

SENATE BILL No. 61

January 16, 2013, 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 the title and sections 218, 401e, and 414b (MCL 550.1218, 550.1401e, and 550.1414b), the title as amended by 1994 PA 169, section 218 as added by 2002 PA 559, section 401e as added by 1996 PA 516, and section 414b as added by 2006 PA 413, and by adding sections 201a, 220, 400, 401m, 410b, 501c, and 620 and part 6A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of

1 health care providers to nonprofit health care corporations and to
 2 specify their rights, powers, and immunities with respect thereto;
 3 to provide for a Michigan caring program; to provide for the
 4 regulation and supervision of nonprofit health care corporations by
 5 the commissioner of insurance; to prescribe powers and duties of
 6 certain other state officers with respect to the regulation and
 7 supervision of nonprofit health care corporations; to provide for
 8 the imposition of a regulatory fee; to regulate the merger or
 9 consolidation of certain corporations; to prescribe an expeditious
 10 and effective procedure for the maintenance and conduct of certain
 11 administrative appeals relative to provider class plans; to provide
 12 for certain administrative hearings relative to rates for health
 13 care benefits; **TO PROVIDE FOR THE CREATION OF AND THE POWERS AND**
 14 **DUTIES OF A NONPROFIT CORPORATION FOR THE PURPOSE OF RECEIVING AND**
 15 **ADMINISTERING FUNDS FOR THE PUBLIC WELFARE;** to provide for certain
 16 causes of action; to prescribe penalties and to provide civil fines
 17 for violations of this act; and to repeal ~~certain~~ acts and parts of
 18 acts.

19 **SEC. 201A. NOTWITHSTANDING SECTION 201, A HEALTH CARE**
 20 **CORPORATION SHALL NOT BE FORMED IN THIS STATE ON OR AFTER THE**
 21 **EFFECTIVE DATE OF THIS SECTION.**

22 Sec. 218. A health care corporation shall not do any of the
 23 following:

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

25 (b) ~~Dissolve,~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 220,**
 26 **DISSOLVE,** merge, consolidate, mutualize, or take any other action
 27 that results in a change in direct or indirect control of the

1 health care corporation or sell, transfer, lease, exchange, option,
2 or convey assets that results in a change in direct or indirect
3 control of the health care corporation.

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

13 (2) THE MERGER OF A HEALTH CARE CORPORATION WITH A NONPROFIT
14 MUTUAL DISABILITY INSURER IS EFFECTIVE UPON COMPLETION OF BOTH OF
15 THE FOLLOWING:

16 (A) THE ADOPTION OF A PLAN OF MERGER BY THE MAJORITY OF THE
17 BOARDS OF DIRECTORS OF BOTH THE HEALTH CARE CORPORATION AND THE
18 NONPROFIT MUTUAL DISABILITY INSURER. THE HEALTH CARE CORPORATION
19 SHALL INCLUDE IN THE PLAN OF MERGER THAT BEGINNING IN APRIL 2014
20 THE SURVIVING ENTITY OF A MERGER DESCRIBED IN SUBSECTION (1) SHALL
21 USE ITS BEST EFFORTS TO MAKE ANNUAL SOCIAL MISSION CONTRIBUTIONS IN
22 AN AGGREGATE AMOUNT OF UP TO \$1,560,000,000.00 OVER A PERIOD OF UP
23 TO 18 YEARS BEGINNING IN APRIL 2014 TO THE MICHIGAN HEALTH
24 ENDOWMENT FUND CREATED UNDER PART 6A. IF ADOPTED, THE BOARDS OF
25 DIRECTORS SHALL SUBMIT THE PLAN OF MERGER TO THE COMMISSIONER FOR
26 HIS OR HER CONSIDERATION AS PROVIDED IN SUBDIVISION (B). A
27 NONPROFIT MUTUAL DISABILITY INSURER IS CONSIDERED TO BE MAKING ITS

1 BEST EFFORT UNDER THIS SUBDIVISION IF IT MAKES THE ANNUAL SOCIAL
2 MISSION CONTRIBUTION TO THE MICHIGAN HEALTH ENDOWMENT FUND CREATED
3 IN PART 6A WHEN THE NONPROFIT MUTUAL DISABILITY INSURER'S SURPLUS
4 IS AT LEAST 375% OF THE AUTHORIZED CONTROL LEVEL UNDER RISK-BASED
5 CAPITAL REQUIREMENTS.

6 (B) THE APPROVAL OF THE PLAN OF MERGER BY THE COMMISSIONER.
7 THE COMMISSIONER SHALL MAKE A DETERMINATION TO APPROVE OR
8 DISAPPROVE A PLAN OF MERGER WITHIN 90 DAYS OF RECEIPT OF THE PLAN,
9 AND THE COMMISSIONER SHALL NOT UNREASONABLY WITHHOLD APPROVAL OF A
10 PLAN OF MERGER SUBMITTED UNDER SUBDIVISION (A).

11 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE
12 CONTRARY, THE DIRECTORS OF A HEALTH CARE CORPORATION MAY SERVE AS
13 INCORPORATORS OF THE CORPORATE BODY OF, DIRECTORS OF, OR OFFICERS
14 OF THE NONPROFIT MUTUAL DISABILITY INSURER FORMED THROUGH A MERGER
15 DESCRIBED IN SUBSECTION (1).

16 (4) A MERGER DESCRIBED IN SUBSECTION (1) IS THE DISSOLUTION OF
17 THE HEALTH CARE CORPORATION, AND THE SURVIVING NONPROFIT MUTUAL
18 DISABILITY INSURER ASSUMES THE PERFORMANCE OF ALL CONTRACTS AND
19 POLICIES OF THE MERGED HEALTH CARE CORPORATION THAT EXIST ON THE
20 DATE OF THE MERGER, INCLUDING THE PARTICIPATING HOSPITAL AGREEMENT,
21 AND ITS DEFINITION OF CERTIFICATE WHICH EXCLUDES AS COVERED
22 SERVICES BENEFITS PROVIDED PURSUANT TO AUTOMOBILE NO-FAULT OR
23 WORKER'S COMPENSATION COVERAGE, AND ALL RELATED CONTRACT
24 OBLIGATIONS THAT RESULT FROM ORDERS RELATING TO HOSPITAL PROVIDER
25 CLASS PLANS THAT ARE ISSUED BY THE COMMISSIONER AFTER JULY 1, 2012.
26 HOWEVER, THE OFFICERS OF A HEALTH CARE CORPORATION MAY PERFORM ANY
27 ACT OR ACTS NECESSARY TO CLOSE THE AFFAIRS OF THE MERGED HEALTH

1 CARE CORPORATION AFTER THE DATE OF THE MERGER.

2 SEC. 400. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE
3 CONTRARY, THIS SECTION APPLIES TO THE USE OF A MOST FAVORED NATION
4 CLAUSE IN A PROVIDER CONTRACT ON AND AFTER FEBRUARY 1, 2013.

5 (2) SUBJECT TO SUBSECTION (3), BEGINNING FEBRUARY 1, 2013, A
6 HEALTH CARE CORPORATION SHALL NOT USE A MOST FAVORED NATION CLAUSE
7 IN ANY PROVIDER CONTRACT, INCLUDING A PROVIDER CONTRACT IN EFFECT
8 ON FEBRUARY 1, 2013, UNLESS THE MOST FAVORED NATION CLAUSE HAS BEEN
9 FILED WITH AND APPROVED BY THE COMMISSIONER. SUBJECT TO SUBSECTION
10 (3), BEGINNING FEBRUARY 1, 2013, A HEALTH CARE CORPORATION SHALL
11 NOT ENFORCE A MOST FAVORED NATION CLAUSE IN ANY PROVIDER CONTRACT
12 WITHOUT THE PRIOR APPROVAL OF THE COMMISSIONER.

13 (3) BEGINNING JANUARY 1, 2014, A HEALTH CARE CORPORATION SHALL
14 NOT USE A MOST FAVORED NATION CLAUSE IN ANY PROVIDER CONTRACT,
15 INCLUDING A PROVIDER CONTRACT IN EFFECT ON JANUARY 1, 2014.

16 (4) AS USED IN THIS SECTION, "MOST FAVORED NATION CLAUSE"
17 MEANS A CLAUSE THAT DOES ANY OF THE FOLLOWING:

18 (A) PROHIBITS, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION
19 AN OPTION TO PROHIBIT, A PROVIDER FROM CONTRACTING WITH ANOTHER
20 PARTY TO PROVIDE HEALTH CARE SERVICES AT A LOWER RATE THAN THE
21 PAYMENT OR REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE
22 HEALTH CARE CORPORATION.

23 (B) REQUIRES, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION
24 AN OPTION TO REQUIRE, A PROVIDER TO ACCEPT A LOWER PAYMENT OR
25 REIMBURSEMENT RATE IF THE PROVIDER AGREES TO PROVIDE HEALTH CARE
26 SERVICES TO ANY OTHER PARTY AT A LOWER RATE THAN THE PAYMENT OR
27 REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE HEALTH CARE

1 CORPORATION.

2 (C) REQUIRES, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION
3 AN OPTION TO REQUIRE, TERMINATION OR RENEGOTIATION OF AN EXISTING
4 PROVIDER CONTRACT IF A PROVIDER AGREES TO PROVIDE HEALTH CARE
5 SERVICES TO ANY OTHER PARTY AT A LOWER RATE THAN THE PAYMENT OR
6 REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE HEALTH CARE
7 CORPORATION.

8 (D) REQUIRES A PROVIDER TO DISCLOSE, TO THE HEALTH CARE
9 CORPORATION OR ITS DESIGNEE, THE PROVIDER'S CONTRACTUAL PAYMENT OR
10 REIMBURSEMENT RATES WITH OTHER PARTIES.

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

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

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

24 (4) A HEALTH CARE CORPORATION SHALL NOT DISCONTINUE OFFERING A
25 PARTICULAR PLAN OR PRODUCT IN THE NONGROUP OR GROUP MARKET UNLESS
26 THE HEALTH CARE CORPORATION DOES ALL OF THE FOLLOWING:

27 (A) PROVIDES NOTICE TO THE COMMISSIONER AND TO EACH COVERED

1 INDIVIDUAL OR GROUP, AS APPLICABLE, PROVIDED COVERAGE UNDER THE
2 PLAN OR PRODUCT OF THE DISCONTINUATION AT LEAST 90 DAYS BEFORE THE
3 DATE OF THE DISCONTINUATION.

4 (B) OFFERS TO EACH COVERED INDIVIDUAL OR GROUP, AS APPLICABLE,
5 PROVIDED COVERAGE UNDER THE PLAN OR PRODUCT THE OPTION TO PURCHASE
6 ANY OTHER PLAN OR PRODUCT CURRENTLY BEING OFFERED IN THE NONGROUP
7 MARKET OR GROUP MARKET, AS APPLICABLE, BY THAT HEALTH CARE
8 CORPORATION WITHOUT EXCLUDING OR LIMITING COVERAGE FOR A
9 PREEXISTING CONDITION OR PROVIDING A WAITING PERIOD.

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

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

17 (A) PROVIDES NOTICE TO THE COMMISSIONER AND TO EACH COVERED
18 INDIVIDUAL OR GROUP, AS APPLICABLE, OF THE DISCONTINUATION AT LEAST
19 180 DAYS BEFORE THE DATE OF THE EXPIRATION OF COVERAGE.

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

23 (6) IF A HEALTH CARE CORPORATION DISCONTINUES COVERAGE UNDER
24 SUBSECTION (5), THE HEALTH CARE CORPORATION SHALL NOT PROVIDE FOR
25 THE ISSUANCE OF ANY HEALTH BENEFIT PLANS IN THE NONGROUP OR GROUP
26 MARKET FROM WHICH THE HEALTH CARE CORPORATION WITHDREW DURING THE
27 5-YEAR PERIOD BEGINNING ON THE DATE OF THE DISCONTINUATION OF THE

1 LAST PLAN NOT RENEWED UNDER THAT SUBSECTION.

2 SEC. 401M. UNTIL JANUARY 1, 2014, A HEALTH CARE CORPORATION
3 ESTABLISHED, MAINTAINED, OR OPERATING IN THIS STATE SHALL OFFER
4 HEALTH CARE BENEFITS TO ALL RESIDENTS OF THIS STATE REGARDLESS OF
5 HEALTH STATUS.

6 SEC. 410B. NOTWITHSTANDING SECTION 410A(8), FOR A CERTIFICATE
7 DELIVERED, ISSUED FOR DELIVERY, OR RENEWED IN THIS STATE ON OR
8 AFTER JANUARY 1, 2014, THE PREMIUM FOR A GROUP CONVERSION
9 CERTIFICATE UNDER SECTION 410A SHALL BE DETERMINED ONLY BY USING
10 THE RATING FACTORS SET FORTH IN SECTION 3474A OF THE INSURANCE CODE
11 OF 1956, 1956 PA 218, MCL 500.3474A.

12 Sec. 414b. (1) A health care corporation may offer group
13 wellness coverage. Wellness coverage may provide for an appropriate
14 rebate or reduction in premiums or for reduced copayments,
15 coinsurance, or deductibles, or a combination of these incentives,
16 for participation in any health behavior wellness, maintenance, or
17 improvement program offered by the employer. The employer shall
18 provide evidence of demonstrative maintenance or improvement of the
19 members' health behaviors as determined by assessments of agreed-
20 upon health status indicators between the employer and the health
21 care corporation. Any rebate or premium provided by the health care
22 corporation is presumed to be appropriate unless credible data
23 demonstrate otherwise, but shall not exceed ~~10%~~30% of paid
24 premiums, **UNLESS OTHERWISE APPROVED BY THE COMMISSIONER**. A health
25 care corporation shall make available to employers all wellness
26 coverage plans that it markets to employers in this state.

27 (2) A health care corporation may offer nongroup wellness

1 coverage. Wellness coverage may provide for an appropriate rebate
2 or reduction in premiums or for reduced copayments, coinsurance, or
3 deductibles, or a combination of these incentives, for
4 participation in any health behavior wellness, maintenance, or
5 improvement program approved by the health care corporation. The
6 member shall provide evidence of demonstrative maintenance or
7 improvement of the individual's or family's health behaviors as
8 determined by assessments of agreed-upon health status indicators
9 between the member and the health care corporation. Any rebate of
10 premium provided by the health care corporation is presumed to be
11 appropriate unless credible data demonstrate otherwise, but shall
12 not exceed ~~10%~~30% of paid premiums, **UNLESS OTHERWISE APPROVED BY**
13 **THE COMMISSIONER**. A health care corporation shall make available to
14 individuals all wellness coverage plans that it markets to
15 individuals in this state.

16 (3) A health care corporation is not required to continue any
17 health behavior wellness, maintenance, or improvement program or to
18 continue any incentive associated with a health behavior wellness,
19 maintenance, or improvement program.

20 **SEC. 501C. BEGINNING JANUARY 1, 2014, A HEALTH CARE**
21 **CORPORATION SHALL ESTABLISH AND MAINTAIN A PROVIDER NETWORK THAT,**
22 **AT A MINIMUM, SATISFIES ANY NETWORK ADEQUACY REQUIREMENTS IMPOSED**
23 **BY THE COMMISSIONER PURSUANT TO FEDERAL LAW.**

24 **SEC. 620. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE**
25 **CONTRARY, A CERTIFICATE DELIVERED, ISSUED FOR DELIVERY, OR RENEWED**
26 **IN THIS STATE ON OR AFTER JANUARY 1, 2014 BY A HEALTH CARE**
27 **CORPORATION IS SUBJECT TO THE POLICY AND CERTIFICATE ISSUANCE AND**

1 RATE FILING REQUIREMENTS OF THE INSURANCE CODE OF 1956, 1956 PA
2 218, MCL 500.100 TO 500.8302, INCLUDING THE RATING FACTOR
3 REQUIREMENTS OF SECTION 3474A OF THE INSURANCE CODE OF 1956, 1956
4 PA 218, MCL 500.3474A.

5 (2) FOR A CERTIFICATE DELIVERED, ISSUED FOR DELIVERY, OR
6 RENEWED IN THIS STATE ON OR AFTER JANUARY 1, 2014, SUBJECT TO THE
7 PRIOR APPROVAL OF THE COMMISSIONER, A HEALTH CARE CORPORATION MAY
8 ESTABLISH REASONABLE OPEN ENROLLMENT PERIODS.

9 (3) THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS FOR THE
10 FREQUENCY AND DURATION OF OPEN ENROLLMENT PERIODS ESTABLISHED UNDER
11 SUBSECTION (2). THE COMMISSIONER SHALL UNIFORMLY APPLY THE MINIMUM
12 STANDARDS FOR THE FREQUENCY AND DURATION OF OPEN ENROLLMENT PERIODS
13 ESTABLISHED UNDER THIS SUBSECTION TO ALL HEALTH CARE CORPORATIONS.

14 (4) A HEALTH CARE CORPORATION OFFERING COVERAGE DURING AN OPEN
15 ENROLLMENT PERIOD ESTABLISHED UNDER SUBSECTION (2) SHALL NOT DENY
16 OR CONDITION THE ISSUANCE OR EFFECTIVENESS OF A CERTIFICATE AND
17 SHALL NOT DISCRIMINATE IN THE PRICING OF THE CERTIFICATE ON THE
18 BASIS OF HEALTH STATUS, CLAIMS EXPERIENCE, RECEIPT OF HEALTH CARE,
19 OR MEDICAL CONDITION.

20 PART 6A

21 MICHIGAN HEALTH ENDOWMENT FUND

22 SEC. 651. AS USED IN THIS PART:

23 (A) "BOARD" MEANS THE MICHIGAN HEALTH ENDOWMENT FUND BOARD
24 CREATED IN SECTION 652.

25 (B) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE
26 FUND APPOINTED BY THE BOARD UNDER SECTION 654.

27 (C) "FUND" MEANS THE MICHIGAN HEALTH ENDOWMENT FUND ORGANIZED

1 AS A NONPROFIT CORPORATION UNDER SECTION 653.

2 SEC. 652. (1) THE MICHIGAN HEALTH ENDOWMENT FUND BOARD IS
3 CREATED TO ORGANIZE AND GOVERN THE FUND. THE BOARD IS THE
4 INCORPORATOR OF THE FUND FOR THE PURPOSES OF THE NONPROFIT
5 CORPORATION ACT, 1982 PA 162, MCL 450.2101 TO 450.3192.

6 (2) THE BOARD SHALL ADOPT A CONFLICT OF INTEREST POLICY. A
7 BOARD MEMBER WITH A DIRECT OR INDIRECT INTEREST IN ANY MATTER
8 BEFORE THE FUND SHALL DISCLOSE THE MEMBER'S INTEREST TO THE BOARD
9 BEFORE THE BOARD TAKES ANY ACTION ON THE MATTER. THE BOARD SHALL
10 RECORD THE MEMBER'S DISCLOSURE IN THE MINUTES OF THE BOARD MEETING.
11 IF A BOARD MEMBER OR A MEMBER OF HIS OR HER IMMEDIATE FAMILY,
12 ORGANIZATIONALLY OR INDIVIDUALLY, WOULD DERIVE A DIRECT AND
13 SPECIFIC BENEFIT FROM A DECISION OF THE BOARD, THAT MEMBER SHALL
14 RECUSE HIMSELF OR HERSELF FROM THE DISCUSSION AND VOTE ON THE
15 ISSUE.

16 (3) SUBJECT TO THIS SUBSECTION, THE GOVERNOR SHALL APPOINT THE
17 MEMBERS OF THE BOARD WITH THE ADVICE AND CONSENT OF THE SENATE. ON
18 OR BEFORE THE EXPIRATION OF 60 DAYS AFTER THE EFFECTIVE DATE OF
19 THIS SECTION, THE GOVERNOR SHALL APPOINT THE FOLLOWING INITIAL
20 MEMBERS OF THE BOARD WITH THE ADVICE AND CONSENT OF THE SENATE:

21 (A) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS
22 RECOMMENDED BY THE SENATE MAJORITY LEADER.

23 (B) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS
24 RECOMMENDED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

25 (C) ONE MEMBER REPRESENTING THE INTERESTS OF MINOR CHILDREN.

26 (D) ONE MEMBER REPRESENTING THE INTERESTS OF SENIOR CITIZENS.

27 (E) TWO MEMBERS OF THE GENERAL PUBLIC.

1 (F) ONE MEMBER REPRESENTING THE BUSINESS COMMUNITY.

2 (G) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS
3 RECOMMENDED BY THE HOUSE MINORITY LEADER.

4 (H) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS
5 RECOMMENDED BY THE SENATE MINORITY LEADER.

6 (4) A VACANCY IN THE BOARD SHALL BE FILLED IN THE SAME MANNER
7 AS THE INITIAL APPOINTMENT OF THAT MEMBER UNDER SUBSECTION (3).
8 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A BOARD MEMBER
9 SHALL SERVE FOR A TERM OF 4 YEARS OR UNTIL A SUCCESSOR IS
10 APPOINTED, WHICHEVER IS LATER. FOR AN INITIAL MEMBER APPOINTED TO
11 THE BOARD UNDER SUBSECTION (3), 3 MEMBERS SHALL SERVE FOR 2-YEAR
12 TERMS, 3 MEMBERS SHALL SERVE FOR 3-YEAR TERMS, AND 3 MEMBERS SHALL
13 SERVE FOR 4-YEAR TERMS.

14 (5) SIX MEMBERS OF THE BOARD CONSTITUTE A QUORUM FOR THE
15 TRANSACTION OF BUSINESS AT A MEETING OF THE BOARD. AN AFFIRMATIVE
16 VOTE OF 5 BOARD MEMBERS IS NECESSARY FOR OFFICIAL ACTION OF THE
17 BOARD.

18 (6) THE BUSINESS THAT THE BOARD MAY PERFORM SHALL BE CONDUCTED
19 AT A MEETING OF THE BOARD THAT IS HELD IN THIS STATE, IS OPEN TO
20 THE PUBLIC, AND IS HELD IN A PLACE THAT IS AVAILABLE TO THE GENERAL
21 PUBLIC. HOWEVER, THE BOARD MAY ESTABLISH REASONABLE RULES AND
22 REGULATIONS TO MINIMIZE DISRUPTION OF A MEETING OF THE BOARD. AT
23 LEAST 10 DAYS AND NOT MORE THAN 60 DAYS BEFORE A MEETING, THE BOARD
24 SHALL PROVIDE PUBLIC NOTICE OF ITS MEETING AT ITS PRINCIPAL OFFICE
25 AND ON ITS INTERNET WEBSITE. THE BOARD SHALL INCLUDE IN THE PUBLIC
26 NOTICE OF ITS MEETING THE ADDRESS WHERE BOARD MINUTES REQUIRED
27 UNDER SUBSECTION (7) MAY BE INSPECTED BY THE PUBLIC. THE BOARD MAY

1 MEET IN A CLOSED SESSION FOR ANY OF THE FOLLOWING PURPOSES:

2 (A) TO CONSIDER THE HIRING, DISMISSAL, SUSPENSION, OR
3 DISCIPLINING OF BOARD MEMBERS OR ITS EMPLOYEES OR AGENTS.

4 (B) TO CONSULT WITH ITS ATTORNEY.

5 (C) TO COMPLY WITH STATE OR FEDERAL LAW, RULES, OR REGULATIONS
6 REGARDING PRIVACY OR CONFIDENTIALITY.

7 (7) THE BOARD SHALL KEEP MINUTES OF EACH MEETING. BOARD
8 MINUTES SHALL BE OPEN TO PUBLIC INSPECTION, AND THE BOARD SHALL
9 MAKE THE MINUTES AVAILABLE AT THE ADDRESS DESIGNATED ON THE PUBLIC
10 NOTICE OF ITS MEETING UNDER SUBSECTION (6). THE BOARD SHALL MAKE
11 COPIES OF THE MINUTES AVAILABLE TO THE PUBLIC AT THE REASONABLE
12 ESTIMATED COST FOR PRINTING AND COPYING. THE BOARD SHALL INCLUDE
13 ALL OF THE FOLLOWING IN ITS BOARD MINUTES:

14 (A) THE DATE, TIME, AND PLACE OF THE MEETING.

15 (B) BOARD MEMBERS WHO ARE PRESENT AND ABSENT.

16 (C) BOARD DECISIONS MADE AT A MEETING OPEN TO THE PUBLIC.

17 (D) ALL ROLL CALL VOTES TAKEN AT THE MEETING.

18 (8) BOARD MEMBERS SHALL SERVE WITHOUT COMPENSATION. HOWEVER,
19 BOARD MEMBERS MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY
20 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS
21 BOARD MEMBERS.

22 SEC. 653. (1) THE BOARD SHALL ORGANIZE A NONPROFIT
23 CORPORATION, ON A NONSTOCK, DIRECTORSHIP BASIS, UNDER THE NONPROFIT
24 CORPORATION ACT, 1982 PA 162, MCL 450.2101 TO 450.3192. THE
25 NONPROFIT CORPORATION SHALL BE KNOWN AS THE MICHIGAN HEALTH
26 ENDOWMENT FUND AND IS ORGANIZED TO RECEIVE AND ADMINISTER FUNDS FOR
27 THE PUBLIC WELFARE.

1 (2) THE PURPOSE OF THE FUND IS TO BENEFIT THE HEALTH AND
2 WELLNESS OF MINOR CHILDREN AND SENIORS THROUGHOUT THIS STATE WITH A
3 SIGNIFICANT FOCUS IN THE FOLLOWING AREAS:

4 (A) INFANT MORTALITY.

5 (B) WELLNESS PROGRAMS AND FITNESS PROGRAMS.

6 (C) ACCESS TO HEALTHY FOOD.

7 (D) TECHNOLOGY ENHANCEMENTS.

8 (E) HEALTH-RELATED TRANSPORTATION NEEDS.

9 (F) FOODBORNE ILLNESS PREVENTION.

10 (3) THE FUND MAY AWARD GRANTS FOR PROJECTS THAT WILL PROMOTE
11 THE PURPOSE OF THE FUND DESCRIBED IN SUBSECTION (2). THE BOARD
12 SHALL ESTABLISH A COMPREHENSIVE AND COMPETITIVE PROCESS TO AWARD
13 GRANTS. THE BOARD SHALL NOT AWARD A GRANT THAT IS LONGER THAN 3
14 YEARS IN DURATION.

15 (4) THE FUND HAS THE POWER AND DUTIES OF A NONPROFIT
16 CORPORATION UNDER THE NONPROFIT CORPORATION ACT, 1982 PA 162, MCL
17 450.2101 TO 450.3192. IF A CONFLICT BETWEEN A POWER OR DUTY OF THE
18 FUND UNDER THIS SECTION CONFLICTS WITH A POWER OR DUTY UNDER OTHER
19 STATE LAW, THIS SECTION CONTROLS.

20 (5) THE BOARD SHALL IMPLEMENT A PROGRAM THAT DISBURSES
21 FOUNDATION MONEY TO SUBSIDIZE THE COST OF INDIVIDUAL MEDIGAP
22 COVERAGE TO SENIOR CITIZENS IN THIS STATE WHO DEMONSTRATE A
23 FINANCIAL NEED IN ORDER TO BE ABLE TO PURCHASE INDIVIDUAL MEDIGAP
24 COVERAGE. SUBJECT TO APPROVAL BY THE ATTORNEY GENERAL, THE
25 COMMISSIONER SHALL DEVELOP A MEANS TEST TO DETERMINE IF A SENIOR
26 CITIZEN APPLICANT IS ELIGIBLE FOR THE MEDIGAP COVERAGE SUBSIDY
27 PROVIDED FOR IN THIS SUBSECTION.

1 (6) BEGINNING AUGUST 1, 2016 AND ENDING DECEMBER 31, 2021, THE
2 BOARD SHALL DISBURSE \$120,000,000.00 TO SUBSIDIZE THE COST OF
3 INDIVIDUAL MEDIGAP COVERAGE PURCHASED BY SENIOR CITIZENS IN THIS
4 STATE, SUBJECT TO THE MEANS TEST REQUIRED IN SUBSECTION (5).

5 SEC. 654. (1) THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF
6 THE FUND. THE EXECUTIVE DIRECTOR IS THE CHIEF EXECUTIVE OFFICER OF
7 THE FUND AND SERVES AT THE PLEASURE OF THE BOARD. THE EXECUTIVE
8 DIRECTOR MAY EMPLOY STAFF AND HIRE CONSULTANTS AS NECESSARY WITH
9 THE APPROVAL OF THE BOARD. THE BOARD SHALL DETERMINE COMPENSATION
10 FOR THE EXECUTIVE DIRECTOR AND STAFF EMPLOYED UNDER THIS SUBSECTION
11 AND SHALL APPROVE CONTRACTS UNDER THIS SUBSECTION.

12 (2) THE EXECUTIVE DIRECTOR SHALL DISPLAY ON THE FUND INTERNET
13 WEBSITE INFORMATION RELEVANT TO THE PUBLIC, AS DEFINED BY THE
14 BOARD, CONCERNING THE FUND'S OPERATIONS AND EFFICIENCIES, AS WELL
15 AS THE BOARD'S ASSESSMENTS OF THOSE ACTIVITIES.

16 SEC. 655. (1) SUBJECT TO THIS SECTION, THE BOARD MAY DISBURSE
17 MONEY CONTRIBUTED TO THE FUND EACH YEAR, NOT INCLUDING ANY
18 INTEREST, EARNINGS, OR UNREALIZED GAINS OR LOSSES ON THOSE
19 CONTRIBUTIONS, FOR THE PURPOSES OF THE FUND AS DESCRIBED IN SECTION
20 653. THE BOARD MAY EXPEND A PORTION OF THE MONEY CONTRIBUTED TO THE
21 FUND IN EACH YEAR ACCORDING TO THE FOLLOWING SCHEDULE:

- 22 (A) YEARS 1 THROUGH 4, 80%.
23 (B) YEARS 5 THROUGH 8, 67%.
24 (C) YEARS 9 THROUGH 12, 60%.
25 (D) YEARS 13 THROUGH 18, 25%.

26 (2) ON AND AFTER THE DATE THAT THE ACCUMULATED PRINCIPAL IN
27 THE FUND REACHES \$750,000,000.00, THE BOARD SHALL MAINTAIN THAT

1 AMOUNT FOR INVESTMENT TO PROVIDE AN ONGOING INCOME TO THE FUND. ON
2 AND AFTER THE DATE THAT THE ACCUMULATED PRINCIPAL IN THE FUND
3 REACHES \$750,000,000.00, THE BOARD SHALL NOT ALLOW THE ACCUMULATED
4 PRINCIPAL OF THE FUND TO FALL BELOW \$750,000,000.00 DUE TO
5 EXPENDITURES MADE FOR THE PURPOSES OF THE FUND AS DESCRIBED IN
6 SECTION 653.

7 (3) THE BOARD MAY EXPEND MONEY RECEIVED BY THE FUND FROM ANY
8 SOURCE IN A FISCAL YEAR THAT IS IN EXCESS OF THE AMOUNT REQUIRED TO
9 MAINTAIN THE ACCUMULATED PRINCIPAL GOALS AS DESCRIBED IN SUBSECTION
10 (2), NOT INCLUDING ANY INTEREST, EARNINGS, OR UNREALIZED GAINS OR
11 LOSSES ON THOSE FUNDS, ON THE REASONABLE ADMINISTRATIVE COSTS OF
12 THE FUND AND FOR THE PURPOSES OF THE FUND AS DESCRIBED IN SECTION
13 653. THE INVESTMENT OF FUND MONEY AND DONATIONS BY THE FUND ARE
14 UNDER THE EXCLUSIVE CONTROL AND DISCRETION OF THE EXECUTIVE
15 DIRECTOR AND THE BOARD.

16 (4) THE BOARD MAY INVEST ACCUMULATED PRINCIPAL IN THE FUND
17 ONLY IN SECURITIES PERMITTED BY THE LAWS OF THIS STATE FOR THE
18 INVESTMENT OF ASSETS OF LIFE INSURANCE COMPANIES, AS DESCRIBED IN
19 CHAPTER 9 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.901
20 TO 500.947.

21 (5) THE BOARD SHALL PROVIDE IN THE FUND'S ARTICLES OF
22 INCORPORATION OR BYLAWS FOR A SYSTEM OF FINANCIAL ACCOUNTING,
23 CONTROLS, AUDITS, AND REPORTS. THE BOARD ANNUALLY SHALL HAVE AN
24 AUDIT OF THE FUND CONDUCTED BY AN INDEPENDENT PUBLIC ACCOUNTANT
25 FIRM, AND THE AUDITOR'S AUDIT REPORT AND FINDINGS SHALL BE
26 SUBMITTED TO THE BOARD. THE EXPENSE OF AN AUDIT REQUIRED UNDER THIS
27 SUBSECTION IS CONSIDERED A REASONABLE ADMINISTRATIVE COST UNDER

1 SUBSECTION (3).

2 (6) THE BOARD SHALL APPOINT FROM ITS MEMBERS AN AUDIT
3 COMMITTEE CONSISTING OF NO LESS THAN 3 MEMBERS. AT A MINIMUM, THE
4 AUDIT COMMITTEE SHALL CONTRACT WITH AN INDEPENDENT AUDITING FIRM TO
5 PROVIDE AN ANNUAL FINANCIAL AUDIT IN ACCORDANCE WITH APPLICABLE
6 AUDITING STANDARDS.

7 (7) THE EXECUTIVE DIRECTOR SHALL DO ALL OF THE FOLLOWING:

8 (A) REVIEW AND CERTIFY THE REPORTS OF THE EXTERNAL AUDITOR.

9 (B) MAKE THE EXTERNAL AUDITOR REPORTS AVAILABLE TO THE BOARD
10 AND TO THE GENERAL PUBLIC.

11 (C) DEVELOP AND IMPLEMENT CORRECTIVE ACTIONS TO ADDRESS
12 WEAKNESSES IDENTIFIED IN AN AUDIT REPORT.

13 (8) THE FUND SHALL MEET ALL OF THE FOLLOWING FINANCIAL
14 TRANSPARENCY REQUIREMENTS:

15 (A) KEEP AN ACCURATE ACCOUNTING OF ALL ACTIVITIES, RECEIPTS,
16 AND EXPENDITURES AND ANNUALLY SUBMIT TO THE GOVERNOR, THE SENATE
17 AND HOUSE OF REPRESENTATIVES APPROPRIATIONS COMMITTEES, AND THE
18 SENATE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON HEALTH
19 POLICY A REPORT REGARDING THOSE ACCOUNTINGS.

20 (B) FULLY COOPERATE WITH ANY INVESTIGATION CONDUCTED BY THIS
21 STATE OR A FEDERAL AGENCY UNDER ITS AUTHORITY UNDER STATE OR
22 FEDERAL LAW, TO DO ANY OF THE FOLLOWING:

23 (i) INVESTIGATE THE AFFAIRS OF THE FUND.

24 (ii) EXAMINE THE ASSETS AND RECORDS OF THE FUND.

25 (iii) REQUIRE PERIODIC REPORTS IN RELATION TO THE ACTIVITIES
26 UNDERTAKEN BY THE FUND.

27 Enacting section 1. This amendatory act does not take effect

1 unless Senate Bill No. 62

2 of the 97th Legislature is enacted into law.