

# SENATE BILL 335

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CF HB 298

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By: **The President (By Request – Administration) and Senators Astle, Feldman, Klausmeier, Middleton, and Robey**

Introduced and read first time: January 17, 2014

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Services Cost Review Commission – Powers and Duties, Regulation of**  
3 **Facilities, and Maryland All-Payer Model Contract**

4 FOR the purpose of authorizing the Health Services Cost Review Commission,  
5 consistent with Maryland’s all-payer model contract, to establish hospital rate  
6 levels and rate increases in a certain manner and promote and approve certain  
7 alternative methods of rate determination and payment; increasing the total  
8 amount of user fees that the Commission may assess on certain facilities;  
9 altering the contents of a certain annual report the Commission is required to  
10 submit to certain individuals and the General Assembly; requiring the  
11 Commission to require certain facilities to disclose publicly the revenue  
12 generated by the facilities in providing health services; requiring the  
13 Commission to review for reasonableness and certify the revenue of certain  
14 facilities; altering the circumstances under which the Commission may adopt  
15 regulations establishing alternative methods for financing certain costs;  
16 requiring certain facilities to notify the Commission within a certain time period  
17 prior to executing any financial transaction, contract, or other agreement that  
18 would result in more than a certain percentage of certain voting rights or  
19 governance reserve powers being transferred to or assumed by another person  
20 or entity; authorizing the Commission to review the quality and efficiency of  
21 certain services for a certain purpose; authorizing the Commission, for a certain  
22 purpose, to review and approve or disapprove the reasonableness of the amount  
23 of revenue that a certain facility sets or requests; repealing a certain provision  
24 of law authorizing the Commission to promote and approve certain methods of  
25 rate determination and payment under certain circumstances; and generally  
26 relating to the Health Services Cost Review Commission.

27 BY repealing and reenacting, with amendments,

28 Article – Health – General

29 Section 19–207(b)(6), 19–212, 19–213(c)(1), 19–214(b), 19–217, and 19–219

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2009 Replacement Volume and 2013 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – Health – General  
5 Section 19–213(a) and (b)  
6 Annotated Code of Maryland  
7 (2009 Replacement Volume and 2013 Supplement)

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

10 **Article – Health – General**

11 19–207.

12 (b) In addition to the duties set forth elsewhere in this subtitle, the  
13 Commission shall:

14 (6) On or before October 1 of each year, submit to the Governor, to the  
15 Secretary, and, subject to § 2–1246 of the State Government Article, to the General  
16 Assembly an annual report on the operations and activities of the Commission during  
17 the preceding fiscal year, including:

18 (i) A copy of each summary, compilation, and supplementary  
19 report required by this subtitle;

20 (ii) An update on the status of the State’s [Medicare waiver]  
21 **COMPLIANCE WITH THE PROVISIONS OF MARYLAND’S ALL-PAYER MODEL**  
22 **CONTRACT;**

23 (iii) Budget information regarding the Health Services Cost  
24 Review Commission Fund, including:

25 1. Any balance remaining in the Fund at the end of the  
26 previous fiscal year; and

27 2. The percentage of the total annual costs of the  
28 Commission that is represented by the balance remaining in the Fund at the end of  
29 the previous fiscal year;

30 (iv) A summary of the Commission’s role in hospital quality of  
31 care activities, including information about the status of any pay for performance  
32 initiatives; and

33 (v) Any other fact, suggestion, or policy recommendation that  
34 the Commission considers necessary;

1 19–212.

2 The Commission shall:

3 (1) Require each facility to disclose publicly:

4 (i) Its financial position; and

5 (ii) As computed by methods that the Commission determines,  
6 the verified total costs incurred **AND REVENUE GENERATED** by the facility in  
7 providing health services;

8 (2) Review for reasonableness and certify the rates **AND REVENUE** of  
9 each facility;

10 (3) Keep informed as to whether a facility has enough resources to  
11 meet its financial requirements;

12 (4) Concern itself with solutions if a facility does not have enough  
13 resources; and

14 (5) Assure each purchaser of health care facility services that:

15 (i) The total costs of all hospital services offered by or through a  
16 facility are reasonable;

17 (ii) The aggregate rates of the facility are related reasonably to  
18 the aggregate costs of the facility; and

19 (iii) Rates are set equitably among all purchasers of services  
20 without undue discrimination.

21 19–213.

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

23 (2) “Facilities” means hospitals and related institutions whose rates  
24 have been approved by the Commission.

25 (b) The Commission shall assess and collect user fees on facilities as defined  
26 in this section.

27 (c) (1) The total fees assessed by the Commission may not exceed  
28 ~~[\$7,000,000]~~ **\$12,000,000**.

29 19–214.

1 (b) The Commission may adopt regulations establishing alternative methods  
2 for financing the reasonable total costs of hospital uncompensated care and the  
3 disproportionate share hospital payment provided that the alternative methods:

4 (1) Are in the public interest;

5 (2) Will equitably distribute the reasonable costs of uncompensated  
6 care and the disproportionate share hospital payment;

7 (3) Will fairly determine the cost of reasonable uncompensated care  
8 and the disproportionate share hospital payment included in hospital rates;

9 (4) Will continue incentives for hospitals to adopt fair, efficient, and  
10 effective credit and collection policies; and

11 (5) Will not result in significantly increasing costs to Medicare or [the  
12 loss of Maryland's Medicare Waiver under § 1814(b) of the Social Security Act]  
13 **TERMINATION OF MARYLAND'S ALL-PAYER MODEL CONTRACT APPROVED BY**  
14 **THE FEDERAL CENTER FOR MEDICARE AND MEDICAID INNOVATION.**

15 19–217.

16 (a) Except as provided in subsection (c) of this section, a facility shall notify  
17 the Commission at least 30 days prior to executing any financial transaction, contract,  
18 or other agreement that would:

19 (1) Pledge more than 50% of the operating assets of the facility as  
20 collateral for a loan or other obligation; [or]

21 (2) Result in more than 50% of the operating assets of the facility  
22 being sold, leased, or transferred to another person or entity; **OR**

23 **(3) RESULT IN MORE THAN 50% OF ALL CORPORATE VOTING**  
24 **RIGHTS OR GOVERNANCE RESERVE POWERS BEING TRANSFERRED TO OR**  
25 **ASSUMED BY ANOTHER PERSON OR ENTITY.**

26 (b) Except as provided in subsection (c) of this section, the Commission shall  
27 publish a notice of the proposed financial transaction, contract, or other agreement  
28 reported by a facility in accordance with subsection (a) of this section in a newspaper  
29 of general circulation in the area where the facility is located.

30 (c) The provisions of this section do not apply to any financial transaction,  
31 contract, or other agreement made by a facility with any issuer of tax-exempt bonds,  
32 including the Maryland Health and Higher Education Facilities Authority, the State,  
33 or any county or municipal corporation of the State, if a notice of the proposed

1 issuance of revenue bonds that meets the requirements of § 147(f) of the Internal  
2 Revenue Code has been published.

3 19–219.

4 (a) The Commission may review **THE** costs, and rates, **QUALITY, AND**  
5 **EFFICIENCY OF FACILITY SERVICES**, and make any investigation that the  
6 Commission considers necessary to assure each purchaser of health care facility  
7 services that:

8 (1) The total costs of all hospital services offered by or through a  
9 facility are reasonable;

10 (2) The aggregate rates of the facility are related reasonably to the  
11 aggregate costs of the facility; and

12 (3) The rates are set equitably among all purchasers or classes of  
13 purchasers without undue discrimination or preference.

14 (b) (1) To carry out its powers under subsection (a) of this section, the  
15 Commission may review and approve or disapprove the reasonableness of any rate **OR**  
16 **AMOUNT OF REVENUE** that a facility sets or requests.

17 (2) A facility shall charge for services only at a rate set in accordance  
18 with this subtitle.

19 (3) In determining the reasonableness of rates, the Commission may  
20 take into account objective standards of efficiency and effectiveness.

21 (c) [To promote the most efficient and effective use of health care facility  
22 services and, if it is in the public interest and consistent with this subtitle, the  
23 Commission may promote and approve alternate methods of rate determination and  
24 payment that are of an experimental nature] **CONSISTENT WITH MARYLAND'S**  
25 **ALL-PAYER MODEL CONTRACT APPROVED BY THE FEDERAL CENTER FOR**  
26 **MEDICARE AND MEDICAID INNOVATION, AND NOTWITHSTANDING ANY OTHER**  
27 **PROVISION OF THIS SUBTITLE, THE COMMISSION MAY:**

28 (1) **ESTABLISH HOSPITAL RATE LEVELS AND RATE INCREASES IN**  
29 **THE AGGREGATE OR ON A HOSPITAL-SPECIFIC BASIS; AND**

30 (2) **PROMOTE AND APPROVE ALTERNATIVE METHODS OF RATE**  
31 **DETERMINATION AND PAYMENT OF AN EXPERIMENTAL NATURE FOR THE**  
32 **DURATION OF THE ALL-PAYER MODEL CONTRACT.**

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 July 1, 2014.

