

SENATE BILL No. 1294

September 19, 2012, Introduced by Senators HUNE and SMITH and referred to the Committee on Insurance.

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending sections 218 and 401e (MCL 550.1218 and 550.1401e), section 218 as added by 2002 PA 559 and section 401e as added by 1996 PA 516, and by adding sections 220, 401l, 401m, and 620.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 218. A health care corporation shall not do any of the
2 following:

3 (a) Take any action to change its nonprofit status.

4 (b) ~~Dissolve,~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 220,**
5 **DISSOLVE,** merge, consolidate, mutualize, or take any other action
6 that results in a change in direct or indirect control of the
7 health care corporation or sell, transfer, lease, exchange, option,
8 or convey assets that results in a change in direct or indirect

1 control of the health care corporation.

2 SEC. 220. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE
3 CONTRARY, A HEALTH CARE CORPORATION MAY ESTABLISH, OWN, OPERATE,
4 AND MERGE WITH A NONPROFIT MUTUAL DISABILITY INSURER FORMED UNDER
5 CHAPTER 58 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.5800
6 TO 500.5840. THE SURVIVING ENTITY OF A MERGER DESCRIBED IN THIS
7 SUBSECTION IS THE NONPROFIT MUTUAL DISABILITY INSURER. THE
8 NONPROFIT MUTUAL DISABILITY INSURER FORMED THROUGH A MERGER
9 DESCRIBED IN THIS SUBSECTION IS EXEMPT FROM THE APPLICATION OF
10 SECTIONS 1311 TO 1319 OF THE INSURANCE CODE OF 1956, 1956 PA 218,
11 MCL 500.1311 TO 500.1319.

12 (2) THE MERGER OF A HEALTH CARE CORPORATION WITH A NONPROFIT
13 MUTUAL DISABILITY INSURER IS EFFECTIVE UPON ADOPTION OF A PLAN OF
14 MERGER BY THE MAJORITY OF THE BOARDS OF DIRECTORS OF BOTH THE
15 HEALTH CARE CORPORATION AND THE NONPROFIT MUTUAL DISABILITY
16 INSURER.

17 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE
18 CONTRARY, THE DIRECTORS OF A HEALTH CARE CORPORATION MAY SERVE AS
19 INCORPORATORS OF THE CORPORATE BODY OF, DIRECTORS OF, OR OFFICERS
20 OF THE NONPROFIT MUTUAL DISABILITY INSURER FORMED THROUGH A MERGER
21 DESCRIBED IN SUBSECTION (1).

22 (4) A MERGER DESCRIBED IN SUBSECTION (1) IS THE DISSOLUTION OF
23 THE HEALTH CARE CORPORATION, AND THE SURVIVING NONPROFIT MUTUAL
24 DISABILITY INSURER ASSUMES THE PERFORMANCE OF ALL CONTRACTS AND
25 POLICIES OF THE MERGED HEALTH CARE CORPORATION THAT EXIST ON THE
26 DATE OF THE MERGER. HOWEVER, THE OFFICERS OF A HEALTH CARE
27 CORPORATION MAY PERFORM ANY ACT OR ACTS NECESSARY TO CLOSE THE

1 **AFFAIRS OF THE MERGED HEALTH CARE CORPORATION AFTER THE DATE OF THE**
2 **MERGER.**

3 Sec. 401e. (1) Except as **OTHERWISE** provided in this section, a
4 health care corporation that has issued a nongroup certificate
5 shall renew or continue in force the certificate at the option of
6 the individual.

7 (2) Except as **OTHERWISE** provided in this section, a health
8 care corporation that has issued a group certificate shall renew or
9 continue in force the certificate at the option of the sponsor of
10 the plan.

11 (3) Guaranteed renewal is not required in cases of fraud,
12 intentional misrepresentation of material fact, lack of payment, if
13 the health care corporation no longer offers that particular type
14 of coverage in the market, or if the individual or group moves
15 outside the service area.

16 (4) **A HEALTH CARE CORPORATION SHALL NOT DISCONTINUE OFFERING A**
17 **PARTICULAR PLAN OR PRODUCT IN THE NONGROUP OR GROUP MARKET UNLESS**
18 **THE HEALTH CARE CORPORATION DOES ALL OF THE FOLLOWING:**

19 **(A) PROVIDES NOTICE TO THE COMMISSIONER AND TO EACH COVERED**
20 **INDIVIDUAL PROVIDED COVERAGE UNDER THE PLAN OR PRODUCT OF THE**
21 **DISCONTINUATION AT LEAST 90 DAYS BEFORE THE DATE OF THE**
22 **DISCONTINUATION.**

23 **(B) OFFERS TO EACH COVERED INDIVIDUAL PROVIDED COVERAGE UNDER**
24 **THE PLAN OR PRODUCT THE OPTION TO PURCHASE ANY OTHER PLAN OR**
25 **PRODUCT CURRENTLY BEING OFFERED IN THE NONGROUP MARKET BY THAT**
26 **HEALTH CARE CORPORATION WITHOUT EXCLUDING OR LIMITING COVERAGE FOR**
27 **A PREEXISTING CONDITION OR PROVIDING A WAITING PERIOD.**

1 (C) ACTS UNIFORMLY WITHOUT REGARD TO ANY HEALTH STATUS FACTOR
2 OF ENROLLED INDIVIDUALS OR INDIVIDUALS WHO MAY BECOME ELIGIBLE FOR
3 COVERAGE IN MAKING THE DETERMINATION TO DISCONTINUE COVERAGE AND IN
4 OFFERING OTHER PLANS OR PRODUCTS.

5 (5) A HEALTH CARE CORPORATION SHALL NOT DISCONTINUE OFFERING
6 ALL COVERAGE IN THE NONGROUP OR GROUP MARKET UNLESS THE HEALTH CARE
7 CORPORATION DOES ALL OF THE FOLLOWING:

8 (A) PROVIDES NOTICE TO THE COMMISSIONER AND TO EACH COVERED
9 INDIVIDUAL OF THE DISCONTINUATION AT LEAST 180 DAYS BEFORE THE DATE
10 OF THE EXPIRATION OF COVERAGE.

11 (B) DISCONTINUES ALL HEALTH BENEFIT PLANS ISSUED IN THE
12 NONGROUP OR GROUP MARKET FROM WHICH THE HEALTH CARE CORPORATION
13 WITHDREW AND DOES NOT RENEW COVERAGE UNDER THOSE PLANS.

14 (6) IF A HEALTH CARE CORPORATION DISCONTINUES COVERAGE UNDER
15 SUBSECTION (5), THE HEALTH CARE CORPORATION SHALL NOT PROVIDE FOR
16 THE ISSUANCE OF ANY HEALTH BENEFIT PLANS IN THE NONGROUP OR GROUP
17 MARKET FROM WHICH THE HEALTH CARE CORPORATION WITHDREW DURING THE
18 5-YEAR PERIOD BEGINNING ON THE DATE OF THE DISCONTINUATION OF THE
19 LAST PLAN NOT RENEWED UNDER THAT SUBSECTION.

20 SEC. 401I. NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE
21 CONTRARY, A HEALTH CARE CORPORATION MAY, IN DETERMINING PREMIUMS
22 OFFERED IN THE NONGROUP MARKET, CONSIDER AGE, GEOGRAPHY, SMOKING,
23 FAMILY COMPOSITION, AND ANY OTHER FACTORS PERMITTED UNDER FEDERAL
24 LAW FOR A CERTIFICATE DELIVERED, ISSUED FOR DELIVERY, OR RENEWED IN
25 THIS STATE ON, OR AFTER, JANUARY 1, 2014.

26 SEC. 401M. UNTIL JANUARY 1, 2014, A HEALTH CARE CORPORATION
27 ESTABLISHED, MAINTAINED, OR OPERATING IN THIS STATE SHALL OFFER

1 HEALTH CARE BENEFITS TO ALL RESIDENTS OF THIS STATE REGARDLESS OF
2 HEALTH STATUS.

3 SEC. 620. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE
4 CONTRARY, A CERTIFICATE DELIVERED, ISSUED FOR DELIVERY, OR RENEWED
5 IN THIS STATE ON OR AFTER JANUARY 1, 2014 BY A HEALTH CARE
6 CORPORATION IS SUBJECT TO THE POLICY AND CERTIFICATE ISSUANCE AND
7 RATE FILING REQUIREMENTS OF THE INSURANCE CODE OF 1956, 1956 PA
8 218, MCL 500.100 TO 500.8302.

9 (2) BEGINNING JANUARY 1, 2014, A HEALTH CARE CORPORATION MAY
10 ESTABLISH OPEN ENROLLMENT PERIODS FOR CERTIFICATES OFFERED,
11 DELIVERED, ISSUED FOR DELIVERY, OR RENEWED IN THIS STATE BY THE
12 HEALTH CARE CORPORATION.

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Bill No. 1293

15 of the 96th Legislature is enacted into law.