

# SENATE BILL 651

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71r2745  
CF HB 372

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By: **Senator Edwards**

Introduced and read first time: February 2, 2007

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Medical Malpractice Liability Insurance – Garrett County Memorial Hospital**  
3 **– Subsidy for Family Practitioners Who Also Perform Obstetrical Services**

4 FOR the purpose of requiring a certain subsidy for certain calendar years for medical  
5 professional liability insurance policies issued to family practitioners who have  
6 staff privileges at Garrett County Memorial Hospital and who also provide  
7 obstetrical services at the Hospital; requiring certain amounts to remain in the  
8 Rate Stabilization Account to pay for certain subsidies; requiring medical  
9 professional liability insurers to include, if applicable, a certain subsidy in the  
10 information required to be submitted to the Maryland Insurance Commissioner  
11 to receive money from the Rate Stabilization Account; providing a certain  
12 exception to the requirement that a certain disbursement from the Rate  
13 Stabilization Account be reduced by a certain amount and the prohibition on a  
14 disbursement from the Account to a certain entity under certain circumstances;  
15 providing for the termination of this Act; and generally relating to a subsidy for  
16 medical professional liability insurance policies issued to family practitioners in  
17 Garrett County who also provide obstetrical services in Garrett County.

18 BY repealing and reenacting, without amendments,  
19 Article – Insurance  
20 Section 19–801(a) and (b), 19–802(a), (b), and (g), and 19–803  
21 Annotated Code of Maryland  
22 (2006 Replacement Volume and 2006 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – Insurance

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 19–804 and 19–805  
2 Annotated Code of Maryland  
3 (2006 Replacement Volume and 2006 Supplement)

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

6 **Article – Insurance**

7 19–801.

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

9 (b) “Fund” means the Maryland Health Care Provider Rate Stabilization  
10 Fund.

11 19–802.

12 (a) There is a Maryland Health Care Provider Rate Stabilization Fund.

13 (b) The purposes of the Fund are to:

14 (1) retain health care providers in the State by allowing medical  
15 professional liability insurers to collect rates that are less than the rates approved  
16 under § 11–201 of this article;

17 (2) increase fee–for–service rates paid by the Maryland Medical  
18 Assistance Program to health care providers identified under § 19–807 of this subtitle;

19 (3) pay managed care organization health care providers identified  
20 under § 19–807 of this subtitle consistent with fee–for–service health care provider  
21 rates;

22 (4) increase capitation payments to managed care organizations  
23 participating in the Maryland Medical Assistance Program consistent with  
24 § 15–103(b)(18) of the Health – General Article; and

25 (5) during the period that an allocation is made to the Rate  
26 Stabilization Account, subsidize up to \$350,000 annually to provide for the costs  
27 incurred by the Commissioner to administer the Fund.

28 (g) The Fund comprises:

1 (1) the Rate Stabilization Account from which disbursements shall be  
2 made to pay for health care provider rate subsidies; and

3 (2) the Medical Assistance Program Account from which  
4 disbursements shall be made to:

5 (i) provide an increase in fee-for-service health care provider  
6 rates paid by the Maryland Medical Assistance Program;

7 (ii) provide an increase for managed care organization health  
8 care providers consistent with fee-for-service health care provider rate increases;

9 (iii) provide an increase in capitation payments to managed care  
10 organizations participating in the Maryland Medical Assistance Program consistent  
11 with § 15-103(b)(18) of the Health – General Article; and

12 (iv) after fiscal year 2009, maintain rates for health care  
13 providers and generally to support the operations of the Maryland Medical Assistance  
14 Program.

15 19-803.

16 (a) The Commissioner shall administer the Fund.

17 (b) Notwithstanding § 2-114 of this article:

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

21 (2) during the period an allocation is made to the Rate Stabilization  
22 Account, the Commissioner may distribute up to \$350,000 annually from the revenue  
23 estimated to be received by the Fund in a fiscal year to provide for the costs incurred  
24 by the Commissioner to administer the Fund;

25 (3) after distributing the amount required under paragraph (2) of this  
26 subsection, the Commissioner shall allocate the revenue and unallocated balance of  
27 the Fund according to the following schedule:

28 (i) in fiscal year 2005, \$3,500,000 to the Medical Assistance  
29 Program Account;

30 (ii) in fiscal year 2006:

1                           1.     \$52,000,000 to the Rate Stabilization Account to pay  
2 for health care provider rate reductions, credits, or refunds in calendar year 2005; and

3                           2.     \$30,000,000 to the Medical Assistance Program  
4 Account;

5                           (iii) in fiscal year 2007:

6                           1.     \$45,000,000 to the Rate Stabilization Account to pay  
7 for health care provider rate reductions, credits, or refunds in calendar year 2006; and

8                           2.     \$45,000,000 to the Medical Assistance Program  
9 Account;

10                          (iv) in fiscal year 2008:

11                          1.     \$35,000,000 to the Rate Stabilization Account to pay  
12 for health care provider rate reductions, credits, or refunds in calendar year 2007; and

13                          2.     \$65,000,000 to the Medical Assistance Program  
14 Account;

15                          (v) in fiscal year 2009:

16                          1.     \$25,000,000 to the Rate Stabilization Account to pay  
17 for health care provider rate reductions, credits, or refunds in calendar year 2008; and

18                          2.     the remaining revenue to the Medical Assistance  
19 Program Account; and

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

22           (c)   (1)   Any revenue remaining in the Fund after fiscal year 2005 shall  
23 remain in the Fund until otherwise directed by law.

24                          (2)   If in any fiscal year the allocations made under this section exceed  
25 the revenues estimated for that year, amounts available in the unallocated balance of  
26 the Fund may be substituted to the extent of a Fund deficit.

27           (d)   (1)   If a medical professional liability insurer provides coverage to a  
28 health care provider and that insurer did not earn premiums in the previous calendar

1 year in the State, that insurer shall be allocated 5% of the balance of the Rate  
2 Stabilization Account or a lesser amount as determined by the Commissioner.

3 (2) If an allocation is made under paragraph (1) of this subsection, the  
4 funds available to other medical professional liability insurers shall be reduced on a  
5 pro rata basis.

6 19–804.

7 (a) The order of preference for distribution from the Fund shall be as follows:

8 (1) disbursements from the Rate Stabilization Account to subsidize  
9 health care provider rates under § 19–805 of this subtitle;

10 (2) disbursements from the Medical Assistance Program Account  
11 sufficient to:

12 (i) pay for increased rates to health care providers identified  
13 under § 19–807(b)(2) of this subtitle; and

14 (ii) pay managed care organization health care providers  
15 identified under § 19–807(b)(2) of this subtitle consistent with the fee–for–service  
16 health care provider rate increases;

17 (3) disbursements to maintain the increase in health care provider  
18 reimbursements under § 19–807(b)(2) of this subtitle;

19 (4) disbursements to increase capitation payments to managed care  
20 organizations participating in the Maryland Medical Assistance Program consistent  
21 with § 15–103(b)(18) of the Health – General Article; and

22 (5) disbursements from the Medical Assistance Program Account to:

23 (i) increase fee–for–service health care provider rates under §  
24 19–807 of this subtitle; and

25 (ii) pay managed care organization health care providers  
26 consistent with fee–for–service health care provider rates under § 19–807(b)(3) of this  
27 subtitle.

28 (b) Disbursements from the Rate Stabilization Account to a medical  
29 professional liability insurer may not exceed the amount necessary to provide a rate  
30 reduction, credit, or refund to health care providers.

1 (c) (1) Portions of the Rate Stabilization Account that exceed the amount  
2 necessary to pay for health care provider subsidies shall remain in the Rate  
3 Stabilization Account to be used:

4 (i) to pay for health care provider subsidies in calendar years  
5 2006 through 2008; and

6 (ii) after the fiscal year 2009 allocation to the Rate Stabilization  
7 Account under § 19–803(b) of this subtitle, by the Medical Assistance Program  
8 Account for the purposes specified under § 19–807(b) of this subtitle.

9 (2) Any disbursements from the Rate Stabilization Account to a  
10 medical professional liability insurer that is not used to provide a rate reduction,  
11 credit, or refund to a health care provider shall be returned to the State Treasurer for  
12 reversion to the Fund.

13 **(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION,**  
14 **AMOUNTS NECESSARY TO PAY FOR HEALTH CARE PROVIDER SUBSIDIES UNDER**  
15 **§ 19–805(B)(3) OF THIS SUBTITLE SHALL REMAIN IN THE RATE STABILIZATION**  
16 **ACCOUNT.**

17 (d) A medical professional liability insurer shall reduce the subsidy paid to  
18 each health care provider electing to receive a subsidy if the balance of the Rate  
19 Stabilization Account is insufficient to pay health care provider subsidies.

20 19–805.

21 (a) (1) Participation in the Fund by a medical professional liability  
22 insurer shall be voluntary.

23 (2) On at least an annual basis, a medical professional liability insurer  
24 seeking reimbursement from the Rate Stabilization Account shall:

25 (i) determine the amount of the subsidy for each policyholder;  
26 and

27 (ii) send a written notice to each policyholder stating:

28 1. the amount of the estimated annual subsidy provided  
29 by the State; and

1                   2.     the procedure a health care provider shall follow if  
2     electing not to receive a rate reduction, credit, or refund.

3           (b)     Subject to § 19–804(d) of this subtitle and subsection (c) of this section,  
4     the subsidy provided to each policyholder shall be:

5           (1)     for medical professional liability insurance policies subject to rates  
6     that were approved for an initial effective date on or after January 1, 2005, but prior  
7     to January 1, 2006, the amount of a premium increase that is greater than 5% of the  
8     approved rates in effect 1 year prior to the effective date of the policy; [and]

9           (2)     for medical professional liability insurance policies subject to rates  
10    that were approved for an initial effective date on or after January 1, 2006, a  
11    percentage of the policyholder's premium for the prior year that equals the quotient,  
12    measured as a percentage of the balance of the Rate Stabilization Account for the  
13    current calendar year divided by the aggregate amount of premiums for medical  
14    professional liability insurance that would have been paid by health care providers at  
15    the approved rate during the prior calendar year; **AND**

16           **(3)     IN ADDITION TO AMOUNTS PROVIDED UNDER ITEMS (1) AND**  
17    **(2) OF THIS SUBSECTION, FOR MEDICAL PROFESSIONAL LIABILITY INSURANCE**  
18    **POLICIES ISSUED TO FAMILY PRACTITIONERS WHO HAVE STAFF PRIVILEGES AT**  
19    **GARRETT COUNTY MEMORIAL HOSPITAL AND WHO ALSO PROVIDE**  
20    **OBSTETRICAL SERVICES AT GARRETT COUNTY MEMORIAL HOSPITAL, AN**  
21    **AMOUNT EQUAL TO 75% OF THE DIFFERENCE BETWEEN THE POLICYHOLDER'S**  
22    **PREMIUM FOR CALENDAR YEAR 2007, 2008, AND 2009 AND THE PREMIUM THAT**  
23    **OTHERWISE WOULD BE PAYABLE IN THOSE CALENDAR YEARS IF THE**  
24    **POLICYHOLDER WAS NOT PROVIDING OBSTETRICAL SERVICES.**

25           (c)     The State subsidy calculated under subsection (b) of this section may not  
26    include the amount of a rate increase resulting from a premium surcharge or the loss  
27    of a discount due to a health care provider's loss experience.

28           (d)     A health care provider may elect not to receive a rate reduction, credit, or  
29    refund by:

30           (1)     notifying the medical professional liability insurer within 15 days  
31    of receiving the notice under subsection (a) of this section of the health care provider's  
32    intent not to accept a rate reduction, credit, or refund; and

33           (2)     paying, either in full, or on an installment basis, the amount of  
34    premium billed by the medical professional liability insurer.

1 (e) (1) On at least an annual basis, a medical professional liability insurer  
2 seeking reimbursement from the Rate Stabilization Account on behalf of health care  
3 providers shall apply to the Rate Stabilization Account on a form and in a manner  
4 approved by the Commissioner.

5 (2) The Commissioner may adopt regulations that specify the  
6 information that medical professional liability insurers shall submit to receive money  
7 from the Rate Stabilization Account.

8 (3) The information required shall include:

9 (i) by health care provider classification and geographic  
10 territory, the amount of the base premium rate charged by the insurer at the approved  
11 rate;

12 (ii) by health care provider classification and geographic  
13 territory, the amount of the base premium rate charged by the insurer reduced by the  
14 amount of the subsidy, **INCLUDING THE SUBSIDY PROVIDED UNDER SUBSECTION**  
15 **(B)(3) OF THIS SECTION, IF APPLICABLE;**

16 (iii) the number of health care providers in each classification  
17 and geographic territory;

18 (iv) the total amount of reimbursement requested from the Rate  
19 Stabilization Account;

20 (v) the name, classification, and geographic territory of each  
21 health care provider electing not to receive a rate reduction, credit, or refund; and

22 (vi) any other information the Commissioner considers  
23 necessary to disburse money from the Rate Stabilization Account.

24 (f) Within 60 days of receipt of a request for reimbursement from the Fund,  
25 the Commissioner shall disburse money from the Rate Stabilization Account on a  
26 quarterly basis to medical professional liability insurers to be used to provide a rate  
27 reduction, credit, or refund to health care providers.

28 (g) In anticipation of reimbursement or on reimbursement from the Rate  
29 Stabilization Account, a medical professional liability insurer shall provide a rate  
30 reduction, credit, or refund to a policyholder as follows:



1           (1) for premiums paid on an installment basis, the rate reduction or  
2 credit shall be applied against the base premium rate due on the next installment; and

3           (2) if the amount of the rate reduction or credit is more than the  
4 amount due on the next installment, or if a policy is paid in full, the policyholder may  
5 elect that either a refund be issued, or that a credit be applied against the base  
6 premium rate due on the policyholder's next renewal.

7           (h) [During] **EXCEPT FOR THE SUBSIDY PROVIDED UNDER SUBSECTION**  
8 **(B)(3) OF THIS SECTION, DURING** the period in which disbursements are made from  
9 the Rate Stabilization Account to pay for health care provider rate reductions, credits,  
10 or refunds:

11           (1) a disbursement from the Rate Stabilization Account to a medical  
12 professional liability insurer conducting business as a mutual company shall be  
13 reduced by the value of a dividend that may be issued by the insurer; and

14           (2) a disbursement may not be made from the Rate Stabilization  
15 Account to the Medical Mutual Liability Insurance Society of Maryland during any  
16 period for which the Commissioner has determined, under § 24-212 of this article,  
17 that the surplus of the Society is excessive.

18           (i) The Commissioner or the Commissioner's designee shall conduct an  
19 annual audit to verify the information submitted by a medical professional liability  
20 insurer applying for reimbursement from the Rate Stabilization Account.

21           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 July 1, 2007. It shall remain effective for a period of 3 years and, at the end of June 30,  
23 2010, with no further action required by the General Assembly, this Act shall be  
24 abrogated and of no further force and effect.