

**LETTER OF INFORMATION
FROM THE OFFICE OF ADMINISTRATIVE HEARINGS
REGARDING SB 1039**

The Office of Administrative Hearings (OAH) provides the following information on SB 1039.

OAH was created by the Maryland General Assembly in 1990 to guarantee fundamental fairness in the administrative hearing process. Prior to the creation of OAH, hearing officers were employees of the agency whose contested cases they adjudicated. This fostered a public perception that it was not possible to receive a fair and impartial administrative hearing. To combat this perception, the General Assembly required that, in most instances, an agency or board must delegate its hearing authority to OAH.

Since its inception, OAH has consistently opposed any legislation—and the Legislature has defeated all legislation—that would allow a board, commission or agency to revert to conducting hearings with “in-house” hearing officers. OAH has taken this position for three reasons:

1. To assist the Legislature in making sound public policy decisions;
2. To protect the integrity of the administrative process in Maryland; and
3. To protect the citizens of Maryland.

Currently, the Maryland Insurance Administration’s Commissioner (Commissioner) retains the authority to conduct hearings, or to delegate that authority to the Deputy Commissioner, an associate commissioner, or one other Administration employee who is designated by the Commissioner and admitted

to the practice of law in Maryland. If the Commissioner chooses not to conduct the hearing, or to delegate that authority to one of these three individuals as currently provided for in § 2-210(d), the Commissioner delegates the hearing to OAH.

OAH conducts a number of different case types for the Maryland Insurance Administration (MIA), including premium surcharge cases, cancellation and non-renewal cases, disciplinary and enforcement cases, and first-party consumer complaints alleging bad faith by the insurer.

OAH believes that SB 1039 would result in the MIA conducting more administrative hearings “in-house” by allowing “any other” attorney employee “designated by the Commissioner” to conduct these hearings. OAH further believes that the bill will undermine the current protections that Maryland citizens deserve to have their cases decided by individuals not employed by the MIA, and that the bill will also diminish the integrity of the administrative process in Maryland. If SB 1039 is enacted, employees of the MIA would more often become the decision makers on appeal. This would recreate the public perception that consumers are not receiving a fair and impartial administrative hearing.

Submitted by the Office of
Administrative Hearings on
March 16, 2020