

# SENATE BILL 38

J1

71r0018

(PRE-FILED)

---

By: **Chair, Finance Committee (By Request – Departmental – Health and Mental Hygiene)**

Requested: September 19, 2016

Introduced and read first time: January 11, 2017

Assigned to: Finance

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 27, 2017

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Updating Advisory Boards and**  
3 **Councils**

4 FOR the purpose of establishing a State Advisory Council on Health and Wellness to  
5 address chronic disease in the State by repealing and consolidating three existing  
6 State advisory councils that address physical fitness, arthritis, and heart disease and  
7 stroke; providing for the duties and membership of the Advisory Council; authorizing  
8 the Advisory Council to create certain committees; requiring the Secretary of Health  
9 and Mental Hygiene to adopt certain regulations to implement the Advisory Council;  
10 specifying the terms of the initial members of the Advisory Council; repealing the  
11 State Advisory Council on Heart Disease and Stroke, the State Advisory Council on  
12 Physical Fitness, and the State Advisory Council on Arthritis and Related Diseases;  
13 altering the membership of the State Child Fatality Review Team to include certain  
14 representatives; altering the membership of the Advisory Board on Prescription  
15 Drug Monitoring to include certain representatives; making certain technical  
16 changes to update the names of certain entities and eliminate a requirement of a  
17 certain council that no longer exists; repealing the requirements that certain  
18 applicants be submitted or approved by the Medical and Chirurgical Faculty of  
19 Maryland; making certain conforming changes; declaring the intent of the General  
20 Assembly; and generally relating to advisory boards and councils in the Department  
21 of Health and Mental Hygiene.

22 BY repealing

---

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 Article – Health – General  
2 Section 2–106(a)(25) and (26); 13–201 through 13–206 and the subtitle “Subtitle 2.  
3 Heart Disease and Stroke Prevention Programs”; and 13–403 through 13–407  
4 and 13–505 through 13–509  
5 Annotated Code of Maryland  
6 (2015 Replacement Volume and 2016 Supplement)
- 7 BY repealing and reenacting, without amendments,  
8 Article – Health – General  
9 Section 2–106(b) and (c), 13–402, 17–217(a), 17–2A–12(a), and 21–2A–05(a)  
10 Annotated Code of Maryland  
11 (2015 Replacement Volume and 2016 Supplement)
- 12 BY repealing and reenacting, with amendments,  
13 Article – Health – General  
14 Section 4–219(b), 5–703(a), 13–401, 13–409, 13–502, 17–217(b), 17–2A–12(b)(3)(v),  
15 18–108(d) and (e), and 21–2A–05(b)  
16 Annotated Code of Maryland  
17 (2015 Replacement Volume and 2016 Supplement)
- 18 BY adding to  
19 Article – Health – General  
20 Section 13–201 through 13–206 to be under the new subtitle “Subtitle 2. State  
21 Advisory Council on Health and Wellness”  
22 Annotated Code of Maryland  
23 (2015 Replacement Volume and 2016 Supplement)
- 24 BY repealing and reenacting, without amendments,  
25 Article – Health Occupations  
26 Section 2–202(a)(1)  
27 Annotated Code of Maryland  
28 (2014 Replacement Volume and 2016 Supplement)
- 29 BY repealing and reenacting, with amendments,  
30 Article – Health Occupations  
31 Section 2–202(a)(3)  
32 Annotated Code of Maryland  
33 (2014 Replacement Volume and 2016 Supplement)
- 34 BY renumbering  
35 Article – Health – General  
36 Section 13–408 through 13–410 and 13–510 through 13–512, respectively  
37 to be Section 13–403 through 13–405 and 13–505 through 13–507, respectively  
38 Annotated Code of Maryland  
39 (2015 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 13–201 through 13–206 and the subtitle “Subtitle 2. Heart Disease and Stroke Prevention Programs”; and 13–403 through 13–407 and 13–505 through 13–509 of Article – Health – General of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Health – General**

2–106.

(a) The following units are in the Department:

[(25) Commission on Physical Fitness.

(26) Advisory Council on Infant Mortality.]

(b) The Department also includes every other unit that is in the Department under any other law.

(c) The Secretary has the authority and powers specifically granted to the Secretary by law over the units in the Department. All authority and powers not so granted to the Secretary are reserved to those units free of the control of the Secretary.

4–219.

(b) In addition to the requirements of subsection (a) of this section, by June 30 of each year the Secretary shall report to the [State Commission on Infant Mortality Prevention] **MORBIDITY, MORTALITY, AND QUALITY REVIEW COMMITTEE ESTABLISHED UNDER § 18–107 OF THIS ARTICLE** on the number and cause of death of Maryland children under the age of 1 year who died during the prior calendar year ending December 31st.

5–703.

(a) The State Team shall be a multidisciplinary and multiagency review team, composed of at least 25 members, including:

(1) The Attorney General **OR THE ATTORNEY GENERAL’S DESIGNEE;**

(2) The Chief Medical Examiner **OR THE CHIEF MEDICAL EXAMINER’S DESIGNEE;**

(3) The Secretary of Human Resources **OR THE SECRETARY’S DESIGNEE;**

- 1 (4) The Secretary of Health and Mental Hygiene OR THE SECRETARY'S  
2 DESIGNEE;
- 3 (5) The State Superintendent of Schools OR THE SUPERINTENDENT'S  
4 DESIGNEE;
- 5 (6) The Secretary of Juvenile Services OR THE SECRETARY'S DESIGNEE;
- 6 (7) The [Special Secretary for Children, Youth, and Families] **EXECUTIVE**  
7 **DIRECTOR OF THE GOVERNOR'S OFFICE FOR CHILDREN** OR THE EXECUTIVE  
8 DIRECTOR'S DESIGNEE;
- 9 (8) The Secretary of State Police OR THE SECRETARY'S DESIGNEE;
- 10 (9) The president of the State's Attorneys' Association OR THE  
11 PRESIDENT'S DESIGNEE;
- 12 (10) The chief of the Division of Vital Records of the Department OR THE  
13 CHIEF'S DESIGNEE;
- 14 (11) A representative of the [State SIDS Information and Counseling  
15 Program] **CENTER FOR INFANT AND CHILD LOSS**;
- 16 (12) The Director of the Behavioral Health Administration of the  
17 Department OR THE DIRECTOR'S DESIGNEE;
- 18 (13) Two pediatricians with experience in diagnosing and treating injuries  
19 and child abuse and neglect, appointed by the Governor from a list submitted by the State  
20 Chapter of the American Academy of Pediatrics; and
- 21 (14) Eleven members of the general public with interest or expertise in child  
22 safety and welfare, appointed by the Governor, including child advocates, CASA volunteers,  
23 health and mental health professionals, and attorneys who represent children.

24 **SUBTITLE 2. STATE ADVISORY COUNCIL ON HEALTH AND WELLNESS.**

25 **13-201.**

26 **IN THIS SUBTITLE, "ADVISORY COUNCIL" MEANS THE STATE ADVISORY**  
27 **COUNCIL ON HEALTH AND WELLNESS.**

28 **13-202.**

29 **THERE IS A STATE ADVISORY COUNCIL ON HEALTH AND WELLNESS.**

1 13-203.

2 (A) THE ADVISORY COUNCIL CONSISTS OF ~~30~~ 33 VOTING MEMBERS  
3 APPOINTED BY THE SECRETARY.

4 (B) THE FOLLOWING MEMBERS SHALL SERVE WITHOUT TERM LIMITS:

5 (1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE OR THE  
6 SECRETARY'S DESIGNEE;

7 (2) THE STATE SUPERINTENDENT OF SCHOOLS OR THE STATE  
8 SUPERINTENDENT'S DESIGNEE;

9 (3) THE SECRETARY OF AGING OR THE SECRETARY'S DESIGNEE;

10 (4) THE SECRETARY OF DISABILITIES OR THE SECRETARY'S  
11 DESIGNEE;

12 (5) A REPRESENTATIVE OF THE MARYLAND OFFICE OF MINORITY  
13 HEALTH AND HEALTH DISPARITIES; AND

14 (6) A REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF  
15 COUNTY HEALTH OFFICERS.

16 (C) THE FOLLOWING MEMBERS ARE SUBJECT TO TERM LIMITS:

17 (1) ONE REPRESENTATIVE OF THE AMERICAN HEART ASSOCIATION  
18 MID-ATLANTIC, INC., NOMINATED BY THE EXECUTIVE DIRECTOR OF THE  
19 ASSOCIATION;

20 (2) ONE REPRESENTATIVE OF THE ARTHRITIS FOUNDATION,  
21 MID-ATLANTIC REGION, MARYLAND, NOMINATED BY THE EXECUTIVE DIRECTOR  
22 OF THE FOUNDATION;

23 (3) ONE REPRESENTATIVE OF THE AMERICAN DIABETES  
24 ASSOCIATION, MARYLAND CHAPTER, NOMINATED BY THE EXECUTIVE DIRECTOR  
25 OF THE ASSOCIATION;

26 (4) ONE REPRESENTATIVE OF JOHNS HOPKINS MEDICINE,  
27 NOMINATED BY THE CHIEF EXECUTIVE OFFICER OF JOHNS HOPKINS MEDICINE;

28 (5) ONE REPRESENTATIVE OF MEDCHI, THE MARYLAND STATE  
29 MEDICAL SOCIETY, NOMINATED BY THE EXECUTIVE DIRECTOR OF MEDCHI;

1           **(6) ONE REPRESENTATIVE OF THE UNIVERSITY OF MARYLAND**  
 2 **MEDICAL CENTER AND UNIVERSITY OF MARYLAND SCHOOL OF MEDICINE,**  
 3 **NOMINATED BY THE CHIEF EXECUTIVE OFFICER OF THE MEDICAL CENTER AND**  
 4 **THE DEAN OF THE SCHOOL OF MEDICINE; ~~AND~~**

5           **(7) ONE REPRESENTATIVE OF THE MARYLAND CHAPTER OF THE**  
 6 **AMERICAN ACADEMY OF PEDIATRICS, NOMINATED BY THE EXECUTIVE DIRECTOR**  
 7 **OF THE CHAPTER;**

8           **(8) ONE REPRESENTATIVE OF THE MARYLAND NURSES**  
 9 **ASSOCIATION, NOMINATED BY THE EXECUTIVE DIRECTOR OF THE ASSOCIATION;**

10           **(9) ONE REPRESENTATIVE OF THE MARYLAND ACADEMY OF**  
 11 **NUTRITION AND DIETETICS, NOMINATED BY THE PRESIDENT OF THE ACADEMY;**  
 12 **AND**

13           ~~(7)~~ **(10) EIGHTEEN MEMBERS OF THE PUBLIC, WHO MAY INCLUDE:**

14                   **(I) INDIVIDUALS WITH A CHRONIC DISEASE OR FAMILY**  
 15 **MEMBERS OF AN INDIVIDUAL WITH A CHRONIC DISEASE;**

16                   **(II) LICENSED HEALTH CARE PROVIDERS;**

17                   **(III) INDIVIDUALS WITH A PHYSICAL FITNESS BACKGROUND;**

18                   **(IV) EMPLOYERS OR REPRESENTATIVES OF THE BUSINESS**  
 19 **SECTOR;**

20                   **(V) REPRESENTATIVES OF HEALTH INSURERS;**

21                   **(VI) REPRESENTATIVES OF COMMUNITY-BASED**  
 22 **ORGANIZATIONS; AND**

23                   **(VII) INDIVIDUALS WITH EXPRESSED INTEREST IN HEALTH AND**  
 24 **WELLNESS.**

25           **(D) (1) THIS SUBSECTION APPLIES TO MEMBERS WHO ARE SUBJECT TO**  
 26 **TERM LIMITS.**

27                   **(2) THE TERM OF A MEMBER IS 4 YEARS.**

28                   **(3) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE**  
 29 **TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL ON OCTOBER 1, 2017.**

1           **(4) A MEMBER MAY SERVE TWO CONSECUTIVE FULL TERMS.**

2           **(5) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL**  
3 **A SUCCESSOR IS APPOINTED AND QUALIFIES.**

4           **(6) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES**  
5 **ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND**  
6 **QUALIFIES.**

7           **(7) A MEMBER WHO SERVES TWO CONSECUTIVE FULL 4-YEAR TERMS**  
8 **MAY NOT BE REAPPOINTED FOR 4 YEARS AFTER THE COMPLETION OF THOSE TERMS.**

9           **(E) IF A VACANCY OCCURS, THE SECRETARY PROMPTLY SHALL APPOINT A**  
10 **SUCCESSOR.**

11 **13-204.**

12           **(A) A MEMBER OF THE ADVISORY COUNCIL:**

13                   **(1) MAY NOT RECEIVE COMPENSATION; BUT**

14                   **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**  
15 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

16           **(B) (1) THE ADVISORY COUNCIL SHALL CREATE COMMITTEES AS IT**  
17 **DETERMINES TO ORGANIZE ITS WORK, INCLUDING AT A MINIMUM THE FOLLOWING**  
18 **FOUR COMMITTEES:**

19                           **(I) ARTHRITIS;**

20                           **(II) DIABETES;**

21                           **(III) HEART DISEASE AND STROKE; AND**

22                           **(IV) PHYSICAL FITNESS.**

23                   **(2) EACH ADVISORY COUNCIL MEMBER SHALL BE ASSIGNED TO ~~A~~ AT**  
24 **LEAST ONE COMMITTEE.**

25           **(C) THE SECRETARY SHALL DESIGNATE THE STAFF NECESSARY TO CARRY**  
26 **OUT THIS SUBTITLE.**

27 **13-205.**

28           **THE ADVISORY COUNCIL SHALL:**

1           **(1) PROMOTE EVIDENCE-BASED PROGRAMS FOR HEALTHY**  
2 **LIFESTYLES AND THE PREVENTION, EARLY DETECTION, AND TREATMENT OF**  
3 **CHRONIC DISEASE; AND**

4           **(2) MAKE RECOMMENDATIONS TO THE DEPARTMENT RELATED TO**  
5 **CHRONIC DISEASE PREVENTION, HEALTH, AND WELLNESS.**

6 **13-206.**

7           **THE SECRETARY SHALL ADOPT REGULATIONS GOVERNING THE ROLE AND**  
8 **OPERATIONS OF THE ADVISORY COUNCIL.**

9 13-401.

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

11           (b) “County advisory council” means an advisory council on physical fitness for a  
12 county.

13           (c) “State Advisory Council” means the State Advisory Council on [Physical  
14 Fitness] **HEALTH AND WELLNESS.**

15 13-402.

16           The purposes of this subtitle and of the advisory councils that it creates are to protect  
17 and improve physical fitness, including:

18           (1) Improvement of habits in recreation, exercise, sports, and the use of  
19 leisure time;

20           (2) Protection and improvement of physique and health; and

21           (3) Improvement of instruction for any of these purposes.

22 13-409.

23           The county and Baltimore City advisory councils shall consult with the State  
24 Advisory Council on [Physical Fitness] **HEALTH AND WELLNESS.**

25 13-502.

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

27           (b) “Advisory Council” means the State Advisory Council on [Arthritis and  
28 Related Diseases] **HEALTH AND WELLNESS.**



1 (c) "Program" means the Arthritis Prevention and Control Program.

2 17-217.

3 (a) The Secretary shall establish a Laboratory Advisory Committee to advise the  
4 Secretary on matters relating to the implementation of the provisions of this subtitle.

5 (b) The Advisory Committee shall consist of:

6 (1) At least the following representatives appointed biennially from a list  
7 of eligibles [submitted by the Medical and Chirurgical Faculty of Maryland]:

8 (i) 1 member of the American Academy of Family Practitioners;

9 (ii) 1 member of the American Academy of Pediatricians;

10 (iii) 1 member of the [American Society of Internal Medicine]  
11 **AMERICAN COLLEGE OF PHYSICIANS;**

12 (iv) 1 member of the [American Society of Clinical Pathologists]  
13 **AMERICAN SOCIETY FOR CLINICAL PATHOLOGY;** and

14 (v) 1 member of the American College of Pathology; and

15 (2) 1 representative of the Advanced Medical Technology Association.

16 17-2A-12.

17 (a) The Governor shall establish a Forensic Laboratory Advisory Committee to  
18 advise the Secretary on matters relating to the implementation of the provisions of this  
19 subtitle.

20 (b) The Advisory Committee shall consist of the following 10 members:

21 (3) The following members, appointed by the Governor:

22 (v) One from the [American Society of Crime Laboratory  
23 Directors/Laboratory Accreditation Board] **ANSI-ASQ NATIONAL ACCREDITATION**  
24 **BOARD;** and

25 18-108.

26 [(d) (1)] (C) The Department shall maximize distribution of administrative  
27 funds to local agencies in a manner that assures equity among the local agencies.

1           [(2) The distribution of administrative funds to local agencies shall be  
2 reviewed annually by the Governor's Advisory Council on Food and Nutrition, which may  
3 then recommend adjustments to the Governor, the Department, and the General Assembly.

4           (e)] (D)       The provisions of this section are effective only to the extent that they  
5 are not inconsistent with applicable federal law or regulations.

6 21-2A-05.

7           (a)       There is an Advisory Board on Prescription Drug Monitoring in the  
8 Department.

9           (b)       The Board shall consist of the following members:

10           (1)       The Secretary, or the Secretary's designee;

11           (2)       The President of the [Maryland] STATE Board of Pharmacy, or the  
12 President's designee;

13           (3)       The Chair of the [Maryland] STATE Board of Physicians, or the Chair's  
14 designee;

15           (4)       The President of the [Maryland] STATE Board of Nursing, or the  
16 President's designee;

17           **(5)       THE PRESIDENT OF THE STATE BOARD OF DENTAL EXAMINERS,  
18 OR THE PRESIDENT'S DESIGNEE;**

19           **(6)       THE PRESIDENT OF THE STATE BOARD OF PODIATRIC MEDICAL  
20 EXAMINERS, OR THE PRESIDENT'S DESIGNEE;**

21           [(5)] (7)       The Chairman of the Maryland Health Care Commission, or the  
22 Chairman's designee;

23           [(6)] (8)       Four physicians and one nurse practitioner with expertise in  
24 clinical treatment using controlled dangerous substances, including pain management,  
25 substance abuse, and behavioral disorders, appointed by the Secretary after consultation  
26 with:

27           (i)       For the physician appointments, [the Medical and Chirurgical  
28 Faculty of Maryland] **MEDCHI, THE MARYLAND STATE MEDICAL SOCIETY**, the  
29 Maryland Physical Medicine and Rehabilitation Society, the Maryland Society of  
30 Anesthesiologists, the Maryland-D.C. Society of Clinical Oncology, the Hospice and  
31 Palliative Care Network of Maryland, and the Maryland Chapter of the American Academy  
32 of Pediatrics; and

1 (ii) For the nurse practitioner appointment, the Maryland Nurses  
2 Association;

3 ~~[(7)]~~ **(9)** One pediatrician, appointed by the Secretary after consultation  
4 with the Maryland Chapter of the American Academy of Pediatrics;

5 ~~[(8)]~~ **(10)** Three pharmacists who represent the perspective of independent  
6 and chain pharmacies, appointed by the Secretary after consultation with the Maryland  
7 Pharmacists Association, the Maryland Association of Chain Drug Stores, and any other  
8 appropriate organization;

9 ~~[(9)]~~ **(11)** A local law enforcement official, appointed by the Secretary after  
10 consultation with the Maryland Chiefs of Police Association and the Maryland Sheriff's  
11 Association; ~~[and]~~

12 **(12) THE SECRETARY OF STATE POLICE, OR THE SECRETARY'S**  
13 **DESIGNEE;**

14 **(13) THE PRESIDENT OF THE MARYLAND ASSOCIATION OF COUNTY**  
15 **HEALTH OFFICERS, OR THE PRESIDENT'S DESIGNEE;**

16 **(14) AN ACADEMIC OR RESEARCH PROFESSIONAL; AND**

17 ~~[(10)]~~ **(15)** Two Maryland residents who represent the perspective of  
18 patients, appointed by the Secretary.

### 19 **Article – Health Occupations**

20 2–202.

21 (a) (1) The Board consists of 13 members.

22 (3) The Governor shall appoint the physician members, with the advice of  
23 the Secretary, from a list submitted to the Secretary and the Governor by the Maryland  
24 Society of Otolaryngology ~~[with the approval of the Medical and Chirurgical Faculty of the~~  
25 ~~State of Maryland]~~. There shall be at least 3 names on the list.

26 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 13–408 through  
27 13–410 and 13–510 through 13–512, respectively, of Article – Health – General of the  
28 Annotated Code of Maryland be renumbered to be Section(s) 13–403 through 13–405 and  
29 13–505 through 13–507, respectively.

30 SECTION 4. AND BE IT FURTHER ENACTED, That the terms of the members  
31 serving on the State Advisory Council on Heart Disease and Stroke, the State Advisory  
32 Council on Physical Fitness, and the State Advisory Council on Arthritis and Related  
33 Diseases on September 30, 2017, shall expire effective October 1, 2017. The terms of the

1 initial members of the State Advisory Council on Health and Wellness shall be determined  
2 by the Department of Health and Mental Hygiene through a random drawing and shall  
3 expire as follows:

- 4 (1) ~~eight~~ nine members in 2019;  
5 (2) ~~eight~~ nine members in 2020; and  
6 (3) ~~eight~~ nine members in 2021.

7 SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General  
8 Assembly that the purposes and responsibilities of the State Advisory Council on Heart  
9 Disease, the State Advisory Council on Physical Fitness, and the State Advisory Council on  
10 Arthritis and Related Diseases not be diminished by the provisions of this Act.

11 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2017.

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.