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To: The Honorable Shane Pendergrass  
Chair, Health and Government Operations Committee

From: The Office of the Attorney General

Re: House Bill 959 (Health Insurance – Consumer Protections): SUPPORT with Amendments

The Office of the Attorney General submits the following written testimony in support of House Bill 959. In 2011, the General Assembly incorporated by reference essential ACA consumer protections in Maryland law. These health care protections are at risk by the *Texas v USA* litigation, the position of the US Department of Justice that the individual mandate, guaranteed issue, community rating, preexisting condition exclusion protections, and all other ACA provisions are unconstitutional, and by the Administration's recent executive orders and regulations scaling back or eliminating other ACA protections. As the primary regulator of insurance, Maryland can enact and enforce its own stand-alone laws to protect Maryland and its residents from the loss of these and other essential healthcare protections.

Failing to enact these protections as stand-alone provisions creates significant litigation risk and puts Marylanders at risk of losing now well-established consumer protections should the ACA be deemed unconstitutional in whole or in part, or the Administration continues its attempts to eliminate the protections through executive fiat or regulatory action. Substantial numbers of Maryland residents have been able to obtain health insurance by virtue of the guaranteed issue, community rating, and prohibition on pre-existing condition exclusion provisions. Should those provisions be eliminated, substantial numbers of Maryland residents would lose their coverage, leading to a significant increase in the amount of uncompensated care provided by Maryland hospitals and other healthcare providers, particularly through emergency room visits. Any increase in uncompensated care provided by Maryland hospitals would significantly undermine Maryland's Total Cost of Care Model with CMS and would increase hospital costs for all payers, including the State.

Moreover, other ACA provisions are strongly supported and have become integral components of our healthcare system (e.g. dependent coverage up to age 26, elimination of lifetime and annual limits on essential benefits, coverage of preventive services without cost share, and access to maternity coverage and emergency services). And, Marylanders have benefitted from the ACA's

anti-discrimination provisions that, for example, prohibit plan designs that would deny medically necessary services to transgender individuals or place all medications used to treat HIV on the highest formulary tier. Marylanders have also benefitted from the ACA's MLR affordability requirements, requiring an 80% MLR in the individual/small group markets and 85% for the large group market.

Maryland must protect the significant gains in health insurance coverage and improvements in health care access and affordability. This bill, crafted through a pain-staking process by carriers, hospitals, providers, consumer representatives, the MIA, MHBE, HEAU and legislative staff, offers those protections to Marylanders.

The Office looks forward to working with the subcommittee on a few needed amendments to the contraceptive coverage mandate and the anti-discrimination provisions and through any needed amendments identified by other stakeholders.

For these reasons, we ask that this Committee return a favorable report on the bill.