

SENATE BILL 651

J1, C4

71r2745
CF HB 372

By: **Senator Edwards**

Introduced and read first time: February 2, 2007

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: March 7, 2007

CHAPTER _____

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

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 Annotated Code of Maryland
2 (2006 Replacement Volume and 2006 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Insurance
5 Section 19–804 and 19–805
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2006 Supplement)

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

10 **Article – Insurance**

11 19–801.

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

13 (b) “Fund” means the Maryland Health Care Provider Rate Stabilization
14 Fund.

15 19–802.

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

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

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

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

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

26 (4) increase capitation payments to managed care organizations
27 participating in the Maryland Medical Assistance Program consistent with
28 § 15–103(b)(18) of the Health – General Article; and

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

4 (g) The Fund comprises:

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

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

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

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

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

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

19 19-803.

20 (a) The Commissioner shall administer the Fund.

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

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

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

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

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

6 (ii) in fiscal year 2006:

7 1. \$52,000,000 to the Rate Stabilization Account to pay
8 for health care provider rate reductions, credits, or refunds in calendar year 2005; and

9 2. \$30,000,000 to the Medical Assistance Program
10 Account;

11 (iii) in fiscal year 2007:

12 1. \$45,000,000 to the Rate Stabilization Account to pay
13 for health care provider rate reductions, credits, or refunds in calendar year 2006; and

14 2. \$45,000,000 to the Medical Assistance Program
15 Account;

16 (iv) in fiscal year 2008:

17 1. \$35,000,000 to the Rate Stabilization Account to pay
18 for health care provider rate reductions, credits, or refunds in calendar year 2007; and

19 2. \$65,000,000 to the Medical Assistance Program
20 Account;

21 (v) in fiscal year 2009:

22 1. \$25,000,000 to the Rate Stabilization Account to pay
23 for health care provider rate reductions, credits, or refunds in calendar year 2008; and

24 2. the remaining revenue to the Medical Assistance
25 Program Account; and

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

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

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

6 (d) (1) If a medical professional liability insurer provides coverage to a
7 health care provider and that insurer did not earn premiums in the previous calendar
8 year in the State, that insurer shall be allocated 5% of the balance of the Rate
9 Stabilization Account or a lesser amount as determined by the Commissioner.

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

13 19–804.

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

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

17 (2) disbursements from the Medical Assistance Program Account
18 sufficient to:

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

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

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

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

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

1 (i) increase fee-for-service health care provider rates under §
2 19-807 of this subtitle; and

3 (ii) pay managed care organization health care providers
4 consistent with fee-for-service health care provider rates under § 19-807(b)(3) of this
5 subtitle.

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

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

12 (i) to pay for health care provider subsidies in calendar years
13 2006 through 2008; and

14 (ii) after the fiscal year 2009 allocation to the Rate Stabilization
15 Account under § 19-803(b) of this subtitle, by the Medical Assistance Program
16 Account for the purposes specified under § 19-807(b) of this subtitle.

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

21 **(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION,**
22 **AMOUNTS NECESSARY TO PAY FOR HEALTH CARE PROVIDER SUBSIDIES UNDER**
23 **§ 19-805(B)(3) OF THIS SUBTITLE SHALL REMAIN IN THE RATE STABILIZATION**
24 **ACCOUNT.**

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

28 19-805.

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

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

3 (i) determine the amount of the subsidy for each policyholder;
4 and

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

6 1. the amount of the estimated annual subsidy provided
7 by the State; and

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

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

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

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

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

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

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

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

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

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

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

18 (3) The information required shall include:

19 (i) by health care provider classification and geographic
20 territory, the amount of the base premium rate charged by the insurer at the approved
21 rate;

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

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

28 (iv) the total amount of reimbursement requested from the Rate
29 Stabilization Account;

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

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

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

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

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

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

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

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

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2007. It shall remain effective for a period of 3 years and, at the end of June 30,

1 2010, with no further action required by the General Assembly, this Act shall be
2 abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.