



HOUSE BILL No. 5400

November 9, 1995, Introduced by Rep. Llewellyn and referred to the Committee on Insurance.

A bill to amend section 205 of Act No. 350 of the Public Acts of 1980, entitled as amended

"The nonprofit health care corporation reform act,"

as amended by Act No. 127 of the Public Acts of 1993, being section 550.1205 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 205 of Act No. 350 of the Public Acts of
2 1980, as amended by Act No. 127 of the Public Acts of 1993, being
3 section 550.1205 of the Michigan Compiled Laws, is amended to
4 read as follows:

5 Sec. 205. (1) A health care corporation shall record or
6 estimate liabilities at reasonable values, neither excessive nor
7 inadequate, and in accordance with sound actuarial practices and
8 generally accepted accounting principles, to provide for the
9 payment of all debts of the corporation. The assets of the

1 corporation shall be valued in accordance with sound actuarial
2 practices and generally accepted accounting principles. The com-
3 missioner shall disapprove the amount of any assets or liabili-
4 ties that violate this subsection. The commissioner ~~shall have~~
5 HAS the authority to disapprove the creation of any new liability
6 that is properly includable in the contingency reserves. A
7 liability shall be considered to be a new liability if the
8 liability was not in existence on or before December 31, 1978.

9 (2) At all times while engaged in business, a health care
10 corporation shall maintain a contingency reserve that, on a
11 projected basis, progresses toward the target contingency reserve
12 level established pursuant to this section. Until a target con-
13 tingency reserve level is established pursuant to this section,
14 the corporation shall maintain a contingency reserve in the form
15 and amount determined by the commissioner, or 11.5% of the previ-
16 ous year's total incurred claims and incurred expenses, whichever
17 is greater.

18 (3) Within 30 days after the filing of a health care
19 corporation's annual financial statement under section 602, the
20 commissioner shall determine the target contingency reserve level
21 for the corporation, expressed as a percentage of the total
22 incurred claims and incurred expenses of the corporation for the
23 previous calendar year. The target shall be equal to the adjust-
24 ment factor established in subsection (7) multiplied by the sum
25 of the risk factors weighted by the distribution of business of
26 the corporation as of the previous December 31. The commissioner

1 shall transmit a copy of the target to the corporation, rounded
2 up to the nearest 1/10 of a percent.

3 (4) A health care corporation, for purposes of this section,
4 shall define at least 5 lines of business and shall assign a risk
5 factor to each line of business. The risk factors shall be
6 established in accordance with sound actuarial practices, and the
7 health care corporation shall file these risk factors with the
8 commissioner within 6 months after the following times:

9 (a) For a health care corporation established under former
10 Act No. 108 or 109 of the Public Acts of 1939, upon the effective
11 date of this act.

12 (b) For a health care corporation newly incorporated under
13 this act, upon formation of the corporation.

14 (c) For a health care corporation that has previously deter-
15 mined risk factors pursuant to this section, upon request of
16 either the corporation or the commissioner, provided that the
17 request is not made within 3 years after a previous determination
18 of risk factors pursuant to this section, except as provided in
19 subsection (8).

20 (5) Within 30 days after receipt of the risk factors filed
21 pursuant to subsection (4), the commissioner shall do 1 of the
22 following:

23 (a) If the commissioner determines the risk factors are
24 actuarially sound, the commissioner shall approve the factors and
25 proceed under subsection (7).

26 (b) Define 1 or more additional lines of business, transmit
27 the definitions to the health care corporation, and request that

1 the corporation establish risk factors for those additional
2 lines. The corporation shall then have 60 days to submit a risk
3 factor for each line of business defined by either the commis-
4 sioner or the corporation, which shall be approved or disapproved
5 by the commissioner under this subsection. A health care corpo-
6 ration may revise a previously filed risk factor under this
7 subsection.

8 (c) If the commissioner determines the risk factors are not
9 actuarially sound, the commissioner shall disapprove the factors,
10 and proceed under subsection (6).

11 (6) If the risk factors are disapproved by the commissioner
12 pursuant to subsection (5)(c), the commissioner shall immediately
13 notify the health care corporation of the disapproval. Within 6
14 months following notification, a panel of 3 actuaries, 1
15 appointed by the commissioner, 1 by the corporation, and 1
16 appointed by the 2 previously appointed actuaries, shall deter-
17 mine an actuarially sound risk factor for each line of business.
18 The agreement of any 2 actuaries on the panel shall be sufficient
19 for the determination of the risk factors, and the panel shall
20 transmit a copy of the risk factors to both the commissioner and
21 the corporation.

22 (7) Within 15 days after the determination of the risk fac-
23 tors under subsection (6), or the approval of the risk factors
24 under subsection (5)(a), the commissioner shall calculate an
25 adjustment factor, which shall be transmitted to the health care
26 corporation and the legislature. The adjustment factor shall
27 equal:

1 (a) For a filing pursuant to subsection (4)(a), 11.5%
2 divided by the sum of the risk factors weighted by the distribu-
3 tion of business of the corporation as of December 31, 1979.

4 (b) For a filing pursuant to subsection (4)(b), 11.5%
5 divided by the sum of the risk factors weighted by the distribu-
6 tion of business of the corporation as of 6 months following the
7 formation of the corporation.

8 (c) For a filing pursuant to subsection (4)(c), the current
9 target contingency reserve level divided by the sum of the risk
10 factors weighted by the distribution of business of the corpora-
11 tion as of the previous December 31.

12 (8) At any time the health care corporation and the commis-
13 sioner, by mutual agreement, may enter into a stipulation setting
14 forth lines of business, risk factors for each line of business,
15 and an adjustment factor.

16 (9) The contingency reserve of a health care corporation
17 shall not be less than 65% ~~7~~ or more than ~~+20%~~ 150% of the
18 target contingency reserve level. If the contingency reserve is
19 above the required range at the end of a calendar year, the cor-
20 poration shall implement adjustments as necessary to achieve the
21 required range and shall file with the commissioner, for informa-
22 tion, a description of the adjustments.

23 (10) The commissioner shall examine a health care
24 corporation's annual financial statement filed in accordance with
25 section 602 to determine, in accordance with generally accepted
26 accounting principles, whether the contingency reserve is outside
27 the required range described in subsection (9). If the

1 contingency reserve is outside the required range at the end of 2
2 successive calendar years, the corporation shall file a plan, for
3 approval by the commissioner, to adjust the contingency reserve
4 to a level within the required range. If the commissioner disap-
5 proves the corporation's plan, the commissioner shall formulate a
6 plan and shall forward the plan to the corporation. The corpora-
7 tion shall begin implementation of the commissioner's plan imme-
8 diately upon receipt of the plan in writing.

9 (11) Contributions to the contingency reserve shall consist
10 of 2 contribution components. The first is the contribution for
11 risk which shall be actuarially determined as a normal part of
12 the rate-making process. The second is the contribution for
13 plan-wide viability. Both components shall be considered contri-
14 butions to the contingency reserve and shall be taken into con-
15 sideration in determining compliance with this section.

16 (12) With respect to contributions for plan-wide viability,
17 those contributions shall be made in accordance with the
18 following:

19 (a) For contributions by small group and nongroup subscrib-
20 ers, if the contingency reserve is below 65% of the target, the
21 contribution rate shall be 1% of the rate established pursuant to
22 part 6; if the contingency reserve is between 65% and 95% of the
23 target, the contribution rate shall be 0.5% of the rate estab-
24 lished pursuant to part 6; if the contingency reserve is greater
25 than 95% of the target, the contribution rate shall be 0%.

26 (b) For contributions by medium group and large group
27 subscribers, if the contingency reserve is below 65% of the

1 target, the contribution rate shall be 1% of the rate established
2 pursuant to part 6; if the contingency reserve is between 65% and
3 105% of the target, the contribution shall be 0.5% of the rate
4 established pursuant to part 6; if the contingency reserve is
5 greater than 105% of the target, the contribution rate shall be
6 0%.

7 (c) At any time the corporation and the commissioner, by
8 mutual agreement, may enter into a stipulation setting forth uni-
9 form adjustments to the contributions established in subdivisions
10 (a) and (b).

11 (13) As used in this section:

12 (a) "Actuary" means a person who has the professional desig-
13 nation of a fellow of the society of actuaries, or a fellow of
14 the society of casualty actuaries.

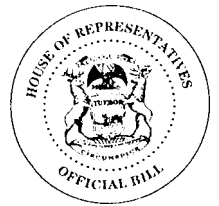
15 (b) "Distribution of business" means the percentage of a
16 health care corporation's total business attributable to a given
17 line of business, based on dollar amount of incurred claims and
18 incurred expenses.

19 (c) "Risk factor" means the relative probability of loss
20 associated with a given line of business, expressed as a percen-
21 tage of incurred claims and incurred expenses for a calendar
22 year.

23 (14) Arrangements for health benefit programs authorized
24 under section 207(1)(f) shall not be included under this section
25 unless, as part of the arrangement, contributions are made to the
26 contingency reserve.

1 (15) The costs of a panel established under subsection (6)
2 shall be split equally between a health care corporation and the
3 commissioner, except that both the corporation and the commis-
4 sioner shall pay the full costs associated with their appointed
5 actuary.

6 (16) Provisions in this section concerning contributions to
7 the contingency reserve do not apply to the Michigan Caring
8 Program created in section 436.



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