



MARYLAND HOSPITAL RISK MANAGEMENT THROUGH CAPTIVES



Maryland Insurance Administration
Oct. 7, 2026



WHAT IS A HOSPITAL CAPTIVE?

A hospital captive is a separate entity owned and funded by the hospital. It is a dedicated, structured account for paying hospital claims.

Follow the money (it all goes to managing risk):



- **Hospital Money.** The hospital sets aside **its own money** in the captive based purely on an actuarial assessment of the hospital's risk.
- **Dedicated Funds.** Funds in a captive are dedicated to risk management and cannot be used for another purpose.
- **Hospital pays the claims.** Whether directly or through the captive, hospital money is paying the claim.

WHY HOSPITALS USE CAPTIVES?

No viable commercial option in Maryland

- Significant liability exposure: complex, high-acuity care (*emergency, trauma, surgical, obstetric, behavioral, intensive*) and cybersecurity, premises liability, and other risks
- Medical liability coverage market is highly concentrated
- Makes first level coverage cost prohibitive

Must have coverage

- With no viable commercial option, Hospitals must self-insure
- Dedicate funds to cover majority claims, then buy protection for 'catastrophic' losses.

Access to reinsurance

- Setting aside funds provides access to reinsurance market
- Reinsurance covers 'catastrophic' claims above what is in the captive.
- Reinsurers require hospitals to self insure before offering additional coverage

HOSPITAL COVERAGE CHALLENGING FOR INSURERS TOO

Per Maryland Insurance Administration's 2026 Report On
Availability And Affordability Of Medical Liability Insurance:

- Insurers pay out more in claims and expenses than they collect in premiums from hospitals
- As a result, reinsurers are covering less and charging more for each layer of coverage... *"making MPL coverage significantly less affordable for hospitals and healthcare facilities."*

HOW MARYLAND HOSPITALS USE CAPTIVES

Maryland's acute-care hospitals are all nonprofit organizations.

NONPROFIT HOSPITALS

- Face significant liability risks
- **Do not pay income tax** on revenue from their charitable mission.
- **Captive funds pay claims.** There is no tax deduction advantage for Maryland hospitals to use captives.
- Amount of funding based on actuarial estimates of risk exposure - *required by reinsurers.*

FOR-PROFIT BUSINESSES

- For-profit businesses **owe income tax.** Qualifying captive premium payments **may reduce taxable income.**
- May have other options for commercial insurance.
- Their captives manage business risks but also provide tax benefits to the business.

HOSPITALS MUST COMMIT MORE RESOURCES TO LIABILITY PROTECTION

Hospitals fund most claims themselves and purchase outside coverage for catastrophic claims above the amount they self-insure.

Setting aside more of their own money

As liability risks grow and insurers require hospitals to cover a larger share, hospitals must commit more funds to paying claims themselves.

Paying higher premiums

Hospitals pay more for reinsurance. Rarely used but protects patient-care resources against exceptionally large losses.

Using more reinsurers to assemble coverage

Each reinsurer may be willing to cover less risk, requiring hospitals to purchase protection from more participants. Some health systems use as many as **35 reinsurers**.

These costs leave fewer resources available for patient care.

HOW HOSPITALS COVER THEIR RISKS

HOSPITAL COVERAGE TOWER

Reinsurance LEVEL 5

Reinsurance LEVEL 4

Reinsurance LEVEL 3

Reinsurance LEVEL 2

Reinsurance LEVEL 1

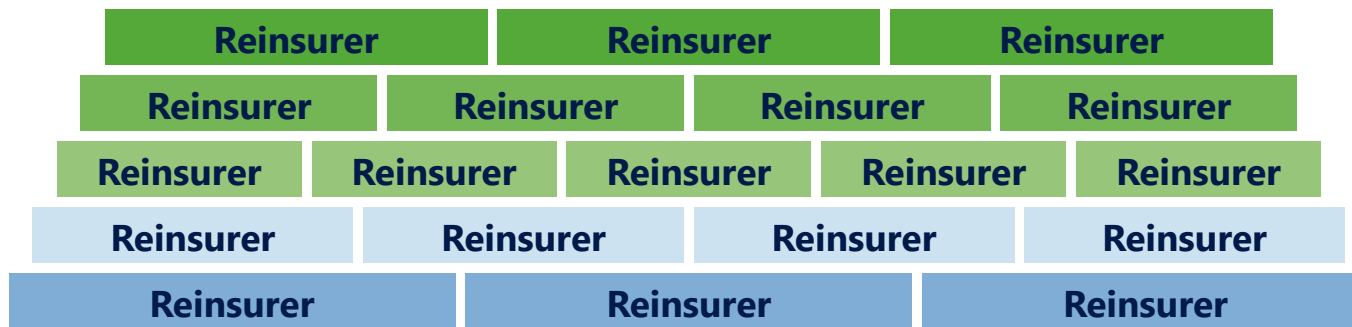
HOSPITAL'S OWN MONEY

set aside in the captive
to pay claims

- Hospitals buy reinsurance for claims above the amount they have to self-insure.
- Reinsurance carriers are increasing the amount hospitals must set aside to cover losses before their policies will provide coverage.

MORE REINSURERS NEEDED TO BUILD TOWER

HOSPITAL COVERAGE TOWER



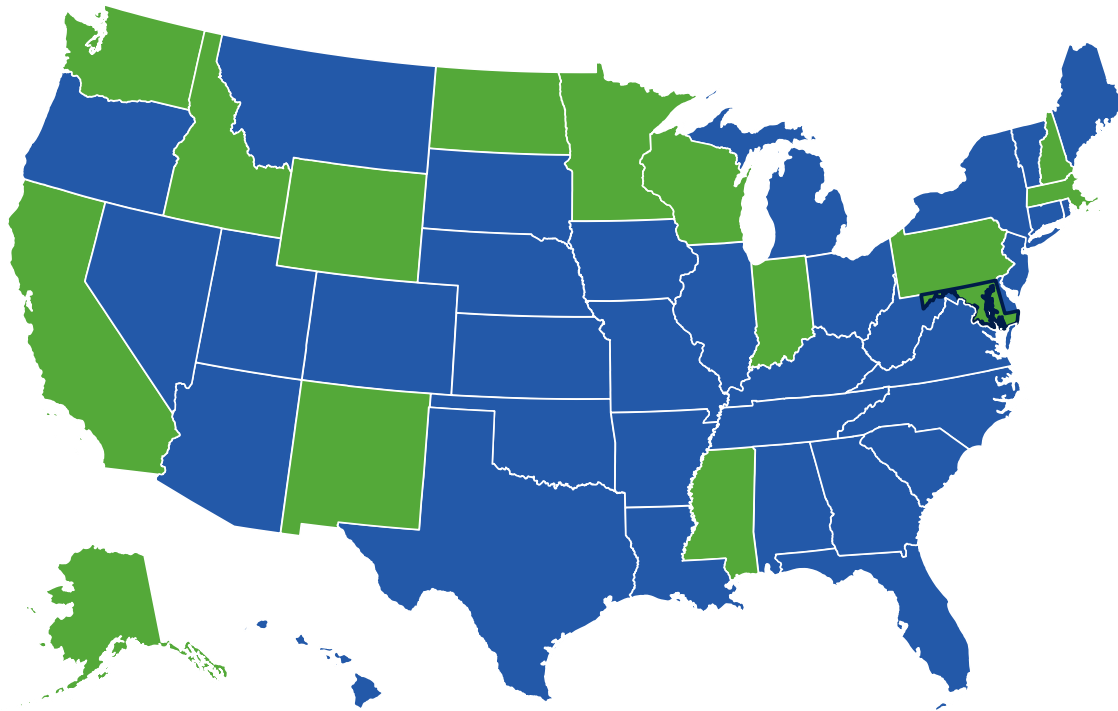
HOSPITAL'S OWN MONEY
set aside in the captive
to pay claims

- Some health systems use as many as **35 reinsurers**
- More are needed because insurers are covering less per policy
- Several reinsurers can share a single level for different risks (i.e. medical liability and cyber risks).

WHY MARYLAND HOSPITAL CAPTIVES ARE OUT OF STATE

Maryland has no in-state captive formation option

- MIA's 2013 study recommended against adopting a captive domicile law.



- **35 states**

Allow captive formation

- **15 states**

Including Maryland,
have no domicile law

MARYLAND HOSPITAL CAPTIVES ARE DIFFERENT

Hospital's use captives differently may negate the purpose of the tax on unauthorized insurers.

UNAUTHORIZED INSURER TAX

- **Protects residents** who may struggle to enforce policies issued by insurers not licensed in Maryland.
- Encourage entities to register in state.

WHY HOSPITALS ARE DIFFERENT

- The hospital **owns and funds** its captive, which is regulated where it is established.
- The hospital **still pays the claims**. Risk stays with the hospital.
- No in-state option

MARYLAND'S UNIQUE HOSPITAL RATE SETTING SYSTEM

Hospitals rates set and annual budget capped by state agency.

- Supports access to care regardless of patients' insurance coverage
- Reimbursement rates and annual budget are set by state regulatory body – Health Services Cost Review Commission (HSCRC).
- Hospitals cannot negotiate reimbursement rates with insurers or increase revenue through increased volume
- Liability costs are not directly offset in rates – regional averages are a factor but do not reflect specific Maryland hospital experience.
- New costs do not result in increased budget – must be absorbed within existing framework

MHA RECOMMENDATIONS

Preserve affordable self-insurance so hospitals can pay claims and protect resources for patient care.

- Regulatory structure must acknowledge unique aspects of hospitals and their captive arrangements
- Distinguish hospitals **setting aside their own money** to pay claims from their purchase of reinsurance
- Can foster transparency and clarity through a **prospective registry** with a reasonable fixed annual fee