

HOUSE BILL 800

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CF SB 718

By: **Chair, Health and Government Operations Committee**

Introduced and read first time: February 9, 2007

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2007

CHAPTER _____

1 AN ACT concerning

2 **Maryland Health Care Commission – Program Evaluation**

3 FOR the purpose of repealing the requirement that the Maryland Health Care
4 Commission may not act on any matter unless a certain number of voting
5 members in attendance concur; providing that a decision of the Commission
6 shall be by a majority of the quorum present and voting; making permanent a
7 certain authorization to assess a certain administrative charge to fund certain
8 services; raising the amount of total fees that may be assessed by the
9 Commission; providing that a majority of the full authorized membership of the
10 Commission is a quorum to act on certain applications; altering the date by
11 which the Commission shall provide a certain annual report; authorizing the
12 Commission to compile certain data from certain facilities to be included in the
13 medical care data base; altering certain requirements for the medical care data
14 base related to information collected by the Health Services Cost Review
15 Commission; repealing the requirement that the Commission conduct a certain
16 study; repealing the requirement that the Commission annually determine the
17 full cost of certain mandated health insurance services in the State; altering the
18 information to be reported to the General Assembly in a certain annual report
19 on mandated health insurance services; requiring the Commission to include
20 certain information on mandated health insurance services in a certain
21 evaluation and in certain reports to the General Assembly; providing for a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain evaluation of the Commission and the statutes and regulations that
2 relate to the Commission on or before a certain date; requiring the Commission
3 to include certain information regarding the Limited Health Benefit Plan in a
4 certain report to certain committees of the General Assembly; requiring the
5 Commission to include certain information in a certain workload distribution
6 study and to report to certain committees of the General Assembly on or before
7 a certain date; requiring the Commission to report to certain committees of the
8 General Assembly on or before a certain date on the implementation of certain
9 recommendations related to certificate of need; requiring the Commission to
10 include certain information on the Maryland Trauma Physician Services Fund
11 in a certain report; requiring the Commission to report to certain committees of
12 the General Assembly on or before a certain date on the collection and use of
13 certain data; requiring the Commission to report to certain committees of the
14 General Assembly on or before a certain date on the implementation of
15 recommendations contained in a certain evaluation of the Commission; and
16 generally relating to the program evaluation of the Maryland Health Care
17 Commission.

18 BY repealing and reenacting, with amendments,
19 Article – Health – General
20 Section 19–107(a), ~~19–111(e)(1)~~, 19–110(b), 19–111(c), 19–126(d)(2), 19–130(e),
21 and 19–133
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2006 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article – Health – General
26 Section 19–126(d)(1) and (13) and 19–130(b)(1)
27 Annotated Code of Maryland
28 (2005 Replacement Volume and 2006 Supplement)

29 BY repealing
30 Article – Health – General
31 Section 19–139
32 Annotated Code of Maryland
33 (2005 Replacement Volume and 2006 Supplement)

34 BY repealing and reenacting, without amendments,
35 Article – Insurance
36 Section 15–1501(c)
37 Annotated Code of Maryland
38 (2006 Replacement Volume and 2006 Supplement)

1 BY repealing
2 Article – Insurance
3 Section 15–1501(d)
4 Annotated Code of Maryland
5 (2006 Replacement Volume and 2006 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Insurance
8 Section 15–1501(e) and (f) and 15–1502
9 Annotated Code of Maryland
10 (2006 Replacement Volume and 2006 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – State Government
13 Section 8–403(a)
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2006 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – State Government
18 Section 8–403(b)(27)
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2006 Supplement)

21 BY repealing and reenacting, with amendments,
22 Chapter 287 of the Acts of the General Assembly of 2004
23 Section 4

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

26 **Article – Health – General**

27 19–107.

28 (a) (1) A majority of the full authorized membership of the Commission is
29 a quorum. [However, the Commission may not act on any matter unless at least seven
30 of the voting members in attendance concur.]

31 (2) **THE DECISION OF THE COMMISSION SHALL BE BY A**
32 **MAJORITY OF THE QUORUM PRESENT AND VOTING.**

1 19-110.

2 **(b) (1)** The power of the Secretary to transfer, by rule, regulation, or
3 written directive, any staff, functions, or funds of units in the Department does not
4 apply to any staff, function, or funds of the Commission.

5 **(2)** [For fiscal year 2007, the] THE Secretary may assess an
6 administrative charge, consistent with the indirect cost charge assessed to federal
7 grants, to fund services provided to the Commission by the Executive Branch.

8 19-111.

9 **(c) (1)** The total fees assessed by the Commission may not exceed
10 **[\$10,000,000] \$12,000,000.**

11 **(2) (I)** The fees assessed by the Commission shall be used
12 exclusively to cover the actual documented direct costs of fulfilling the statutory and
13 regulatory duties of the Commission in accordance with the provisions of this subtitle.

14 **(II)** [For the fiscal year 2007, the] THE costs of the Commission
15 include the administrative costs incurred by the Department on behalf of the
16 Commission.

17 **(III)** The amount to be paid by the Commission to the
18 Department for administrative costs, not to exceed 18% of the salaries of the
19 Commission, shall be based on indirect costs or services benefiting the Commission,
20 less overhead costs paid directly by the Commission.

21 **(3)** The Commission shall pay all funds collected from the fees
22 assessed in accordance with this section into the Fund.

23 **(4)** The fees assessed may be expended only for purposes authorized by
24 the provisions of this subtitle.

25 **(5)** The amount in paragraph (1) of this subsection limits only the total
26 fees the Commission may assess in a fiscal year.

27 19-126.

1 (d) (1) The Commission alone shall have final nondelegable authority to
2 act upon an application for a certificate of need, except as provided in this subsection.

3 (2) [Seven voting members] **A MAJORITY OF THE FULL**
4 **AUTHORIZED MEMBERSHIP** of the Commission shall be a quorum to act on an
5 application for a certificate of need.

6 (13) The decision of the Commission shall be by a majority of the
7 quorum present and voting.

8 19–130.

9 (b) (1) There is a Maryland Trauma Physician Services Fund.

10 (e) On or before [September 1] **NOVEMBER 1** of each year, the Commission
11 and the Health Services Cost Review Commission shall report to the General
12 Assembly, in accordance with § 2–1246 of the State Government Article, on:

13 (1) The amount of money in the Fund on the last day of the previous
14 fiscal year;

15 (2) The amount of money applied for by trauma physicians and
16 trauma centers during the previous fiscal year;

17 (3) The amount of money distributed in the form of trauma physician
18 and trauma center reimbursements during the previous fiscal year;

19 (4) Any recommendations for altering the manner in which trauma
20 physicians and trauma centers are reimbursed from the Fund;

21 (5) The costs incurred in administering the Fund during the previous
22 fiscal year; and

23 (6) The amount that each hospital that participates in the Maryland
24 trauma system and that has a trauma center contributes toward the subsidization of
25 trauma–related costs for its trauma center.

26 19–133.

27 (a) In this section, “code” means:

1 (1) The applicable Current Procedural Terminology (CPT) code as
2 adopted by the American Medical Association; or

3 (2) If a CPT code is not available, the applicable code under an
4 appropriate uniform coding scheme approved by the Commission.

5 (b) The Commission shall establish a Maryland medical care data base to
6 compile statewide data on health services rendered by health care practitioners and
7 [office] facilities selected by the Commission.

8 (c) In addition to any other information the Commission may require by
9 regulation, the medical care data base shall:

10 (1) Collect for each type of patient encounter with a health care
11 practitioner or [office] facility designated by the Commission:

12 (i) The demographic characteristics of the patient;

13 (ii) The principal diagnosis;

14 (iii) The procedure performed;

15 (iv) The date and location of where the procedure was
16 performed;

17 (v) The charge for the procedure;

18 (vi) If the bill for the procedure was submitted on an assigned or
19 nonassigned basis;

20 (vii) If applicable, a health care practitioner's universal
21 identification number; and

22 (viii) If the health care practitioner rendering the service is a
23 certified registered nurse anesthetist or certified nurse midwife, identification
24 modifiers for the certified registered nurse anesthetist or certified nurse midwife;

25 (2) Collect appropriate information relating to prescription drugs for
26 each type of patient encounter with a pharmacist designated by the Commission; and

27 (3) Collect appropriate information relating to health care costs,
28 utilization, or resources from payors and governmental agencies.

1 (d) (1) The Commission shall adopt regulations governing the access and
2 retrieval of all medical claims data and other information collected and stored in the
3 medical care data base and any claims clearinghouse licensed by the Commission and
4 may set reasonable fees covering the costs of accessing and retrieving the stored data.

5 (2) These regulations shall ensure that confidential or privileged
6 patient information is kept confidential.

7 (3) Records or information protected by the privilege between a health
8 care practitioner and a patient, or otherwise required by law to be held confidential,
9 shall be filed in a manner that does not disclose the identity of the person protected.

10 (e) (1) To the extent practicable, when collecting the data required under
11 subsection (c) of this section, the Commission shall utilize any standardized claim form
12 or electronic transfer system being used by health care practitioners, [office] facilities,
13 and payors.

14 (2) The Commission shall develop appropriate methods for collecting
15 the data required under subsection (c) of this section on subscribers or enrollees of
16 health maintenance organizations.

17 (f) Until the provisions of § 19–134 of this subtitle are fully implemented,
18 where appropriate, the Commission may limit the data collection under this section.

19 (g) (1) By October 1, 1995 and each year thereafter, the Commission shall
20 publish an annual report on those health care services selected by the Commission
21 that:

22 (i) Describes the variation in fees charged by health care
23 practitioners and [office] facilities on a statewide basis and in each health service area
24 for those health care services; and

25 (ii) Describes the geographic variation in the utilization of those
26 health care services.

27 (2) (i) On an annual basis, the Commission shall publish:

28 1. The total reimbursement for all health care services
29 over a 12–month period;

1 2. The total reimbursement for each health care
2 specialty over a 12-month period;

3 3. The total reimbursement for each code over a
4 12-month period; and

5 4. The annual rate of change in reimbursement for
6 health services by health care specialties and by code.

7 (ii) In addition to the information required under subparagraph
8 (i) of this paragraph, the Commission may publish any other information that the
9 Commission deems appropriate, including information on capitated health care
10 services.

11 (h) In developing the medical care data base, the Commission shall consult
12 with representatives of the Health Services Cost Review Commission, health care
13 practitioners, payors, and hospitals to ensure that the medical care data base is
14 compatible [with, may be merged with, and does not duplicate] **WITH** information
15 collected by the Health Services Cost Review Commission.

16 (i) The Commission, in consultation with the Insurance Commissioner,
17 payors, health care practitioners, and hospitals, may adopt by regulation standards for
18 the electronic submission of data and submission and transfer of the uniform claims
19 forms established under § 15-1003 of the Insurance Article.

20 [19-139.

21 (a) The Commission, in consultation with the Department of Health and
22 Mental Hygiene, shall study the feasibility of developing a system for reducing the
23 incidences of preventable adverse medical events in the State including but not limited
24 to a system of reporting such incidences.

25 (b) In conducting the study the Commission shall review:

26 (1) Federal reports and recommendations for identification of medical
27 errors including the most recent report of the Institute of Medicine of the National
28 Academy of Sciences;

29 (2) Recommendations of national accrediting and quality assurance
30 organizations including the Joint Commission on the Accreditation of Health Care
31 Organizations;

1 8. the extent to which the mandated health insurance
2 service is covered by self-funded employer groups of employers in the State who
3 employ at least 500 employees;

4 (ii) medical impacts, including:

5 1. the extent to which the service is generally recognized
6 by the medical community as being effective and efficacious in the treatment of
7 patients;

8 2. the extent to which the service is generally recognized
9 by the medical community as demonstrated by a review of scientific and peer review
10 literature; and

11 3. the extent to which the service is generally available
12 and utilized by treating physicians; and

13 (iii) financial impacts, including:

14 1. the extent to which the coverage will increase or
15 decrease the cost of the service;

16 2. the extent to which the coverage will increase the
17 appropriate use of the service;

18 3. the extent to which the mandated service will be a
19 substitute for a more expensive service;

20 4. the extent to which the coverage will increase or
21 decrease the administrative expenses of insurers and the premium and administrative
22 expenses of policy holders;

23 5. the impact of this coverage on the total cost of health
24 care; and

25 6. the impact of all mandated health insurance services
26 on employers' ability to purchase health benefits policies meeting their employees'
27 needs.

28 [(d) (1) In addition to the information required under subsection (c) of this
29 section, the Commission shall annually determine the full cost of all existing
30 mandated health insurance services in the State:

1 (i) as a percentage of Maryland's average annual wage; and

2 (ii) as a percentage of health insurance premiums.

3 (2) In making its determination, the Commission shall consider the
4 full cost of the existing mandated health insurance services:

5 (i) under a typical group and individual health benefit plan in
6 this State;

7 (ii) under the State employee health benefit plan for medical
8 coverage; and

9 (iii) under the Comprehensive Standard Health Benefit Plan as
10 defined in § 15-1201(q) of this title.]

11 [(e) (D) Subject to the limitations of the State budget, the Commission may
12 contract for actuarial services and other professional services to carry out the
13 provisions of this section.

14 [(f) (E) (1) On or before December 31, 1998, and each December 31
15 thereafter, the Commission shall submit a report on its findings, including any
16 recommendations, to the Governor and, subject to § 2-1246 of the State Government
17 Article, the General Assembly.

18 (2) The annual report prepared by the Commission shall include an
19 evaluation of any mandated health insurance service [enacted,] legislatively
20 proposed[,] or otherwise submitted to the Commission by a member of the General
21 Assembly prior to July 1 of that year.

22 15-1502.

23 (a) (1) The Commission shall conduct an evaluation of existing mandated
24 health insurance services and make recommendations to the General Assembly
25 regarding decision making criteria for reducing the number of mandates or the extent
26 of coverage.

27 (2) The evaluation shall include:

28 (i) an assessment of the full cost of each existing mandated
29 health insurance service as a percentage of the State's average annual wage and of
30 [premiums for the individual and group health insurance market;] **PREMIUMS:**

1 **1. UNDER A TYPICAL GROUP AND INDIVIDUAL**
2 **HEALTH BENEFIT PLAN IN THE STATE;**

3 **2. UNDER THE STATE EMPLOYEE HEALTH BENEFIT**
4 **PLAN; AND**

5 **3. UNDER THE COMPREHENSIVE STANDARD**
6 **HEALTH BENEFIT PLAN;**

7 (ii) an assessment of the degree to which existing mandated
8 health insurance services are covered in self-funded plans; and

9 (iii) a comparison of mandated health insurance services
10 provided by the State with those provided in Delaware, the District of Columbia,
11 Pennsylvania, and Virginia.

12 (3) The comparison described in paragraph (2)(iii) of this subsection
13 shall include:

14 (i) the number of mandated health insurance services;

15 (ii) the type of mandated health insurance services;

16 (iii) the level and extent of coverage for each mandated health
17 insurance service; and

18 (iv) the financial impact of differences in levels of coverage for
19 each mandated health insurance service.

20 (4) On or before January 1, 2004, and every 4 years thereafter, the
21 Commission shall submit a report of its findings to the General Assembly, subject to §
22 2-1246 of the State Government Article.

23 (b) The General Assembly may consider the information provided under
24 subsection (a) of this section in determining:

25 (1) whether to enact proposed mandated health insurance services;
26 and

27 (2) whether to repeal existing mandated health insurance services.

1 **Article – State Government**

2 8–403.

3 (a) On or before December 15 of the 2nd year before the evaluation date of a
4 governmental activity or unit, the Legislative Policy Committee, based on a
5 preliminary evaluation, may waive as unnecessary the evaluation required under this
6 section.

7 (b) Except as otherwise provided in subsection (a) of this section, on or before
8 the evaluation date for the following governmental activities or units, an evaluation
9 shall be made of the following governmental activities or units and the statutes and
10 regulations that relate to the governmental activities or units:

11 (27) Health Care Commission, Maryland (§ 19–103 of the
12 Health – General Article: [July 1, 2007] **JULY 1, 2017**);

13 **Chapter 287 of the Acts of 2004**

14 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1,
15 2008, the Maryland Health Care Commission shall submit to the Governor and, in
16 accordance with § 2–1246 of the State Government Article, to the Senate Finance
17 Committee and the House Health and Government Operations Committee, a report
18 that includes:

19 (a) for the periods July 1, 2005 through December 31, 2005, January 1, 2006
20 through December 31, 2006, and January 1, 2007 through June 30, 2007, data on:

21 (1) the number of carriers offering Limited Health Benefit Plan
22 policies in the State;

23 (2) the number of Limited Health Benefit Plan policies sold in the
24 State;

25 (3) the number of eligible employees covered under the policies;

26 (4) the average age, geographic area, and average wage of each
27 employer group covered under the policies; and

28 (5) the impact of the Limited Health Benefit Plan on the small group
29 health insurance market and the population of uninsured individuals in the State;
30 [and]

1 (b) recommendations on continuing or expanding the availability of the
2 Limited Health Benefit Plan in the small group health insurance market; **AND**

3 **(C) ALTERNATIVE INSURANCE OPTIONS FOR INDIVIDUALS ENROLLED IN**
4 **THE LIMITED HEALTH BENEFIT PLAN.**

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

6 (a) the Maryland Health Care Commission shall include in the next
7 workload distribution study required under § 19–111(d) of the Health – General
8 Article:

9 (1) the extent to which health care providers that are not currently
10 subject to a user fee assessment utilize Commission resources; and

11 (2) the feasibility and desirability of extending a user fee to additional
12 types of providers regulated by the Commission; and

13 (b) on or before December 1, 2008, the Commission shall report its findings
14 and recommendations to the Senate Finance Committee and the House Health and
15 Government Operations Committee in accordance with § 2–1246 of the State
16 Government Article.

17 SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1,
18 2007, and on or before October 1, 2008, the Maryland Health Care Commission shall
19 report to the Senate Finance Committee and the House Health and Government
20 Operations Committee, in accordance with § 2–1246 of the State Government Article,
21 on:

22 (a) the implementation of the recommendations of the 2005 Certificate of
23 Need Task Force; and

24 (b) the progress of the Commission in implementing the recommendations of
25 the comprehensive evaluation of Certificate of Need required by Chapter 702 of the
26 Acts of 1999, including recommendations regarding:

27 (1) a research project for elective angioplasty; and

28 (2) a reorganization of the licensing and certificate of need laws for
29 home-based health care services.

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

2 (a) the Maryland Health Care Commission and the Health Services Cost
3 Review Commission shall include in the next report on the Maryland Trauma
4 Physician Services Fund required under § 19–130(e) of the Health – General Article a
5 discussion of options for reducing the Fund surplus, including:

6 (1) one–time–only uses for eliminating the large surplus that has
7 accrued in the early years of the Fund;

8 (2) if the surplus is continuing to grow, ongoing uses to align annual
9 expenditures with annual revenues; and

10 (3) the desirability of providing funds directly to trauma centers for
11 the purpose of subsidizing trauma physician costs at the centers; and

12 (b) on or before November 1, 2007, the Commissions shall report their
13 findings and recommendations to the General Assembly, in accordance with § 2–1246
14 of the State Government Article.

15 SECTION 5. AND BE IT FURTHER ENACTED, That, to provide a more
16 complete picture of health care spending than current data collection efforts allow, on
17 or before October 1, 2007, the Maryland Health Care Commission shall report to the
18 Senate Finance Committee and the House Health and Government Operations
19 Committee, in accordance with § 2–1246 of the State Government Article, on:

20 (a) the Commission’s plans to collect data on facility costs and insurance
21 product design, in addition to the data currently collected on practitioner costs; and

22 (b) how the data collected under paragraph (a) of this section would be used
23 to promote quality and affordable health care.

24 SECTION 6. AND BE IT FURTHER ENACTED, That on or before October 1,
25 2007, the Maryland Health Care Commission shall report to the Senate Finance
26 Committee and the House Health and Government Operations Committee, in
27 accordance with § 2–1246 of the State Government Article, on the implementation of
28 the recommendations contained in the 2006 Evaluation of the Maryland Health Care
29 Commission.

30 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2007.