7 THE RATE STABILIZATION ACCOUNT;

8 (V) THE NAME, CLASSIFICATION, AND GEOGRAPHIC TERRITORY OF
9 EACH HEALTH CARE PROVIDER ELECTING NOT TO RECEIVE A RATE REDUCTION,
10 CREDIT, OR REFUND; AND

11 (VI) ANY OTHER INFORMATION THE COMMISSIONER CONSIDERS
12 NECESSARY TO DISBURSE MONEY FROM THE RATE STABILIZATION ACCOUNT.

13 (F) ON A QUARTERLY BASIS AND WITHIN 60 DAYS OF RECEIPT OF A REQUEST
14 FOR REIMBURSEMENT FROM THE FUND, THE COMMISSIONER SHALL DISBURSE
15 MONEY FROM THE RATE STABILIZATION ACCOUNT TO MEDICAL PROFESSIONAL
16 LIABILITY INSURERS TO BE USED TO PROVIDE A RATE REDUCTION, CREDIT, OR
17 REFUND TO HEALTH CARE PROVIDERS.

18 (G) IN ANTICIPATION OF REIMBURSEMENT OR ON REIMBURSEMENT FROM
19 THE RATE STABILIZATION ACCOUNT, A MEDICAL PROFESSIONAL LIABILITY INSURER
20 SHALL PROVIDE A RATE REDUCTION, CREDIT, OR REFUND TO A POLICYHOLDER AS
21 FOLLOWS:

22 (1) FOR PREMIUMS PAID ON AN INSTALLMENT BASIS, THE RATE
23 REDUCTION OR CREDIT SHALL BE APPLIED AGAINST THE BASE PREMIUM RATE DUE
24 ON THE NEXT INSTALLMENT; AND

25 (2) IF THE AMOUNT OF THE RATE REDUCTION OR CREDIT IS MORE THAN
26 THE AMOUNT DUE ON THE NEXT INSTALLMENT, OR IF A POLICY IS PAID IN FULL, THE
27 POLICYHOLDER MAY ELECT THAT EITHER A REFUND BE ISSUED, OR THAT A CREDIT
28 BE APPLIED AGAINST THE BASE PREMIUM RATE DUE ON THE POLICYHOLDER'S NEXT
29 RENEWAL.

30 (H) DURING THE PERIOD IN WHICH DISBURSEMENTS ARE MADE FROM THE
31 RATE STABILIZATION ACCOUNT TO PAY FOR HEALTH CARE PROVIDER RATE
32 REDUCTIONS, CREDITS, OR REFUNDS:

33 (1) A DISBURSEMENT FROM THE RATE STABILIZATION ACCOUNT TO A
34 MEDICAL PROFESSIONAL LIABILITY INSURER CONDUCTING BUSINESS AS A MUTUAL
35 COMPANY SHALL BE REDUCED BY THE VALUE OF A DIVIDEND THAT MAY BE ISSUED
36 BY THE INSURER; AND

37 (2) A DISBURSEMENT MAY NOT BE MADE FROM THE RATE
38 STABILIZATION ACCOUNT TO THE MEDICAL MUTUAL LIABILITY INSURANCE SOCIETY
39 OF MARYLAND DURING ANY PERIOD FOR WHICH THE COMMISSIONER HAS

1 DETERMINED, UNDER § 24-212 OF THIS ARTICLE, THAT THE SURPLUS OF THE
2 SOCIETY IS EXCESSIVE.

3 (I) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL
4 CONDUCT AN ANNUAL AUDIT TO VERIFY THE INFORMATION SUBMITTED BY A
5 MEDICAL PROFESSIONAL LIABILITY INSURER APPLYING FOR REIMBURSEMENT
6 FROM THE RATE STABILIZATION ACCOUNT.

7 19-806.

8 (A) ON OR BEFORE NOVEMBER 1 OF EACH YEAR FROM 2005 THROUGH 2007,
9 THE COMMISSIONER SHALL DETERMINE THE INCREASED RATE FACTOR FOR THE
10 FOLLOWING CALENDAR YEAR BASED ON THE TOTAL DOLLAR AMOUNT ALLOCATED
11 TO THE RATE STABILIZATION ACCOUNT FOR THAT CALENDAR YEAR.

12 (B) ON OR BEFORE DECEMBER 1 OF EACH YEAR FROM 2005 THROUGH 2007,
13 THE COMMISSIONER SHALL:

14 (1) ISSUE A BULLETIN ADVISING MEDICAL PROFESSIONAL LIABILITY
15 INSURERS OF THE INCREASED RATE FACTOR FOR THE FOLLOWING CALENDAR YEAR;
16 AND

17 (2) REPORT TO THE LEGISLATIVE POLICY COMMITTEE, IN ACCORDANCE
18 WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

19 (I) THE INCREASED RATE FACTOR FOR THE FOLLOWING
20 CALENDAR YEAR;

21 (II) THE MONEY AVAILABLE TO EACH MEDICAL PROFESSIONAL
22 LIABILITY INSURER; AND

23 (III) THE NUMBER OF HEALTH CARE PROVIDERS BY
24 CLASSIFICATION AND GEOGRAPHIC TERRITORY ELIGIBLE TO RECEIVE A SUBSIDY
25 FROM THE RATE STABILIZATION ACCOUNT.

26 19-807.

27 (A) THE COMMISSIONER SHALL DISBURSE MONEY FROM THE MEDICAL
28 ASSISTANCE PROGRAM ACCOUNT TO THE SECRETARY.

29 (B) (1) IN FISCAL YEAR 2005, DISBURSEMENTS FROM THE MEDICAL
30 ASSISTANCE PROGRAM ACCOUNT SHALL BE USED BY THE SECRETARY TO INCREASE
31 CAPITATION RATES PAID TO MANAGED CARE ORGANIZATIONS.

32 (2) BEGINNING IN FISCAL YEAR 2006 AND ANNUALLY THEREAFTER TO
33 MAINTAIN THE RATE INCREASES PROVIDED UNDER THIS PARAGRAPH,
34 DISBURSEMENTS FROM THE MEDICAL ASSISTANCE PROGRAM ACCOUNT OF
35 \$15,000,000 SHALL BE USED BY THE SECRETARY TO INCREASE FEE-FOR-SERVICE
36 HEALTH CARE PROVIDER RATES AND TO PAY MANAGED CARE ORGANIZATION

1 HEALTH CARE PROVIDERS CONSISTENT WITH FEE-FOR-SERVICE HEALTH CARE
2 PROVIDER RATES FOR PROCEDURES COMMONLY PERFORMED BY:

- 3 (I) OBSTETRICIANS;
- 4 (II) NEUROSURGEONS;
- 5 (III) ORTHOPEDIC SURGEONS; AND
- 6 (IV) EMERGENCY MEDICINE PHYSICIANS.

7 (3) PORTIONS OF THE MEDICAL ASSISTANCE PROGRAM ACCOUNT THAT
8 EXCEED THE AMOUNT PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION
9 SHALL BE USED BY THE SECRETARY ONLY TO:

- 10 (I) INCREASE CAPITATION PAYMENTS TO MANAGED CARE
11 ORGANIZATIONS CONSISTENT WITH § 15-103(B)(18) OF THE HEALTH - GENERAL
12 ARTICLE;
- 13 (II) INCREASE FEE-FOR-SERVICE HEALTH CARE PROVIDER RATES;
- 14 (III) PAY MANAGED CARE ORGANIZATION HEALTH CARE PROVIDERS
15 CONSISTENT WITH THE FEE-FOR-SERVICE HEALTH PROVIDER RATES; AND
- 16 (IV) AFTER FISCAL YEAR 2009:
 - 17 1. MAINTAIN INCREASED CAPITATION PAYMENTS TO
18 MANAGED CARE ORGANIZATIONS;
 - 19 2. MAINTAIN INCREASED RATES FOR HEALTH CARE
20 PROVIDERS; AND
 - 21 3. SUPPORT GENERALLY THE OPERATIONS OF THE
22 MARYLAND MEDICAL ASSISTANCE PROGRAM.

23 (C) (1) HEALTH CARE PROVIDER RATE INCREASES UNDER SUBSECTION
24 (B)(2) AND (3)(II), (III), AND (IV)2 OF THIS SECTION SHALL BE DETERMINED BY THE
25 SECRETARY IN CONSULTATION WITH MANAGED CARE ORGANIZATIONS, THE
26 MARYLAND HOSPITAL ASSOCIATION, THE MARYLAND STATE MEDICAL SOCIETY, THE
27 AMERICAN ACADEMY OF PEDIATRICS, MARYLAND CHAPTER, AND THE AMERICAN
28 COLLEGE OF EMERGENCY ROOM PHYSICIANS, MARYLAND CHAPTER.

29 (2) THE SECRETARY SHALL SUBMIT THE PLAN FOR MEDICAID HEALTH
30 CARE PROVIDER RATE INCREASES UNDER PARAGRAPH (1) OF THIS SUBSECTION TO
31 THE SENATE BUDGET AND TAXATION COMMITTEE, SENATE FINANCE COMMITTEE,
32 HOUSE APPROPRIATIONS COMMITTEE, AND HOUSE HEALTH AND GOVERNMENT
33 OPERATIONS COMMITTEE PRIOR TO ADOPTING THE REGULATIONS IMPLEMENTING
34 THE INCREASE.

1 19-808.

2 (A) EACH YEAR THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE
3 RECEIPTS AND DISBURSEMENTS OF THE FUND AND THE COMMISSIONER SHALL
4 INCLUDE THE AUDIT AS A PART OF THE ANNUAL REPORT REQUIRED UNDER
5 SUBSECTION (C) OF THIS SECTION.

6 (B) THE FUND, THE RATE STABILIZATION ACCOUNT, AND THE MEDICAL
7 ASSISTANCE PROGRAM ACCOUNT SHALL BE USED ONLY FOR THE PURPOSES STATED
8 IN THIS SECTION.

9 (C) ON OR BEFORE MARCH 15 OF EACH YEAR, THE COMMISSIONER SHALL
10 REPORT TO THE LEGISLATIVE POLICY COMMITTEE, IN ACCORDANCE WITH § 2-1246
11 OF THE STATE GOVERNMENT ARTICLE, ON:

12 (1) FOR EACH YEAR THAT AN ALLOCATION IS MADE TO THE RATE
13 STABILIZATION ACCOUNT:

14 (I) THE AMOUNT OF MONEY APPLIED FOR BY MEDICAL
15 PROFESSIONAL LIABILITY INSURERS DURING THE PREVIOUS CALENDAR YEAR;

16 (II) BY CLASSIFICATION AND GEOGRAPHIC TERRITORY, THE
17 AMOUNT OF MONEY DISBURSED TO MEDICAL PROFESSIONAL LIABILITY INSURERS
18 ON BEHALF OF HEALTH CARE PROVIDERS DURING THE PREVIOUS CALENDAR YEAR;

19 (III) BY CLASSIFICATION AND GEOGRAPHIC TERRITORY, THE
20 NUMBER OF HEALTH CARE PROVIDERS ELECTING NOT TO RECEIVE A RATE
21 REDUCTION, CREDIT, OR REFUND IN THE PREVIOUS CALENDAR YEAR; AND

22 (IV) THE AMOUNT OF MONEY AVAILABLE IN THE RATE
23 STABILIZATION ACCOUNT ON THE LAST DAY OF THE PREVIOUS CALENDAR YEAR;

24 (2) THE AMOUNT OF MONEY AVAILABLE IN THE FUND AND THE
25 MEDICAL ASSISTANCE PROGRAM ACCOUNT ON THE LAST DAY OF THE PREVIOUS
26 CALENDAR YEAR;

27 (3) (I) THE AMOUNT OF MONEY DISBURSED TO THE MARYLAND
28 MEDICAL ASSISTANCE PROGRAM UNDER § 19-807 OF THIS SECTION;

29 (II) THE AMOUNT OF INCREASE IN FEE-FOR-SERVICE HEALTH
30 CARE PROVIDER RATES; AND

31 (III) THE AMOUNT OF INCREASE IN CAPITATION PAYMENTS TO
32 MANAGED CARE ORGANIZATIONS; AND

33 (4) THE REPORT OF AUDITED RECEIPTS AND DISBURSEMENTS OF THE
34 FUND AS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

35 24-201.

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

1 (G) "SURPLUS" DOES NOT INCLUDE DEBT OF THE SOCIETY INCURRED IN
2 ACCORDANCE WITH § 3-116(B) OF THIS ARTICLE TO ENABLE IT TO COMPLY WITH A
3 SURPLUS REQUIREMENT.

4 24-211.

5 (b) [(1)] Any rate filing by the Society shall include the information required
6 under subsection (a) of this section.

7 [(2)] Before any rate filing by the Society which would result in an
8 aggregate increase in premium of greater than 7.5% may become effective, the
9 Commissioner shall determine whether other financial resources of the Society could
10 prudently be applied in lieu of increased premiums.

11 (3) If the Commissioner determines other financial resources of the
12 Society may be used in lieu of premiums, the Commissioner shall order the rates filed
13 to be reduced.]

14 24-212.

15 (a) [Notwithstanding any other provision of this article, the Commissioner
16 may determine that the surplus of the Society is excessive if:

17 (1) the total surplus is greater than the appropriate risk based capital
18 requirements, as determined by the Commissioner, for the immediately preceding
19 calendar year; and

20 (2) after a hearing, the Commissioner determines that the surplus is
21 unreasonably large] IF THE SOCIETY REQUESTS A RATE INCREASE OF MORE THAN
22 7.5% AND, AT THE TIME OF THE RATE FILING, THE SOCIETY'S SURPLUS IS MORE THAN
23 500% OF ITS AUTHORIZED CONTROL LEVEL RISK-BASED CAPITAL, THE
24 COMMISSIONER MAY DETERMINE WHETHER THE SOCIETY'S SURPLUS IS EXCESSIVE.

25 (b) If, AFTER A HEARING, the Commissioner [has determined] DETERMINES
26 that the surplus [of the Society] is excessive, the Commissioner [shall not approve a
27 rate increase sought by the Society until the Commissioner determines that the
28 surplus of the Society is no longer excessive] MAY ORDER THE RATES FILED TO BE
29 REDUCED.

30 24-214.

31 [(a)] In this section, "medical professional liability insurance" means insurance
32 providing coverage against damages due to medical injury arising out of the
33 performance of professional services rendered or which should have been rendered by
34 a health care provider.

35 (b) Notwithstanding § 10-130(a) of this subtitle, the Society shall:

36 (1) offer policyholders and potential policyholders the ability to purchase
37 and renew coverage directly from the Society; and

1 (2) for a policyholder that purchases or renews coverage directly, provide
2 a premium discount or rebate in an amount equivalent to the commission the Society
3 would have paid an insurance producer to sell the same policy less 1% for
4 administrative expense.

5 (c) Beginning January 1, 2005] FOR POLICIES THAT TAKE EFFECT ON OR
6 AFTER JANUARY 11, 2005 AND until December 31, 2009, [an authorized insurer that
7 issues policies of medical professional liability insurance in the State] THE SOCIETY
8 may not pay a commission at a rate that exceeds 5% of the premium.

9 27-501.

10 (a) (1) An insurer or insurance producer may not cancel or refuse to
11 underwrite or renew a particular insurance risk or class of risk for a reason based
12 wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder
13 or for any arbitrary, capricious, or unfairly discriminatory reason.

14 (2) [(i) This paragraph does not apply to a medical professional liability
15 insurer or insurance producer that issues or delivers a policy in the State to a health
16 care provider who has been licensed for more than 3 years by the appropriate State
17 licensing board for the health care provider.

18 (ii)] Except as provided in this section, an insurer or insurance
19 producer may not cancel or refuse to underwrite or renew a particular insurance risk
20 or class of risk except by the application of standards that are reasonably related to
21 the insurer's economic and business purposes.

22

Article - State Government

23 6-301.

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

25 (b) "Commissioner" means the Maryland Insurance Commissioner.

26 (c) "Division" means the People's Insurance Counsel Division in the Office of
27 the Attorney General.

28 (d) "HEALTH CARE PROVIDER" HAS THE MEANING STATED IN § 3-2A-01 OF
29 THE COURTS ARTICLE.

30 (E) "HOMEOWNERS INSURER" MEANS AN INSURER THAT ISSUES OR DELIVERS
31 A POLICY OR CONTRACT OF HOMEOWNER'S LIABILITY INSURANCE IN THE STATE.

32 (F) "Insurance consumers" means persons insured under policies or contracts
33 of medical professional liability insurance, and homeowners insurance issued or
34 delivered in the State by a medical professional liability insurer or a homeowners
35 insurer.

1 [(e)] (G) "Insurer" means a medical professional liability insurer or a
2 homeowners insurer authorized to engage in the insurance business in the State
3 under a certificate of authority issued by the Commissioner.

4 [(f)] (H) "MEDICAL INJURY" HAS THE MEANING STATED IN § 3-2A-01 OF THE
5 COURTS ARTICLE.

6 (I) "MEDICAL PROFESSIONAL LIABILITY INSURER" MEANS AN INSURER THAT
7 ISSUES OR DELIVERS A POLICY IN THE STATE THAT INSURES A HEALTH CARE
8 PROVIDER AGAINST DAMAGES DUE TO MEDICAL INJURY.

9 (J) "Premium" has the meaning stated in § 1-101 of the Insurance Article to
10 the extent it is allocable to this State.

11 6-302.

12 (a) (1) There is a People's Insurance Counsel Division in the Office of the
13 Attorney General.

14 (2) The Attorney General shall appoint the People's Insurance Counsel
15 with the advice and consent of the Senate.

16 (c) The People's Insurance Counsel[:

17 (1)] shall have been admitted to practice law in the State[;

18 (2) shall have knowledge of and expertise in the insurance business; and

19 (3) may not hold an official relation to or have any pecuniary interest in
20 an insurer].

21 (F) THE PEOPLE'S INSURANCE COUNSEL AND EMPLOYEES OF THE DIVISION
22 MAY NOT HOLD AN OFFICIAL RELATION TO OR HAVE ANY PECUNIARY INTEREST IN
23 AN INSURER, INSURANCE AGENCY, OR INSURANCE TRANSACTION, OTHER THAN AS A
24 POLICYHOLDER OR CLAIMANT UNDER A POLICY.

25 6-304.

26 (C) (1) THE ASSESSMENT COLLECTED UNDER THIS SECTION IS:

27 (I) IN ADDITION TO ANY PENALTIES OR PREMIUM TAX IMPOSED
28 UNDER THE INSURANCE ARTICLE; AND

29 (II) DUE AND PAYABLE TO THE COMMISSIONER ON OR BEFORE A
30 DATE DETERMINED BY THE COMMISSIONER EACH YEAR.

31 (2) (I) FAILURE BY AN INSURER TO PAY AN ASSESSMENT FEE ON OR
32 BEFORE THE DUE DATE SHALL SUBJECT THE INSURER TO THE PROVISIONS OF §§
33 4-113 AND 4-114 OF THE INSURANCE ARTICLE.

1 (II) IN ADDITION TO THE PENALTY IMPOSED UNDER
2 SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF AN ASSESSMENT FEE IS NOT PAID ON OR
3 BEFORE THE DUE DATE, THE COMMISSIONER MAY IMPOSE A PENALTY OF 5% OF THE
4 AMOUNT DUE AND INTEREST AT THE RATE DETERMINED UNDER § 13-701 (B)(1) OF
5 THE TAX - GENERAL ARTICLE FROM THE DUE DATE UNTIL PAYMENT IS MADE TO THE
6 COMMISSIONER.

7 6-306.

8 (a) (1) The Division shall evaluate each MEDICAL PROFESSIONAL LIABILITY
9 INSURANCE AND HOMEOWNERS INSURANCE matter pending before the
10 Commissioner to determine whether the interests of insurance consumers are
11 affected.

12 (2) If the Division determines that the interests of insurance consumers
13 are affected, the Division [shall] MAY appear before the Commissioner and courts on
14 behalf of insurance consumers in each matter or proceeding over which the
15 Commissioner has original jurisdiction.

16 (b) (1) The Division shall review any [proposed] rate increase of 10% or
17 more filed with the Commissioner by a medical professional liability insurer or
18 homeowners insurer.

19 (2) If the Division finds that the [proposed] rate increase is excessive,
20 INADEQUATE, OR UNFAIRLY DISCRIMINATORY [or otherwise adverse to the interests
21 of insurance consumers], the Division shall appear before the Commissioner on
22 behalf of insurance consumers in any hearing on the rate filing.

23 (c) As the Division considers necessary, the Division shall conduct
24 investigations and request the Commissioner to initiate [proceedings] AN ACTION OR
25 PROCEEDING to protect the interests of insurance consumers.

26 6-307.

27 (a) In appearances before the Commissioner and courts on behalf of insurance
28 consumers, the Division has the rights of counsel for a party to the proceeding,
29 including the right to:

30 (1) summon witnesses, present evidence, and present argument;

31 (2) conduct cross-examination and submit rebuttal evidence; and

32 (3) take depositions in or outside of the State:

33 (I) IN PROCEEDINGS BEFORE THE COMMISSIONER, subject to
34 regulation by the Commissioner to prevent undue delay[,]; and

35 (II) IN PROCEEDINGS IN COURT, in accordance with the procedure
36 provided by law or rule of court [with respect to civil actions].

1 (b) The Division may appear before any federal or State [unit] TRIBUNAL OR
2 AGENCY, IN A JUDICIAL OR ADMINISTRATIVE ACTION, to protect the interests of
3 insurance consumers.

4 SECTION 2. AND BE IT FURTHER ENACTED, That:

5 (1) the Governor shall include in the annual budget the amounts
6 specified to be distributed from the Medical Professional Liability Insurance Rate
7 Stabilization Fund under § 19-803(b) of the Insurance Article as enacted by Section 1
8 of this Act; and

9 (2) for fiscal years 2005 and 2006, in the event these amounts are not
10 appropriated through the budget bill, the Governor is authorized to amend the budget
11 through the executive budget amendment process to appropriate those funds to
12 implement the purposes of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That:

14 (a) Notwithstanding any other provision of law, and except as otherwise
15 provided in this section, the premium tax imposed under § 6-102 of the Insurance
16 Article, as enacted by Chapter 5 of the Acts of the 2004 Special Session of the General
17 Assembly, applies to capitation payments, including supplemental or bonus
18 payments, made to a managed care organization on or after April 1, 2005.

19 (b) The premium tax imposed under § 6-102 of the Insurance Article, as
20 enacted by Chapter 5 of the Acts of the 2004 Special Session of the General Assembly,
21 does not apply to capitation payments, including supplemental or bonus payments,
22 made to a managed care organization before April 1, 2005.

23 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an
24 emergency measure, is necessary for the immediate preservation of the public health
25 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
26 members elected to each of the two Houses of the General Assembly, and shall take
27 effect from the date it is enacted. If this Act does not secure sufficient votes to pass an
28 emergency measure, it shall take effect March 1, 2005, pursuant to Article III, § 31 of
29 the Maryland Constitution.