

On creation of the Department of Health and Mental Hygiene in 1969, numerous formerly autonomous agencies were made units of the Department. The relationship of these units and the Secretary were set out, primarily, in former Article 41, § 206.

Former Article 41, § 206(f), which set forth a broad power of the Secretary over plans, proposals, and projects of units in the Department and then appeared to exclude every unit "except the Department of Health and the Department of Mental Hygiene", was obsolete since it did not reflect those units that have been created since enactment of § 206(f) in 1969 and that have been made subject to the power of the Secretary. Also former § 206(f) did not reflect the abolition of the Department of Health and dispersal of its powers and duties throughout the Department of Health and Mental Hygiene. Therefore § 2-104(f) of this article sets forth the general power of the Secretary and, in the provisions that relate to units excluded from the scope of this power, an express statement of that exclusion is added. See, e.g., § 13-409, as to the State Commission on Physical Fitness.

Former Article 41, § 206(i) stated that the Secretary could transfer, by rule, regulation, or written directive, the functions, staff, or funds of the "Department of Health, State Department of Juvenile Services, or Department of Mental Health". In 59 Op. Att'y Gen. 421 (1974), then Attorney General Burch interpreted former Article 41, § 206(i) as restricting the Secretary in transferring functions, staff, and funds of every unit in the Department not listed specifically in that section. However, as with former Article 41, § 206(f), the list of units set forth in § 206(i) was incomplete and obsolete. Therefore, in § 2-104(h) of this article, a general power to make these transfers is set forth and, in the provisions that relate to units excluded from this power, an express limitation is added.

The Commission to Revise the Annotated Code notes, for consideration by the General Assembly, that the relationship of the Commission on Hereditary Disorders, High Blood Pressure Commission, and Kidney Disease Commission to the Department and the Secretary is unclear. None of the commissions are expressly designated as units in the Department, although the commissions receive their money through the Department budget. The General Assembly may wish to consider delineating this relationship.

Membership of boards and commissions:

In describing the role of the Secretary of Health and Mental Hygiene in the process of appointing members of the boards governed by this article, the former law uses