CHAPTER 100

AN ACT concerning health service corporations and the publication of certain health insurance carrier information, amending and supplementing P.L.1985, c.236 and supplementing P.L.1997, c.192 (C.26:2S-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1985, c.236 (C.17:48E-3) is amended to read as follows:

C.17:48E-3 Health service corporations.

3. a. A health service corporation shall not be established as a corporation organized for pecuniary profit. Every health service corporation established pursuant to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.) shall be operated for the benefit of its subscribers. The mission of the health service corporation shall be to:

(1) provide affordable and accessible health insurance to its subscribers; and

(2) promote the integration of the health care system to meet the needs of its subscribers.

A health service corporation shall develop goals, objectives, and strategies for carrying out, in accordance with this section, its statutory mission.

b. No person, firm, association or corporation, other than a health service corporation or an insurance company authorized to transact life or health insurance in accordance with Title 17B of the New Jersey Statutes, shall establish, maintain or operate a health service plan. No person, firm, association or corporation, other than a hospital service corporation, a medical service corporation, a dental service corporation to the extent permitted by P.L.1968, c.305 (C.17:48C-1 et seq.), or an insurance company authorized to transact life or health insurance business or the kinds of insurance specified in subsection d. of R.S.17:17-1, shall otherwise contract in this State with persons to pay for or to provide for health services on the basis of premiums or other valuable considerations to be collected by the person, firm, association or corporation from any persons for the issuance of the contracts. This section shall not be construed as preventing the exercise of any authority or privilege granted to any corporation by a certificate of authority issued by the commissioner pursuant to any law of this State, or as preventing any person, firm, association or corporation from furnishing health services required under any workers' compensation law, or law pertaining to health maintenance organizations, or as otherwise provided by law.

c. A health service corporation shall, unless prohibited by the commissioner, offer as an option medical-surgical contracts and dental subscriber contracts which afford subscribers prepaid or postpaid benefits pursuant to which payment is made to participating providers for medical-surgical and dental services rendered by a participating provider network with agreements granting an aggregate differential allowance or discount on charges, as well as a limit on total allowances which may or may not be related to the subscriber's income level, where the aggregate differential or discount on charges and limit on total allowances may be achieved by payment of either the individual provider's actual charge or the health service corporation's allowance on the charge, whichever is less.

d. A health service corporation shall maintain an open enrollment period for coverage to persons who are otherwise unable to obtain hospital, medical-surgical, or major medical coverage in accordance with the provisions of P.L.1992, c.161 (C.17B:27A-2 et al.).

e. No health service corporation shall have the power to underwrite life insurance as defined in Title 17B of the New Jersey Statutes directly, but a health service corporation may, at such time as the aggregate special contingent surplus is greater than 0%, own stock in, control, or otherwise become affiliated with a life, health or accident insurance company

organized pursuant to Title 17B of the New Jersey Statutes or under the laws of any other state, provided that the company is admitted in this State.

f. No health service corporation shall solicit subscribers or enter into any contract with any subscriber until it has received from the commissioner a certificate of authority to do so, but if a health service corporation is established by means of the merger of a medical service corporation into a hospital service corporation, which hospital service corporation possesses a valid certificate of authority issued prior to the effective date of P.L.1985, c.236 (C.17:48E-1 et seq.), the health service corporation thus established need not reapply for a new certificate of authority, but the corporation shall file in the Department of Banking and Insurance any documents relating to the merger, including, but not limited to, information concerning the operation of the health service corporation as set forth in subsection a. of this section, which the commissioner may require.

g. Nothing in P.L.1985, c.236 (C.17:48E-1 et seq.) shall be deemed to prohibit a health service corporation from contracting with, or paying commissions to, any duly licensed affiliated or independent insurance producer, to the extent permitted by the laws applicable to those producers.

h. A health service corporation shall, on an annual basis, and in a form and manner prescribed by the Department of Banking and Insurance, file with the department information relating to the health service corporation's operations, including but not limited to the following: the health service corporation's mission, activities, revenues, expenses, assets, liabilities, and total compensation provided to officers, directors, trustees and the five other highest compensated employees who are not an officer, director or trustee, which information shall be posted on the department's website.

i. On or before June 30, 2019, and annually thereafter, the commissioner shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the compliance of a health service corporation with the provisions of P.L.2017, c.100 (C.17:48E-17.3 et al.).

2. Section 6 of P.L.1985, c.236 (C.17:48E-6) shall be amended to read as follows:

C.17:48E-6 Board of health service corporation formed through merger.

6. The board of a health service corporation which is formed as the result of a merger between a medical service corporation and a hospital service corporation shall be composed of not more than 17 members as provided in this section. Initially, after the merger has been effected, the board shall be constituted of 15 members as follows:

a. Four members of the board shall be public members, who shall be appointed by the Governor with the advice and consent of the Senate. The public members so appointed shall be persons whose background and experience indicate that they are qualified to act in the broad public interest, who may or may not have coverage under a contract or contracts issued by the corporation, its subsidiaries or affiliates, and who, or whose spouses or minor children, are not officers, directors or owners of more than 10% of the stock of a corporation whose aggregate sales to hospitals, other health care facilities or other providers of health care services exceed 5% of its total sales. The remaining 11 members shall be selected by the board of directors of the health service corporation in accordance with the provisions of its certificate of incorporation and bylaws.

b. Of the initial members of the board, as provided for in subsection a. of this section, one public member and three members selected by the board of the health service corporation shall serve for a term of one year; one public member and three members

selected by the board of the health service corporation shall serve for a term of two years; and two public members and five members selected by the board of the health service corporation shall serve for a term of three years. Thereafter, all members of the board shall serve for a term of three years, and shall hold office until their successors are appointed or elected and qualified.

c. After the constitution of the initial board as provided in subsection b. of this section, and as the initial terms expire as provided for in that section, the board shall be constituted of 17 members as follows:

(1) Four members shall be public members of the board appointed by the Governor with the advice and consent of the Senate;

(2) Eleven members shall be elected by the board of directors, as provided in the bylaws; and

(3) One member shall be a public member appointed by the Senate President and one member shall be a public member appointed by the Speaker of the General Assembly, each of whom shall have experience in either finance, insurance, or health care delivery.

d. The provisions of subsection c. of this section shall not be construed to preclude the reappointment or reelection of any member appointed or elected pursuant to subsection a. of this section.

3. Section 7 of P.L.1985, c.236 (C.17:48E-7) is amended to read as follows:

C.17:48E-7 Board of directors of health service corporation.

7. The board of directors of a health service corporation which is established in accordance with paragraph (1) of subsection a. of section 2 of P.L.1985, c.236 (C.17:48E-2) shall have four public members appointed by the Governor with the advice and consent of the Senate, one public member appointed by the Senate President who shall have experience in either finance, insurance, or health care delivery, one public member appointed by the Speaker of the General Assembly who shall have experience in either finance, insurance, or health care delivery, and 11 members elected as provided in the bylaws.

C.17:48E-17.3 Examination of annual regulatory filings; annual audit.

4. a. The commissioner shall, on an annual basis, examine a health service corporation's annual regulatory filings to determine whether the health service corporation's risk-based capital ratio is within 550% to 725%. If at any time the commissioner determines that a health service corporation surplus results in a ratio that exceeds this range, the department shall notify the health service corporation and the health service corporation shall, within 30 days of notice from the commissioner, file a report with the commissioner to reduce the surplus to be within the range. The report shall include a plan to benefit subscribers, which may include but not be limited to proposals to lessen potential rate increases in the future. The commissioner shall review the plan to affirm that it meets the requirements of P.L.2017, c.100 (C.17:48E-17.3 et al.).

b. The department shall annually audit the financial statements and surplus of the health service corporation to verify risk-based capital. In order to implement the provisions of this section, the department may engage independent actuaries, as necessary, at the expense of the health service corporation.

C.26:2S-18.1 Publication of annual financial statements.

5. The Department of Banking and Insurance shall, for each carrier in the State, publish on the department's website the annual financial statement, in the format adopted by the National Association of Insurance Commissioners (NAIC) and in use at the time the statement is due, within 30 days of the receipt of that statement.

6. This act shall take effect immediately, except section 4 shall take effect for the next annual regulatory filings with the Department of Banking and Insurance after January 1, 2018.

Approved July 4, 2017.